

ZONING AND PLANNING BOARD MEETING MINUTES

July 20, 2023, Zoning & Planning Board meeting was called to order at 7:00PM at City Hall at 206 Main Street, Three Forks, MT 59752, and via Zoom (Zoom is a virtual meeting tool being used due to COVID-19 and social distancing guidelines).

Chairman George Chancellor, Members Matt Jones, Kelly Smith, Amy Laban and Niki Griffis were present at City Hall. City Planner Randy Carpenter was also present at City Hall, City Attorney Susan Swimley was present via Zoom.

Public Present: Darren Hutton, Philip Kedrowski, Matt Huggins.

Chairman Chancellor reminded everyone the meeting was being recorded.

PUBLIC COMMENT (items not on the agenda): There were no public comments on items not on the agenda.

CONSENT AGENDA

Minutes from the meetings held on 2/16/2023

Amy Laban made a motion to approve the minutes. Kelly Smith seconded the motion.

Motion Passed Unanimously.

NEW BUSINESS

Any Zoning Regulations Updates?

Kelly Smith said no, there is not yet.

PUBLIC HEARINGS

Public Hearing and Recommendation for a Conditional Use Application for Multi-family Housing by Darren Hutton on Lot 9, Block 51 of Milwaukee Land Company's 2nd Addition, Commonly Known as 615 4th Avenue West, Plat D-29

Randy Carpenter read his staff report and began to speak. Susan Swimley came on via Zoom and said that the City of Three Forks was muted and she could not hear the meeting. Meeting recessed (all members and public stayed in their seats while technical troubleshooting occurred) at 7:02PM.

Meeting reconvened at 7:14PM.

Mr. Carpenter continued his presentation of the staff report for this application to the Zoning Board. Staff recommended approval of this application.

Applicant Presentation: Darren Hutton did not have any presentation to add.

Board Comments/Questions: Kelly Smith asked how long it would take to split the home into two, to add a definitive wall? Darren Hutton said not long. Amy Laban confirmed there were entrances/exits for both units already available. Mr. Hutton agreed. Matt Jones asked if the second unit would need to have another meter/radio installed. Kelly Smith explained that in the Residential District we can just set it in Utility Billing to reflect the two units. Mr. Hutton asked her to further explain. Ms. Smith said that all multi-family units are

ZONING AND PLANNING BOARD MEETING MINUTES

responsible for the first minimum water and minimum sewer charge for each unit. Mr. Hutton said he would prefer that anyway since he intends to keep all the utilities in his name and then just include the costs for the rental in rent.

Public Comment: There was no public comment.
Chairman Chancellor closed public comment.

Applicant Rebuttal: There was no rebuttal.

Board Questions/Comments:

Amy Laban said this seems pretty Chairman Chancellor moved to approve the permit to convert a single-family home into a two unit-family at 615 4th Avenue East. Amy Laban seconded the motion.

Motion Passed 5:0.

Public Hearing and Recommendation for the Final Plat Approval for 8 Live/Work Condominiums, Buildings 1 and 4, that are complete. The PUD unit addresses are 11, 13, 15, 17, 41, 43, 45, and 47 Old Yellowstone Trail and are located within the City of Three Forks. The Property is Described at Tract 3A-1 of Certificate of Survey 942A, (3.907 acres) located in the NW ¼ of Section 26, Township 2 North, Range 1 East, P.M.M., Gallatin County, Montana.

Randy Carpenter recapped the preliminary plat application, hearing and recommended conditions. "In order for final plat to be approved, the application must meet all the requirements of the zoning regulation and the conditions," he explained mostly to Niki Griffis who was not on the board at that time. He continued, "This is an 8 building, 32-unit live/work planned unit development (PUD). It was annexed prior to that approval in March 2020. Approval of a PUD consists of three steps: concept plan review, preliminary plan review and now final plan review to ensure the conditions have all been met for this project. The whole point of a PUD ordinance is that it allows the developer flexibility from the subdivision requirements. For instance, the landscaping and more open space set aside than what is normally required also benefits the public. The landscaping is not 100% complete at the moment but the developer has bonded 125% of the landscaping costs. So staff concurs the plan is in compliance with the preliminary plan, all conditions have been met, this does not decrease open space, does not change the general use or character of the development. I would like to add that Great West Engineering has reviewed the final plan and has provided the following recommendations:

1. The Developer's Engineer has provided letters to the owner and DEQ specifying this, but we recommend the City get a separate letter addressed specifically to the City from the Developer's Engineer which certifies the construction of water, sewer, storm, and roads meet the construction documents.
2. We recommend getting a full set of as-builts from the Developer's Engineer. We have only seen water and sewer as-builts. We recommend that the Developer submit to the City the full set to also include stormwater and roads for City records and to further support everything was constructed to plan.
3. The documents had all of the sewer main testing (TV inspection and leak testing) but we did not see any testing on the water mains. We recommend that the Developer submit to the City the water main testing documents for City records.

"Staff recommends approval of this application with those three conditions/recommendations from Great West Engineering," Randy Carpenter reported.

