

**CITY OF MOORHEAD
PLANNING COMMISSION / BOARD OF ADJUSTMENTS
MEETING MINUTES
NOVEMBER 5, 2008 AT 5:00 PM
1ST FLOOR COUNCIL CHAMBERS, MOORHEAD CITY HALL**

Pursuant to due call and notice thereof, a regular meeting of the Planning Commission was held in the 1st Floor Council Chambers, Moorhead City Hall, on November 5, 2008, at 5:00 PM.

I. Roll Call

Roll call of the members was made as follows:

2nd Ward Council Member:	John Rowell	Present – Arrived 10 min. into mtg.
Board Member:	Brian Gramer	Present
Board Member:	Gary Schulz	Present
Board Member:	Liz Stabenow	Absent
Board Member:	Mike McCarthy	Present – Left at 6:11 p.m.
Board Member:	Tod Dahle	Absent
Board Member:	Wayne Ingersoll	Present

Also present:

Deb Martzahn, Planning and Zoning Administrator
Brian Neugebauer, City Attorney
Amy Thorpe, Community Services Program Assistant

II. Agenda Amendments

There were no amendments to the agenda.

III. Approval of October 7, 2008, Minutes

Motion to Approve made by Brian Gramer and seconded by Gary Schulz

Motion Passed: For: 4; Against: 0; Abstain: 0; Absent: 3

IV. Citizens To Be Heard

None.

V. Public Hearing -- Board of Adjustments

1. Request of Luther and Tracy Striker for the following actions regarding 1121 12th Street N:

A. Variance from Section 10-12C-6-D-2a-2 to allow a new garage to encroach into required street side yard setback.

B. Variance from 10-12C-9 to allow impervious surface coverage to exceed 35%.

Motion to Open Public Hearing made by Brian Gramer and seconded by Gary Schulz

Motion Passed: For: 4; Against: 0; Abstain: 0; Absent: 3

MINUTES:

Martzahn opened with a summary of the Striker's request. The item was first brought before the board at the October Board of Adjustments meeting but was tabled at that time to allow

time for the Strikers to meet with Martzahn to come up with a compromise that would be in closer compliance. Luther Striker did meet again with Martzahn to discuss a plan but did not reach a conclusion that was significantly different than the first request. Martzahn did not recommend approval stating that better alternatives were available.

Speaker:

Luther Striker, 1121 N. 12th Street, spoke to the board regarding his position for situating the garage. His concern focused on convenience for his tenants and himself. He explained that he has reduced the amount of concrete in his original plan and that this amount of impervious surface was consistent with the surrounding neighborhood.

After discussion between board members, Martzahn, and Striker, it was concluded that the board would not take a vote on this matter immediately and the applicant would waive the 60-day time limit to allow continued discussion. The applicant submitted a written request to extend the time for which the variance could be approved. It was accepted by the board allowing the request to remain open for an additional sixty (60) days.

NOTE:

Board Member Rowell entered the meeting during this discussion and participated from this point forward.

Motion to Close Public Hearing made by Wayne Ingersoll and seconded by Brian Gramer

Motion Passed: For: 5; Against: 0; Abstain: 0; Absent:2

No action taken by the Board of Adjustments on until written notice was provided. Upon acceptance of written notice, the following motion was made.

Motion to Table for a period not to exceed 60 days made by Gary Schulz and seconded by Brian Gramer

Motion Passed: For: 4; Against: 0; Abstain: 0; Absent:3

VI. Public Hearing -- Planning Commission

1. Request of Arista Development for final plat approval for Horizon Shores Fifth Addition, 13.822 acres located east of 36th Street South and directly south of Horizon Shores Fourth Addition.

Motion to Open Public Hearing made by Mike McCarthy and seconded by Gary Schulz

Motion Passed: For: 5; Against: 0; Abstain: 0; Absent: 2

MINUTES:

Martzahn summarized briefly for the commission their approval of the preliminary plat for Horizon Shores Fifth Addition and presented the final plat. Martzahn stated that a number of the conditions placed on the approval of the preliminary plat had already been addressed.

Martzahn recommended approval of the plat, contingent on the following conditions:

1. Developer shall enter into a developer's agreement with the City of Moorhead. In addition to usual agreements, the developer's agreement shall include
 - a. requirement to complete a master utility plan for Horizon Shores to the satisfaction of the City Engineer;
 - b. that the developer must provide an easement for the pipeline and completion of the master utility plan prior to extension of the water main;
 - c. commitment on the part of the developer to be financially responsible for sidewalk and landscaping improvements within the pedestrian street.
2. Developer shall receive all required federal, state and local permits.

