

Stark County Planning and Zoning Commission Minutes

April 27, 2017
3:00 pm

Chairman Russ Hoff called the meeting of the Stark County Planning and Zoning Commission to order. Chairman Russ Hoff, Scott Decker, Sue Larsen, Jay Elkin, Klayton Oltmanns, Kurt Froelich, Daneen Dressler, and Byron Richard were present, and absent was Duane Grundhouser. Also present were County Planner Steve Josephson, Brittney Bornemann of the States Attorney's office, and Nicole Roberts of the Auditor's office.

Kurt Froelich moved to approve the minutes from the March 30, 2017 meeting. Scott Decker seconded. All voted Aye and motion carried.

Chairman Hoff opened the public hearing on a request from Mary Peters, Et al. The request is for a zoning change from Industrial to Agriculture on property located in Section 15, Township 139, Range 98 less a 4.47 acre parcel in the SE ¼ of the SE corner, and in the E ½ and the NW ¼ of Section 16, Township 139, Range 98 containing approximately 1,120 acres.

Chairman Hoff asked anyone to either speak for or against the zoning change from Industrial to Agriculture. Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval for the zoning change from Industrial to Agriculture on property located in Section 15, Township 139, Range 98 less a 4.47 acre parcel in the SE ¼ of the SE corner, and in the E ½ and the NW ¼ of Section 16, Township 139, Range 98 containing approximately 1,120 acres following staff recommendations for Mary Peters, Et al.

Klayton Oltmanns seconded. Roll call vote. All voted Aye and the motion carried.

STAFF RECOMMENDATION: Approval of the proposed rezoning based upon the following finding:

- The proposed rezoning is consistent with the development pattern in the vicinity.

The request is consistent with the following objectives of the Stark County Comprehensive Plan:

- LAND USE-Encourage the wise use of agricultural land;
- LAND USE-Strive to protect the agricultural integrity of rural areas; and
- LAND USE-Avoid conflicts between land uses.

Chairman Hoff opened the public hearing on a request from Northern Improvement Company. The request is for a zoning change from Agriculture to Commercial on a parcel located in the NW4 of Section 36, Township 140, Range 98 containing approximately 80 acres.

Chairman Hoff asked anyone to speak for or against the zoning change from Agriculture to Commercial on a parcel located in the NW4 of Section 36, Township 140, Range 98 containing approximately 80 acres.

Gary Ramsey representing Dorothy Tuhy voiced their concerns on water erosion and fence line location. Ken Steffen voiced his concerns on property values, view, water usage, and that this is in the wrong

zoning district. Gilbert Riddle voiced his concerns on the view. Rod Kostelecky also opposed to the request.

Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval for zoning change from Agriculture to Commercial, subject to conditions, following staff recommendations for Northern Improvement Company. Commissioner Elkin also included the following in his motion for approval:

Prior to final approval, the applicant shall address the following issues:

- **Location of the southern property line; and**
- **Surface water drainage onto the adjacent property to the south.**

Scott Decker seconded. All voted aye except for Byron Richard who voted nay and the motion carried.

STAFF RECOMMENDATION: Approval based upon the following reasons:

- A. The proposed rezoning reflects the emerging development pattern in the immediate vicinity of U.S. Interstate Highway 94 and 121th Avenue SW; and
- B. The adoption of the rezoning request with the following proposed conditions should limit impacts of commercial uses upon the existing agricultural and residential uses in the vicinity;
 1. **Prior to development of the property the developer shall meet with the Stark County Road Superintendent to determine the location of the access approach onto 121st Avenue SW;**
 2. **Development on the site shall comply with the corridor overlay district requirements in Section 5.10 of the Stark County Zoning Ordinance.**
 3. **Building permits may not be issued until all the following improvements are constructed by the developer and approved by Stark County.**
 - a. **The installation of storm water management facilities required to manage storm water in accordance with an approved storm water management plan and submittal of a statement from a consulting engineer that certifies that the facilities were built in accordance with the approved storm water management plan. The consulting engineer shall be a licensed engineer approved by Stark County. Any review of the storm water plan and subsequent certification that installation of storm water management facilities implement the storm water management plan shall be at the developer's expense;**
 - b. **The grading of all roads within the development; and**
 - c. **The construction of bridges or any other required facilities.**
 - d. **The completion of required off-site improvements, such as the construction of turning lanes or the paving of section line roadways, may be delayed with the submittal of an assurance of completion such as a bond or a letter of credit from an acceptable financial institution in an amount sufficient to**

construct such improvements and submit a plan of financial responsibility of unpaid improvement assessments.

