

CITY OF PLAINVIEW PLANNING COMMISSION
APRIL 5, 2022
MEETING MINUTES

The April 5, 2022, meeting for the Plainview Planning Commission was called to order at 6:00 p.m. by Holly Reeve.

Members present: Holly Reeve, Ben Jacobs, Roger Durgin, Aaron Nicklay, Scott Kujath, and Jim Walkes.

Members absent: Ann Liebenow-Anttila.

Staff members present: City Administrator David Todd, City Clerk Carol Kujath, Deputy City Clerk Kayla Hall, Public Works Director Shane Loftus, and Development Services Coordinator Richard Baker.

Guests in attendance: Brian Malm with Bolton and Menk Engineering, Mike Flaherty with Flaherty and Hood, Tom Wiener, Tim Janikowski, Steve Sawyer, Jeff Kreofsky, Scott Bennett, Greg Speedling, Charlie Uecker, and Bob Walkes.

Motion by Jacobs, second by Kujath to approve the Agenda. Motion carried.

Motion by Walkes, second by Durgin to approve the Consent Agenda. Motion carried. The March 1, 2022, minutes were approved without any corrections or amendments.

Skye View Amended Preliminary Plat:

Commission Chair, Holly Reeve opened the public hearing at 6:01 p.m. to hear testimony regarding the proposed amended Preliminary Plat for the Skye View Development located in the southern part of Plainview, south of Highway 42 and between 255th Ave and 3rd St. SW. The property is zoned SD for the Skye View Special District and overlay. The property totals approximately 9.19 acres.

Administrator Todd read a letter from Larkin Hoffman addressed to Mayor Luckstein and City Council stating they represent Fairwater LLC, the owner of Piper Hills Golf Course, they object to the City's approval of the preliminary plat and to any further action taken by the City in advancement of the Skye View Development as illegal and inconsistent with Fairwater's easement rights. *(See attached)*

Todd also received an email from Tony Montgomery acknowledging the letter from Larkin, Hoffman representing Fairwater LLC, regarding the rights to the easement. The easement shall be protected as written with all legal rights retained by Piper Hills Golf Course owners. *(See attached)*

Steve Sawyer – 740 2nd St NW – Part owner of Piper Hills Golf Course – Piper Hills Golf Course is protecting the easement for now and will determine how best to do some work on entering the golf course, which could change in the future, or not. Personally, does not have anything against the development and believes the development is something the City needs.

Motion by Kujath, second by Jacobs to close the public hearing. Motion carried.
Public hearing closed at 6:11 p.m.

Motion by Jacobs, second by Walkes to reopen the Planning Commission meeting.
Motion carried. Meeting reopened at 6:12 p.m.

Skye View Amended Preliminary Plat:

The City received an amended preliminary plat from Les Conway (WSE), representing Tom Wiener (Skye View Development LLC) for Skye View. This subject property is in the southern part of Plainview, south of Highway 42 and between 255th Ave and 3rd St SW. The property is zoned SD for the Skey View Special District and overlay. The property totals approximately 9.19 acres. The plat is for seven outlots, with one dedicated for stormwater retention. The plat also includes 10 parcels for attached single-family homes and townhomes. The lot sizes will be between 3,600 square feet and 65,000 square feet with a range of lot widths (street frontage) between 30 feet and 416 feet. The applicant will adhere to the Special District limits for each land use area. A lengthy discussion regarding questions and concerns including flood waters/drainage pond, and how the water will run along the easement, park/playground, retaining wall to divide the property from the property to the east, and a potential lawsuit. Brian Malm, Mike Flaherty along with the developer answered all questions and concerns asked by the Commission.

Motion by Reeve, second by Jacobs to recommend Planning Commission forward the amended preliminary plat for Skye View to the City Council recommending approval of the Skye View Amended Preliminary Plat Application, in the City of Plainview, subject to conditions and contingencies in the permit, and based on the findings therein.

Aye: Reeve, Nicklay, Walkes, Kujath, and Jacobs

Nay: Durgin

Absent: Liebenow-Anttila

Motion carried 5-1.

Orchard Hills 8th Final Plat:

Brian Malm explained to the Commission early last year, the applicant received preliminary plat approval by the City Council to move forward on this development with a total of 26 lots. Following that, the developer chose to develop the project in phases, and the City approved the Orchard Hills 7th final plat, which included 10 single-family lots and two large outlots, one for a stormwater pond and the other for future single-family lot development. This request is to replat Outlot B of the Orchard Hills 7th plat as Orchard Hills 8th with the remaining 16 single-family lots shown on the original preliminary plat. The lot sizes will be between 9,000 square feet and 18,000 square feet with a range of lot widths (street frontage) between 68 feet and 89 feet. Of the overall 5.5 acres, 0.81 acres are proposed to remain wetland after the developer completes DNR's wetland removal and remediation procedures. The overall density for the development will be just under three homes per acre. The applicant will adhere to R2 zoning.