Motion to Close Public Hearing made by Brian Gramer and seconded by Gary Schulz

Motion Passed: For: 5; Against: 0; Abstain: 0; Absent: 2

Motion to Approve made by Brian Gramer and seconded by Mike McCarthy the final plat of Horizon Shores Fifth Addition contingent upon the conditions listed above.

Motion Passed: For: 5; Against: 0; Abstain: 0; Absent: 2

2. Request of the City of Moorhead for text amendments of Sections 10-17, Article B: Floodway and Flood Fringe Overlay District, Section 10-19-20: Protection of the Red River Corridor, Section 11-4-1: Preliminary Plat and Section 11-7: Subdividing in Flood Areas to require geotechnical analysis prior to development within the floodway, floodplain or within 450 feet of the Red River centerline.

Motion to Open Public Hearing made by Mike McCarthy and seconded by Brian Gramer

Motion Passed: For: 5; Against: 0; Abstain: 0; Absent: 2

MINUTES:

Martzahn stated that on August 6, the commission had reviewed the Greenway Study and recommended that the City Council receive it. She said that when the study was taken before the City Council, members were concerned that something should be done immediately protect the Red River from development that may cause slumping of the banks or flooding. Martzahn went on to explain that a complete overhaul of the flood plain ordinance was scheduled for a later date when flood plain elevations were available. In the interim, Martzahn suggested that a "stop gap" measure to require developers to obtain a geotechnical analysis prior to development within the floodway or within 450 feet of the Red River centerline in an effort to alert developers and staff to any issues that may present.

Commissions discussed various aspects of the request. Rowell questioned whether the requirement to obtain a geotechnical analysis in order to receive a building permit may be too restrictive for small projects. City Attorney, Brian Neugebauer, suggested the language limit the requirement to new structures or for additions to existing properties in excess of 30% of the existing structure so that the majority of building permits would not require a geotechnical analysis.

Ingersoll asked if there would be developments coming in the future that would be in the floodway. Martzahn stated that Tessa Terrace Third was a recent example. She said that City Engineer, Bob Zimmerman, requested this analysis and the developer complied. Tom Trowbridge, assistant city engineer, added that recent developments have been required to comply with the upcoming new flood elevations and that those numbers used the flood of 1997 so there would have to be a significantly larger flood to effect the new developments.

Motion to Close Public Hearing made by Mike McCarthy and seconded by Brian Gramer

Motion Passed: For: 5; Against: 0; Abstain: 0; Absent: 2

No action was taken by the commission. They will continue discussion of the request at the next regular meeting to allow staff to draft changes.

3. Request of City of Moorhead for zoning ordinance text amendments to Section 10-2-2: Definitions to change the definition of "Fraternities and Sororities," and to Sections 10-18-1: Use Chart and 10-18-2: Provisional and Conditional Use Requirements to allow for fraternities and sororities as conditional uses to exceed the limit of four unrelated persons per dwelling unit and to locate in the RLD-3, RMD-1, RMD-2 and RHD-1 zoning districts.

Motion to Open Public Hearing made by Brian Gramer and seconded by Gary Schulz

Motion Passed: For: 5; Against: 0; Abstain: 0; Absent: 2

MINUTES:

Martzahn summarized the progression of the request beginning last spring. A proposal brought before commissioners at the October meeting suggested that sororities and fraternities could be allowed as conditional uses requiring organizations to apply for a conditional use permit for a particular property. A neighborhood meeting was held on October 30 at the MSUM campus, attended by the sorority, neighbors, Commissioner Ingersoll, and staff. Martzahn made changes to the proposed text amendment based on the discussion at the meeting and recommended approval of the text amendment as revised.

Neighbors and interested persons stood to speak for and against the proposed text amendment as follows:

Speakers:

Beverly Wesley, 908 11th St. S., neighbor, and
Jennifer Stenberg, 906 11th St. S., neighbor, and
Wilbert Hebert, 803 10th St. S., neighbor, all voiced concerns about the impact on their properties and neighborhoods.

Becky Boyle Jones, 1015 11th St. S., MSUM, and
Steve Klocke, 1502 19th St. S., realtor, spoke in support of the amendments.

Each of the citizen's concerns was addressed by staff, commissioners, and the city attorney.

Motion to Close Public Hearing made by Mike McCarthy and seconded by Wayne Ingersoll

Motion Passed: For: 5; Against: 0; Abstain: 0; Absent: 2

Motion to Approve made by Brian Gramer and seconded by Wayne Ingersoll to send to City Council.