4. All parking, internal circulation roads and entrances to the property shall be paved.
5. Prior to the issuance of a certificate of occupancy of any building, landscaping shall be installed and maintained by the property owner in accordance with a landscaping plan approved by the Zoning Administrator,
6. A minimum 20-foot buffer shall be required between commercial development and agriculturally/residentially zoned property.
7. Screening between the subject property and agricultural/residential zoning shall be required if one of the following conditions is directly visible from and faces toward the boundary of agriculturally/residentially zoned property:
 - a. The rear elevation of buildings.
 - b. Outdoor storage areas or storage tanks, unless otherwise screened.
 - c. Loading docks refuse collection points, and other service areas.
 - d. Major machinery or areas housing a manufacturing process.
 - e. Major on-site traffic circulation areas or truck and/or trailer parking.
 - f. Sources of glare, noise, or other environmental effects.
8. A six foot opaque barrier shall be provided which visually screens the conditions listed in Condition 7 from less intensive uses as follows:
 - a. A solid wood, vinyl and/or masonry fence or wall at least six feet in height;
 - b. A landscaping screen, using evergreen or deciduous materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of planting;
 - c. A landscaped earth berm with a maximum slope of three to one, rising no less than six feet above the existing grade of the lot line separating the zoning districts; or
 - d. A combination of these methods that achieves a cumulative height of six feet.
9. Prior to development of the property, the developer shall arrange for the County Weed Officer to inspect the property for all new, invasive, and noxious weeds. If required by the County Weed Officer, the developer shall be responsible for implementing a Weed Control Plan as approved by the County Weed Control Office. The developer shall provide a copy of the Weed Officer's report and required weed control plan to the Stark County Zoning Administrator.
10. The developer shall work in concert with law enforcement and emergency responders to facilitate public safety.
11. The developer shall be responsible for dust control and erosion control during construction of the project.
12. Development and operation of the project shall be performed in accordance with all applicable County, State and Federal rules and regulations.

The request is consistent with the following objective of the Stark County Comprehensive Plan:

ECONOMIC DEVELOPMENT-Strive for a well-rounded, stable economic foundation for the county.

The request is consistent with the following implementation strategies of the Stark County Comprehensive Plan:

ECONOMIC DEVELOPMENT-Stark County supports the land use and zoning designation of an adequate supply of commercial and industrial land as needed to attract

quality business and industrial development within the County. In particular, this type of growth should be directed not only to areas adjacent to Dickinson but also to the rural business centers adjacent to the I-94 corridors surrounding Richardton and Belfield and the Highway 10 corridor between Dickinson and South Heart.

ECONOMIC DEVELOPMENT-Strive for a well-rounded, stable economic foundation for the county.

ECONOMIC DEVELOPMENT-Coordinate plans to ensure an adequate supply of industrial and commercial land in appropriate locations.

LAND USE- Provide for proper growth management practices.

LAND USE-Avoid conflicts between land uses.

Prior to the division of the subject parcel into two or more lots, tract or parcels, the developer shall comply with the requirements of Article VII "Subdivision Regulations" of the Stark County Zoning Ordinance. No building permits shall be issued for any additional lots that area created without going through the County's subdivision process.

Chairman Hoff opened the public hearing on a request from Northern Improvement Company. The request is for a conditional use permit for a contractor's yard and operations to be located on a parcel in the NW ¼ of Section 36, Township 140, Range 98 containing approximately 80 acres.

Chairman Hoff asked anyone to speak for or against the conditional use permit for a contractor's yard and operation for Northern Improvement Company.

Gary Ramsey on behalf of Dorothy Tuhy is opposed to the conditional use permit for a contractor's yard and operation.

Chairman Hoff closed the public hearing.

Klayton Oltmanns moved to recommend to the Stark County Board of Commissioners the approval of a conditional use permit for a contractor's yard and operation, subject to conditions, following staff recommendations for Northern Improvement Company.

Jay Elkin seconded. All voted aye except for Byron Richard who voted nay and the motion carried.

