

APPROVED MINUTES
North Sioux City, South Dakota
City Council and Planning Commission Special Meeting
January 7, 2016

The Planning Commission meeting was called to order at 7:00 p.m. by President Streeter. Commission members Jacobs, Meyer, Mitchell and Olson were in attendance. Also in attendance were Gary Roan, Building Administrator, and Finance Assistant Jennifer Roupe.

Mayor Fredericksen called the City Council meeting to order at 7:00 p.m. Christiansen, Cropley, Parks, Slater, Reiff (via conference call) and Verdoorn were present. Absent: Beavers. Also in attendance were Darrell Jesse, City Attorney, Greg Meyer, City Engineer, and Susan Kloostra, Finance Officer.

Mayor Fredericksen led the Pledge of Allegiance.

Motion by Commissioner Meyer second by Jacobs to approve the Planning Commission agenda as presented. Unanimous.

Motion by Jacobs and a second by Commissioner Meyers to open the public hearing at 7:02 p.m.

Motion by Cropley second by Parks to approve the City Council agenda as presented. Unanimous.

Parks made a motion to open the public hearing at 7:03 p.m., second by Cropley. Unanimous.

The moderator for the meeting was Greg Meyer, City Engineer. Meyer outlined the purpose of this meeting was to review the City ordinances regarding subdivision rules, applying them to River Valley, and to review the steps of the subdivision ordinances. The City's ordinances 17.88, 17.92 and 17.96 are online for anyone's review. Meyer stated he'll come from the prospective of strict compliance of the ordinances, as there would be others to speak for any variances, etc.

Generally speaking the procedures as outlined in 17.88 have three steps: informational discussion, preliminary plat and a final plat. Meyers reported a number of items were not compliant (see Exhibit A, B, C). In this subdivision, most of the preliminary plat would be considered a revision from the 2008 preliminary plat. Procedurally, the ordinance requires that during the preliminary plat process, Planning Commission reviews in light of titles 17.88, 17.92 and 17.96 and makes their recommendation to Council. Variances can only be recommended by the Planning Commission, and approval is the sole-discretion of the City Council, as outlined in Ordinance 17.88.050.C. Approval of a preliminary plat does not count as acceptance of the final plat. Further, Meyer noted Ordinance 13.08.030.F states every building shall be separately and independently connected with the public sewer.

Meyer addressed Tim Brown, River Valley Development representative, as to the status of the sewer compliance, and stated his appreciation for the water and sewer plan provided by Brown in previous emails. Brown stated it is being addressed by their lawyer. The development is working to prepare covenants to address this issue between homeowners where sanitary sewer lines cross property lines. Brown could not comment on DeRocher's properties.

Christiansen asked regarding sewer lines. Meyer and Brown commented. Blue shaded areas on the maps are lots that have been platted indicating what they're intending for the future of the sanitary sewer lines, showing shared service line coming from a man-hole. Brown confirmed there are sewer lines that will cross other owner's land. Cropley stated what's happened can't be controlled, but what happens going forward needs to be controlled. Brown agreed. Brown agreed there needs to be easements established and an agreement bonded to the purchase regarding common maintenance on future and previously sold homes.

Several council members expressed concern for future purchases, as there is no guarantee the current City Council will be here or the partners of the development, who have the history and been participants in the discussions. The City needs to ensure it is protected from any future sewer issues.

Mayor Fredericksen raised the question if the properties in question can be changed before being built. Brown expressed the development would have to change the property lines to hit on those spots. Gary Roan, Building Inspector, explained the existing sanitary sewer as originally laid out was platted for a sewer stub to each lot, creating 12 stubs per cul de sac for 12 homes. When the lots were changed, options to correct were discussed. To provide a stub to each townhome would result in tearing up the street to split the lines, and it was turned down. Roan met with the state plumbing inspector, and in order to make it legal with the state, the development would need to set a manhole at that point so as to not disrupt the rest of the street. At the stub, from the manhole, two separate lines would connect to the two separate homes crossing property lines. Roan stated the sanitary sewer, once it leaves the manhole, it is a service line and then property owner(s) are responsible to the street. Jesse concurred.

Slater stated deeds and covenants are critical, and ordinance states copies will be provided with preliminary and final plat. Brown indicated it will be difficult to create the easements upfront without knowing where the home sits and it would depend upon how the townhome is constructed. Cropley asked if an easement could be based upon the lot. Parks concern is that even when it is a service line, the homeowner would come back to the City. Cropley also states concern if an attorney tries to substantiate the City should never have allowed.