Motion Passed: For: 5; Against: 0; Abstain: 0; Absent: 2

NOTE: *Commissioner McCarthy excused himself after completion of this agenda item.*

4. Request of the City of Moorhead for a zoning ordinance text amendment to Section 10-2-2: Definitions to clarify the definition of "Family."

Motion to Open Public Hearing made by Brian Gramer and seconded by Gary Schulz

Motion Passed: For: 4; Against: 0; Abstain: 0; Absent: 3

MINUTES:

Neugebauer explained to the commission that the purpose of the request was to update and clarify the definition of family to better reflect what the actual practice is and not to change the rule limiting the number of unrelated persons per dwelling unit. Neugebauer stated that he felt the changes would make the restriction of four unrelated person per dwelling unit more enforceable and strengthen its defense.

Commissioner Rowell suggested a change of the language in Section 10-2-2 c) from "two unrelated people and any children related to either of them, or over whom they are guardians or have another duly authorized custodial relationship;" to read "two unrelated people and any children related to either of them, or over whom either or both are guardians or have another duly authorized custodial relationship;"

NOTE: *Emphasis used for the purpose of identification only and not intended to be included in the amendment.*

Motion to Close Public Hearing made by Brian Gramer and seconded by Gary Schulz

Motion Passed: For: 4; Against: 0; Abstain: 0; Absent: 3

Motion to Approve made by Brian Gramer and seconded by Gary Schulz with the change to the language as above.

Motion Passed: For: 4; Against: 0; Abstain: 0; Absent: 3

5. Request of Raymond and Katherine Kvalvog to rezone 1915 Main Avenue South from RMD-1, Residential Medium Density 1 to RMD-2, Residential Medium Density 2.

Motion to Open Public Hearing made by Brian Gramer and seconded by Wayne Ingersoll

Motion Passed: For: 4; Against: 0; Abstain: 0; Absent: 3

MINUTES:

Martzahn explained that the purpose of the request was to allow a 12th unit to be added to the planned 11-unit apartment complex. She stated that this would require a change in zoning but that this change would be consistent with the neighborhood and a nice transition between the commercial uses in this area and the residential area to the south. Martzahn recommended approval of the rezoning.

Motion to Close Public Hearing made by Gary Schulz and seconded by Brian Gramer

Motion Passed: For: 4; Against: 0; Abstain: 0; Absent: 3

Motion to Approve made by Wayne Ingersoll and seconded by Gary Schulz

Motion Passed: For: 4; Against: 0; Abstain: 0; Absent: 3

6. Request of the City of Moorhead to rezone 1904 5th Avenue South from CC, Community Commercial to RMD-2, Residential Medium Density 2

Motion to Open Public Hearing made by Gary Schulz and seconded by Brian Gramer

Motion Passed: For: 4; Against: 0; Abstain: 0; Absent: 3

MINUTES:

Martzahn explained that Aggie Investments 12-plex was located next to the Kvalvag property and currently zoned community commercial. To keep the zoning of the neighborhood consistent, she was bringing this request before the board.

Motion to Close Public Hearing made by Brian Gramer and seconded by Gary Schulz

Motion Passed: For: 4; Against: 0; Abstain: 0; Absent: 3

No action taken by the commissioner at this time in order to allow for the publication of the amendment of the Comprehensive Plan.

VII. Other Business

1. Discussion of 10-15B-8: Building Height in the MU-2 district.

MINUTES:

Martzahn noted that this was not a public hearing, that no formal application had been submitted but that the developer wanted to know whether the commissioners would support a project of this type. She described the project in detail including the location and proposed four-story apartment complex, exceeding the allowed building height in the MU-2 district.

Neighbors and interested persons spoke both for and against the project.

John Sherman, 906 7th Ave. S., neighbor, expressed concern about impact on adjoining single family residents. Paulette Dixon, 813 6th Ave. S., said she owned one of the parcels included in the project area and expected to hear from the developer. She was in support of redevelopment. Mike Abrahamson, Olivia, MN, developer, further explained his interest in doing the project.

Each of the citizen's concerns was discussed and addressed by staff and commissioners.

VIII. Reports / Information

1. Updates on Studies

A. Comprehensive Plan / Active Living – Martzahn stated that the update to the comp plan is underway. She stated that Bonestroo Consulting had been hired to prepare the update. Commissioners agreed to commit to serving as the Comp Plan Committee and stated they were looking forward to the kick off next month.

B. 1st Avenue North – Martzahn stated that the staff had received a draft plan and were working to add information. She said that it would be brought before the Committee of the Whole later in the month.

IX. Adjournment

The proceedings of this meeting are digitally recorded and are available for public review.

Respectfully submitted by:
Amy Thorpe, Community Services Program Assistant