

Zoning Commission Minutes

September 25, 2014
3:00 pm

Chairman Russ Hoff called the meeting of the Stark County Zoning Commission to order. Chairman Hoff, Jay Elkin, Klayton Oltmanns, Kurt Froelich, Duane Grundhauser, Gene Jackson, and Sue Larsen present and absent was Larry Messer. Also present were Planner Steve Josephson, and Auditor Kay Haag.

Duane Grundhauser moved to approve the minutes from the August 28, 2014 meeting. Klayton Oltmanns seconded. All voted Aye and motion carried.

Chairman Hoff opened the public hearing on a request from Jesse Diamond of Buell Consulting, Inc. The request is for a conditional use permit for a 190 foot telecommunications tower on a parcel located in the E2 of the W2 of Section 27, Township 138, and Range 96. The lease area contains approximately 0.23 acres. The applicant stated the actual height should be 199 feet as there will be a nine foot lightning rod on top of the antenna. Chairman Hoff asked for anyone to speak for or against the conditional use permit. Kent Fritz asked how close the tower will be to his property and if there is height issue with the airport. Kent Fritz was neither for nor against. Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval of the zoning change for a conditional use permit for a 199 foot telecommunications tower following staff recommendations for Jesse Diamond of Buell Consulting, Inc. Klayton Oltmanns seconded. Roll call vote. All voted Aye and the motion carried.

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

1. The location of the proposed project should not adversely impact the existing agricultural uses in the vicinity; and
2. The conditional use shall be limited through the inclusion of the following conditions:
 - a. **Development shall be limited to a self-supporting telecommunications tower and an accessory structure to protect communications equipment on site;**
 - b. **The equipment compound shall not be used for storage of any excessive equipment, hazardous waste, or habitable space. No outdoor storage shall be allowed on site;**
 - c. **The maximum height of the radio tower shall be limited to ~~190~~ 199 feet;**
 - d. **The location of the tower and accessory buildings shall be as shown on the drawings dated August 21, 2014 and ;**
 - e. **The developer shall be responsible for all maintenance associated with the tower, the tower compound and the roads accessing the tower;**
 - f. **The tower shall allow for co-location of four additional providers;**
 - g. **The developer shall provide an eight-foot fence around the perimeter of the tower compound. Chain-linked fences shall be painted or coated with a non-reflective color;**
 - h. **Prior to building permit issuance, the developer shall submit a letter from the Federal Aviation Administration (FAA) stating that the tower does not exceed the maximum height permitted under FAA rules;**
 - i. **Prior to building permit issuance, the developer shall submit a copy of the letter from Sabre Industries dated September 16, 2014 with a wet registered professional engineer's seal and signature.**

- j. Signs located at the telecommunications facility shall be limited to ownership and contact information, Federal Communications Commission antenna registration number (if required), and any other information as required by government regulation. Commercial advertising is strictly prohibited;
- k. Unless required by the Federal Communications Commission or the Federal Aviation Authority, the telecommunications tower shall not be lighted;
- l. Security lighting for the equipment shelter shall be confined to the boundaries of tower site;
- m. The tower shall be constructed of galvanized material and shall be of an appropriate color to harmonize with the surroundings;
- n. Any proposed change of use of the tower, increase in height or change of location shall require a hearing before the Stark County Planning and Zoning Board and approval as well as approval from the Stark County Commission;
- o. Development of the radio tower shall be performed in accordance with all applicable County, State and Federal rules and regulations; and
- p. The service provider shall report to the Zoning Administrator if the telecommunications tower facility is no longer in use. The telecommunications tower facility shall be removed, at the service provider's expense, within six (6) months of this notice and the site shall be restored by the service provider to its pre-existing condition.