ZONING AND PLANNING BOARD MEETING MINUTES

Applicant Presentation: Philip Kedrowski, engineer with Red Leaf Engineering. “Thanks for working with us, it has been a long process. I was a little confused to have this meeting as it is not customary to have a public hearing for a final plat application. Normally it just is a meeting to show we have met the requirements, and do not feel it is very fair to the developer to reopen the application to public comment, although no one is here so they must agree it is all good. I did go ahead and draft letters, which were sent to Kelly Smith this morning, and the final plat will have the same certification as these letters are requiring. I would request that condition #1 not be a condition since it is language that would be on the final plat. #2 there was a condition to provide as-builts drawings for stormwater surface. I request you also not include this condition because it is a new condition that has not been requested previously. If you do add it as a condition, I ask that you not delay this from being scheduled on the August 8th Council meeting; I will do my best to have it done by that date but we are all very busy and it will be done. Condition #3 I also do not consider this an additional condition, but one that we did meet on March 26, 2022, but was submitted with a bunch of other files and could have been missed. So, I resubmitted that to Kelly [Smith] this morning. I have also submitted notes and flushing records of the lines and the pressure testing,” Mr. Kedrowski presented to the Board. Philip Kedrowski added that Bryan Tate, the project manager, has requested that he relay that final landscaping will be done but this is approval for the first two buildings. They want these first two buildings which are finished to be able to sold and landscaping in order to do that, then ripping it up when we build the remaining buildings seem unnecessary so it will all be done but has been bonded for. “I would also like to add that this public hearing at final plat stage is very non-typical, and in my opinion unfair,” Philip said.

Matt Huggins spoke on behalf of the application as well. “I agree with those comments, we ask that you not add any additional conditions at this point. We have met the thirty-odd conditions and hope we can get your recommendation for the Council to approve this.” Randy Carpenter added that the requirement for the public hearing is embedded in the PUD chapter of the City’s Zoning Ordinance. “I will be meeting with the City Attorney to discuss changing that requirement in the ordinance in the near future,” Randy added.

City Attorney Susan Swimley asked the Chairman if she may ask a few questions. She thanked Randy Carpenter for that last comment, and her best guess is that because both Manhattan and Three Forks’ PUD codes both require this final plat public hearing, both towns had the same planner so she can presume the original source of that requirement. “I understand you already submitted this stuff and you have pointed us to the documentation on the water main, but my comment on #2 is that for the stormwater?” she asked. Philip Kedrowski said yes, it would be for stormwater and roads. “You submitted that to DEQ, correct?” Susan asked. Philip said the water and sewer main extensions were submitted via Municipal Facilities Exemption (MFE) to DEQ, but also the City Engineer reviewed the stormwater. Susan continued, “You have built this to be consistent with the plans, and to now require that would be a redundant condition. That is what you are saying, correct?” she asked of Philip Kedrowski, which he confirmed. She said, “You built the road/street, stormwater design and water and sewer main extensions consistent with the approved plans, you are certifying as an engineer that they were built as approved in the plans, correct?” Mr. Kedrowski said, “Yes, that is correct.” Susan added, “But we did not ask you to provide full as-builts of those plans?” Mr. Kedrowski said again, “Yes, that is correct. I just learned about the as-builts in the last week.”

Susan directed to Chairman Chancellor that she is happy to help guide the Board in making findings when it is ready for that step. Regarding addressing the public hearing aspect, Susan said that the Board should only consider public comments on whether or not the conditions have been met as she agrees it is uncustomary for

ZONING AND PLANNING BOARD MEETING MINUTES

the Zoning and Planning Board to hold an additional public hearing for final plat applications. Chairman Chancellor said if Mrs. Swimley would like to leave the meeting she could. Susan refrained, stating she would like to hear the Board's findings regarding the applicant meeting the conditions.

Chairman Chancellor asked Kelly Smith to speak regarding the water and sewer main documentation. Kelly Smith said she provided everything that was submitted originally to Great West Engineering and admitted when it comes to water and sewer main drawings she does not know what she is looking for, "So that is why I sent everything to Jessica [Salo] at Great West." Philip Kedrowski asked if Kelly had forwarded what he submitted today to Jessica as well. Kelly replied she had. Mr. Chancellor said he was confused, "Are we striking some of these conditions?" Randy Carpenter said he agreed with the applicant and the Board cannot add conditions at this stage. "I apologize because I should have changed my terminology and not used the word 'condition' but rather 'request'. If the Board agrees with the applicant's engineer, essentially since these three things are not needed that is fine. The City Attorney is right – you have to determine whether you agree with staff that the conditions of the preliminary plan have been met with this application. Staff's opinion is that they do," Randy said.

Kelly Smith asked about the covenants cannot be modified without the City's approval, "Susan I sent this to you on pages 30 and 31." Susan Swimley said she has not looked at it yet but will before the Council meeting. "If the Planning and Zoning Commission would like to request that this is addressed prior to the Council meeting, I am happy to do that," she said. George Chancellor thanked her. Amy Laban asked about if the Zoning and Planning Board will have to hold another hearing for the remaining buildings or not, since it is advertised and noticed as only the addresses for buildings #1 and #4? Randy Carpenter said no, this is for final plat approval of the entire PUD. Niki Griffis asked if all the buildings are supposed to be complete before final plat? Randy Carpenter said no. Matt Jones clarified that [Great West's] 1, 2, and 3 are just requests, not conditions. The Board agreed. Niki said, "We assumed all the correct documents have been submitted which I'm sure they have but will someone double-check that?" she asked.

George Chancellor moved that we give Three Rivers Development approval on the final plan for the Headwaters South Condominiums. The conditions will include 1) final plan must be in conformance with the approved preliminary plan... (Mr. Chancellor was interrupted by the Board and Randy Carpenter that he was reading all previous conditions, which the Board is to be considering if the applicant has or has not met them.) George Chancellor continued that his motion is Three Rivers Development has submitted final plan approval under the conditions that the previous conditions have been met. Kelly Smith seconded the motion.

Motion Passed 5:0.

Someone explained that this recommendation will be on the August 8th Council meeting. There was brief discussion regarding whether or not this would be on the Consent or Regular Agenda at the Council meeting.

OLD BUSINESS

There was no old business.

Amy Laban moved to adjourn. Niki Griffis seconded the motion.

Motion Passed Unanimously.

Meeting was adjourned at 8:47PM.