Meyer recaps there would need to be a variance as it deviates for our ordinance as it reads today. The Council can grant a variance if it chooses. The options, as Meyer sees it, would be 1) grant variances, 2) not allow duplexes and revert back to single family homes, or 3) allow the street to be torn up and put sewer services to each building. Meyer believes it is bigger problem than illustrated on the map.

Christiansen mentioned this issue was inherited by the River Valley developers and you are trying to determine how to handle the changes, just as the City is trying to determine how to make this development happen and make it legal. Brown states the demographics and buyers have changed since 2008, and the developers are trying to hit a price point to make it affordable for homeowners. Christiansen commented she doesn't have a problem with duplexes, but with how to make the sewer right.

Slater asked Meyer his recommendations regarding approval of the preliminary plat. Meyer states it is a requirement of the ordinances to have any covenants as part of this preliminary plat process, and a way to deal with the sanitary sewer responsibility issues so the City is not involved in future disputes, to include easement between properties, covenants and disclosure when buying the property. Slater asked whose responsibility it is to get these items for homes already built. Jesse stated in theory an agreement it should have been already done and filed with the register of deed, as party of public record; however, at this point there you can't go back other than to say this is not a City issue, but a private property issue.

Brown communicated he wants to create the necessary documents before going forward. Parks asked if realtors are aware of these covenants, HOAs, split maintenance, etc., prior to the sale of the lot, as the City doesn't want to be involved with a private dispute. Christiansen and Cropley stated we need to make sure this happens going forward. Jesse and Meyer agree that this is why you require these documents prior to the platting approval process, to protect the City. Brown knows Dunham prepared a restrictive covenant agreement, but they were not recorded.

Before the Commission make any recommendation, Meyer went on to state additional issues: 1) no sidewalks as required in Ordinance 17.96, 2) easements that he has observed to date for the River Valley properties do not provide enough protection, Meyer recommends an Easement he's used to provide address additional concerns, 3) a triplex was included in the plat, in a duplex zone.

Cropley and Christiansen stated they are not in favor of a triplex. Meyer states there are time constraints required by ordinance, which need to occur.

The purpose of this joint meeting is to expedite the hearing and approval process. Meyer asked River Valley what they would want to do at this time. Brown's lawyer, Tim Shattuck, stated they would like to table pending submission of revised preliminary plat. Jacob asked for a time limit. Meyer stated to ensure they have responded by February 13, they can make appropriate action. Christiansen would like to ensure all issues be addressed, including sidewalks.

Mayor asked if there were any other items or discussion. None were raised.

Motion by Jacobs second by Commissioner Meyer to close the public hearing at 8:13 p.m. Unanimous

Christiansen made a motion to close the public hearing at 8:14 p.m., seconded by Reiff. Unanimous.

Motion by Jacobs to table the preliminary plat as presented. Mitchell seconded the motion. Unanimous.

Meyer addressed the final plat presented for Delmar lots 78 and 79. In Ordinance 17.88.070 it states substantial conformation, in his opinion, is to include all plats and no lots to be sold (17.88.090.F). The next section does state it can be subdivided. Meyer related that Brown previously raised concerns with a final plat due to negative tax impact to the developer. Brown would prefer the development plat as they go.

Cropley asked regarding the dates for the final plat submitted, and where we are with the schedule for approval. Meyer states the timeline would run out on January 17. Brown requests an extension from January 17 to February 29. Meyer restated the consideration that the final plat does not have a preliminary plat approved, and there are other items not in compliance for a final plat. Motion by Parks, second by Cropley to accept the request to extend the final plat timeline for Delmar lots 78 and 79 to February 29. Unanimous.

Meyer gave an update regarding a meeting, hosted by the Siouxland Chamber, to discuss the wastewater concerns from the sister cities with Sioux City. He also reported the City installed the flow gauge equipment and the first 24 hour reading of 60 gpm. Sioux City has granted permission to increase wastewater flow by 20,000 gpd. A follow up meeting, again hosted by the Chamber, is schedule for January 14. Brown asked if the wastewater issue can be resolved with Sioux City can there still be an opportunity to move forward with building the sixplex units along Sodrac. Cropley stated she, and believes the Council, doesn't want to stifle growth, as long as it is done properly, as other builders have done. She also stated we will look at any building as long as it complies with the ordinances and the master plan as presented.

Slater asked regarding an issue created with River Valley Phase II Tax Increment and the rezoning. Brown stated they stopped creating an amendment when wastewater became an issue, and start discussing again.

Motion by Commissioner Meyer second by Jacobs to adjourn the Planning Commission meeting at 8:57 p.m. Unanimous.

Cropley made a motion and seconded by Verdoorn to adjourn the City Council meeting at 8:57 p.m. Unanimous.

Randy Fredericksen, Mayor

Attested

Susan Kloostra, Finance Officer