The subject property is currently zoned Agriculture. As the surrounding area is undeveloped and appears to be in agricultural use, the proposed conditional use is consistent with the following objective of The Stark County Comprehensive Plan:

- **LAND USE-Avoid conflict between land uses.**

Chairman Hoff opened the public hearing on a request from Chad and Rhonda Tormaschy. The request is for a zoning change from Agriculture to Agricultural Residential on a parcel located in the SW4 of Section 31, Township 140, and Range 94 containing approximately 10 acres. Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Duane Grundhauser moved to recommend to the Stark County Board of Commissioners the approval of the zoning change from Agriculture to Agricultural Residential following staff recommendations for Chad and Rhonda Tormaschy. Jay Elkin 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-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 Travis and Cindy Sabrosky. The request is for a zoning change from Agriculture to Agricultural Residential on a parcel located in the NE4 of the SW4 of Section 34, Township 140, Range 93 containing approximately 25.06 acres. Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Kurt Froelich moved to recommend to the Stark County Board of Commissioners the approval of the zoning change from Agriculture to Agricultural Residential following staff recommendations for Travis and Cindy Sabrosky. Jay Elkin 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-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 Shane Weber. The request is for a zoning change from Agriculture to Rural Residential on a parcel located in the NE4 of Section 15, Township 140, Range 94 containing approximately 5.00 acres. Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Klayton Oltmanns moved to recommend to the Stark County Board of Commissioners the approval of the zoning change from Agriculture to Rural Residential following staff recommendations for Shane Weber. Jay Elkin seconded. Roll call vote. All voted Aye and the motion carried.

STAFF RECOMMENDATION: Approval of the proposed rezoning subject to the following condition:

1. No development activities shall occur on the subject property until the developer has improved ~~32nd Street SW~~ 98th Avenue SW to the satisfaction of the Stark County Road Superintendent. No building permit may be processed without a signed statement from the Stark County Road Superintendent stating that the property can be accessed by a roadway that meets the minimum Stark County standards.

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

- 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 On Site Solutions, Inc. The request is for a zoning change from Residential Low Density to Industrial on a parcel located in the SE4

of Section 4, Township 140, Range 96 containing approximately 4.00 acres. Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Jay Elkin moved to recommend to the Stark County Board of Commissioners the approval of the zoning change from Residential Low Density to Industrial following staff recommendations for On Site Solutions, Inc. 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 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-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.

The property is located within Stark County’s corridor overlay district. Future development on the property may be subject to the corridor overlay requirements.

Vice Chairman Jay Elkins opened the public hearing on a request from Bakken Shale Development, LLC. The request is for a zoning change from Agriculture to Residential Low Density on a parcel located in the SW2NW4 and Government Lot 3 of Section 4, Township 139, Range 94 containing approximately 40.54 acres. Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Gene Jackson moved to recommend to the Stark County Board of Commissioners the approval of the zoning change from Agriculture to Residential Low Density following staff recommendations for On Site Solutions, Inc. Duane Grundhauser seconded. Roll call vote. All

voted Aye except Kurt Froelich and Sue Larsen voted Naye and Chairman Hoff abstained and the motion carried.

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

- A. The proposed rezoning is comparable to and consistent with the adjacent properties to the west; and
- B. The adoption of the rezoning request with the following proposed conditions should limit impacts of industrial uses upon the existing agricultural and residential uses in the vicinity;
 1. **Any portions of the parcel not utilized for residential development shall be utilized for agricultural uses.**
 2. **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.**
 3. **Prior to development of the property, the developer shall arrange for the County Weed Officer to inspect the property for all new and 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.**
 4. **The developer shall work in concert with law enforcement and emergency responders to facilitate public safety.**
 5. **The developer shall be responsible for dust control and erosion control during construction of the project.**
 6. **Development 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:

- 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 Bakken Shale Development LLC. The request is for a preliminary plat of the Bakken Estates Second Addition Subdivision located in all of Government Lot 3 in the NW4 of Section 4, Township 139, Range 94 containing approximately 40.54 acres. Chairman Hoff asked for anyone to speak for or against the zoning change. Chairman Hoff closed the public hearing.

Gene Jackson moved to table the preliminary plat of the Bakken Estates Second Addition Subdivision. Klayton Oltmanns seconded. Roll call vote. All voted Aye and the motion carried.

Klayton Oltmanns moved to adjourn. Sue Larsen seconded.