Motion by Reeve, second by Walkes to forward the proposal, recommending approval to City Council, with the following conditions:

1. A recommendation that the proposed final plat does not conflict with any conditions listed in Section 620.4 of the Plainview City Code, and thus approval of the final plat is appropriate.
2. A recommendation in support of the applicant's proposal to pay \$9,616 for fees in-lieu of parkland dedication.
3. Prior to final approval:
 - The applicant shall modify the dedication language on the final plat to indicate that the proposed streets be dedicated to the public, in addition to the drainage and utility easements.
 - Final construction plans and specifications shall be approved by City Staff and the City Engineer.
 - A Development Agreement for the installation of the required infrastructure improvements necessary to support development on lots within the proposed subdivision is required prior to final plat approval.
4. All other comments or condition from city departments, franchise service and utility providers, or other authorities with jurisdiction over this development shall apply to this development.

Motion carried unanimously.

Updates/Discussion:

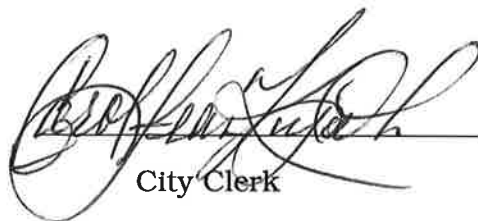
- Continue Discussion of the Comprehensive Plan: The Planning Commission is tasked with reviewing the Comprehensive Plan. At the last meeting it was discussed to focus on the implementation of the Comprehensive Plan and compare it with the 600 Code. It was suggested that the Comprehensive Plan be looked at every five years. As this plan is a new plan there is not anything that needs to be changed at this time. Administrator Todd suggested going section by section in the 600 Code as a Commission.

Motion by Durgin, second by Walkes to adjourn.

Motion carried unanimously. Meeting adjourned at 7:06 p.m.



Planning and Zoning Commissioner



City Clerk

7/25/22

Date

From: Chelsie Jech <chelsiejech@tmracompany.com>
Sent: Tuesday, April 5, 2022 11:11 AM
To: David Todd <d.todd@plainviewmn.com>
Subject: [EXTERNAL] Fwd: Sky-View Planning & Zoning Meeting April 5th 2022

Good afternoon David. Tony wanted me to forward this onto you.

Thank you,

Chelsie Jech

Ph: (507) 421.0351

Tony Montgomery Realty and Auction Company

540 N. Wabasha St.

Plainview, MN, 55964

www.tmracompany.com

----- Forwarded message -----

From: Tony Montgomery <montgomeryauctions@hotmail.com>
Date: Sat, Apr 2, 2022 at 4:01 PM
Subject: Sky-View Planning & Zoning Meeting April 5th 2022
To: Chelsie Jech <chelsiejech@tmracompany.com>

Mr. David Todd City administrator of Plainview, Mn,

As you have indicated to me in our brief meeting, you would read our objection to Skyview Development's plan to the Planning & Zoning board members and attendees. Please find the following:

This letter is addressed to the entire Planning & Zoning board and all attendees of said meeting taking place April 5th, 2022.

This is a reminder to the City of Plainview that on the 31st of Jan. the city received a letter from Larkin, Hoffman, a law firm located in Minneapolis representing Fairwater LLC, a company comprised of ownership of Tami Sawyer, Steve Sawyer, Stacy Montgomery, and Tony Montgomery. Fairwater LLC is the owner of Piper Hills Golf Course, property immediate to the south of the proposed development of which has a legally described easement of legal standing through the north and west part of the proposed development for the purpose defined within the easement. The City Mayor and Council have knowledge of this letter. Obviously, from many previous meetings held by the city, I have been very clear to the developer, city council, mayor, city engineer and city attorney that we own the rights to this easement and are not willing to concede to any modifications to said easement whatsoever. Both the city, city engineer, attorney for the city and developer have had knowledge of this easement for over 8 months and in some cases perhaps a year. The developer received the deed not until

December 29, 2021. Within the deed is the easement of record expressly representing the easement. Not to understand, deny or even refuse it, is negligent and puts the City of Plainview and in obvious jeopardy if such plat proceeds with confirmation from the city. This easement has been of record for over 40 years and through several owners it has been of record. I am surprised that the City would consider such a known attempt to infringe on the rights of holders of a recorded instrument. The question is, are those who are in the position to make decisions willing to put the city at financial risk by approving a plat of any kind that infringes on other's recorded right of usage of a recorded easement. I would suggest the Planning & Zoning board members fully understand all ramifications of decisions going forward pertaining to said easement and possible ramifications financially that the city may face upon approving such plat. Furthermore, why were some Planning & Zoning board members NOT made aware of the Larkin Hoffman letter advising the city NOT to proceed in letting the private developer infringe through plat upon the easement? Well, the truth is, some were aware. Two members of the Planning & Zoning board are also sitting city council members and knew all about the letter Jan. 31st of this year. In the packet presented to the Planning & Zoning members, the city engineer makes no mention of the existing easement conflict. This disturbing fact alienates not only the golf courses position of the easement, but also that of the existing members NOT knowledgeable of such conflict. In full transparency, we have distributed copies of some members of this body so they too can be made aware of this ongoing situation. In denial form letter f indicates and I quote. "that the design of the subdivision or type of improvements will conflict with easement of record," unquote.

In closing, this 40-year-old easement has passed along through many "owners", is real and shall be protected as written with all legal right retained by Piper Hills Golf Course owners. Again, it would be prudent that the City and the Developer modify the existing proposed plans that is infringing onto the existing easement.

Sincerely,

Tony L. Montgomery, owner
TONY MONTGOMERY REALTY & AUCTION COMPANY
PLAINVIEW, MN
montgomeryauctions@hotmail.com---tmracompany.com
507.259.7502

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