STAFF RECOMMENDATION: Approval of the proposed conditional use based upon the following findings:

1. Approval of the conditional use permit shall be contingent upon the rezoning of the property. Development on the property shall be in accordance with the conditions adopted as part of the companion rezoning as well as these conditions;
2. The adoption of a conditional use permit shall limit impacts of commercial uses upon the existing agricultural and residential uses in the vicinity; and

3. Development of the subject property shall be limited through the inclusion of the conditions listed below.
 - a. Development shall be limited to a contractor's yard and operations as well as portable concrete and/or hot mix asphalt mixing plants.
 - b. As depicted on the map received on April 3, 2017, the western portion of the property shall be reserved for office buildings and storage buildings associated with a contractor's yard and operations. The eastern portion of the property shall contain a portable concrete and/or hot mix asphalt mixing plants with ancillary equipment parking and storage as well as equipment parking and material storage for associated construction activities.
 - c. The portable concrete and/or hot mix plants shall be located a minimum of 300 feet from adjacent properties. Ancillary equipment associated with the plant (e.g., rollers, pavers, trucks) as well as equipment parking and storage for associated construction activities shall be located a minimum of 20 feet from adjacent properties to the east and 50 feet from properties to the south.
 - d. The applicant shall plant and maintain a tree row along the southern and eastern property lines to screen the storage area.
 - e. Prior to development of the western portion of the property, no permanent structures shall be erected on the eastern portion of the property. Temporary structures shall be limited to a maintenance facility, mobile testing facilities, an office facility associated with the portable concrete/asphalt plants, and a fuel dispensing facility.
 - f. Prior to the issuance of building permits the developer shall submit a unified site plan depicting the entire property.
 - g. Future development on the property shall be in accordance with the conditions adopted as part of the companion rezoning on this property.
 - h. The developer shall be responsible for all maintenance associated with the contractor's yard and operations.
 - i. Prior to future development, access points serving the subject property shall be determined in accordance with Stark County regulations.
 - j. All parking, internal circulation roads and entrances to the property associated with future development shall be paved.
 - k. Off-street parking associated with future development shall be in accordance with Article VI of the Stark County Zoning Ordinance.
 - l. Should Stark County determine that additional right-of-way for road improvements, turning lanes, and/or other improvements is required, future development cannot be completed until the property is platted.
 - m. Any proposed changes of the conditional use permit, including locations of existing uses and proposed structures as depicted on the map received on

April 3, 2017, shall require a hearing before the Stark County Planning and Zoning Board and approval from the Stark County Commission.

- n. The permit may be revoked by the County Commission anytime the applicant is in non-compliance with any of the conditions set by the Planning and Zoning Board or the County Commission for the issuance of the permit.**
- o. Development of the subject property shall be performed in accordance with all applicable County, State and Federal rules and regulations.**

The request is consistent with the following objectives of the Stark County Comprehensive Plan:

ECONOMIC DEVELOPMENT-Strive for a well-rounded, stable economic foundation for the county.

ECONOMIC DEVELOPMENT-Coordinate plans to ensure an adequate supply of industrial and commercial land in appropriate locations.

LAND USE- Provide for proper growth management practices.

LAND USE-Avoid conflicts between land uses.

Chairman Hoff opened the public hearing on the proposed amendment to update the text of Article V of the Stark County Zoning Ordinance as adopted on October 2, 2012.

Chairman Hoff asked anyone to speak either for or against the proposed amendment to update the text of Article V of the Stark County Zoning Ordinance as adopted on October 2, 2012.

Chairman Hoff closed the public hearing.

Klayton Oltmanns moved to recommend to the Stark County Board of Commissioners the approval following staff recommendations for the proposed amendment to update the text of the Stark County Zoning Ordinance as adopted on October 2, 2012 following staff recommendations.

Sue Larsen seconded. Roll call vote. All voted Aye and the motion carried.

ARTICLE V

5.1-Agricultural District- add "Oil, Gas and other related gathering line systems" as a permitted use. Delete "Oil, Gas and other related gathering line systems" as a conditional use;

5.2-Agriculture Residential- add "Oil, Gas and other related gathering line systems" as a permitted use. Delete "Oil, Gas and other related gathering line systems" as a conditional use.

Add a list of temporary uses; and

5.3-Rural Residential- add "Oil, Gas and other related gathering line systems" as a permitted use. Delete "Oil, Gas and other related gathering line systems" as a conditional use.

STAFF RECOMMENDATION: Approval of the proposed amendments based upon the following findings:

The proposed amendments are consistent with the following objectives of the Stark County Comprehensive Plan:

- LAND USE D-Provide for proper growth management practices; and
- LAND USE E-Avoid conflicts between land uses.

The proposed amendments are consistent with the following implementation strategies of the Stark County Comprehensive Plan:

- GOVERNMENTAL- Stark County supports the periodic review of county codes and ordinances to ensure their current relevancy; and
- LAND USE-Stark County supports working toward uniform

Byron Richard moved to adjourn, Jay Elkin seconded.