

November 13, 2018

The Scandia Planning Commission held their regular monthly meeting on the above date. The following were in attendance: Commissioners Jan Hogle, Perry Rynders, Travis Loeffler and Chair Dan Squyres. Absent: Commissioner Greg Amundson. Staff present: City Planner Merritt Clapp-Smith, City Administrator Neil Soltis, Deputy Brandon Yetter, and Deputy Clerk Brenda Eklund.

Chair Squyres called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA, MINUTES

Loeffler, seconded by Rynders, moved to approve the agenda as presented. The motion carried 4-0.

Loeffler, seconded by Rynders, moved to approve the October 2, 2018 meeting minutes as presented. The motion carried 4-0.

AMENDMENT TO DEVELOPMENT AGREEMENT FOR BAKKEN MINOR SUBDIVISION. CHAD CARPENTER, GREG HARTLEY, APPLICANTS. (PC RESOLUTION NO. 11-13-18-01)

Planner Clapp-Smith provided a summary of the applicants' request to amend the Bakken Development Agreement to allow a hammerhead turnaround instead of a cul-de-sac at the end of 239th Street Court. In 2013, approval of the Bakken Minor Subdivision resulted in a lot split into a 24.89-acre and a 10.1-acre parcel (Lot 1), with a development agreement requiring that a cul-de-sac be constructed at the end of 239th Street Court to serve Lot 1 before a building permit is issued for development of the property. The rationale was that if subdivision of Lot 1 was sought in the future, the cul-de-sac would provide the best access for multiple lots. Applicant Greg Hartley has purchased the property and said he has no plans to subdivide Lot 1.

Clapp-Smith provided the comments from the City Engineer, Public Works Director and Fire Chief which concluded that a properly designed hammerhead turnaround could accommodate fire engines and snowplow vehicles as an alternative to the cul-de-sac, and would be consistent with comparable street projects in Scandia. It was noted that if subdivision of the lot is proposed in the future, then street design improvements appropriate to serve the new subdivision could be identified and required at that time.

Administrator Soltis provided a view of the 10.1-acre property showing wetland areas and slopes. After excluding the non-buildable area of the property, a 2.5-acre buildable area remains, limiting the potential for future subdivision into residential lots.

Clapp-Smith concluded with a recommendation of approval, with three conditions included in a resolution. The design of the hammerhead must meet the specifications of the City Engineer, the turnaround must be constructed before the approval of a building permit for Lot 1, and the property shall remain as a single lot with no further subdivision.

Chair Squyres asked if the turnaround should be posted with “no parking” signage, as he sees the potential of its use as a residential driveway. Deputy Yetter this would not be needed as the turnaround is public right-of-way and vehicles cannot legally park here. If posted, it would follow that many other turnarounds in the City would need to be posted as well.

Applicant Greg Hartley described the 2 existing turnaround accesses at the end of the street and asked if he is required to install a third turnaround in the platted radius. Soltis said it is a public right-of-way and there needs to be a way to have snowplows clean to the end of it. The Commissioners concluded that the condition to have City Engineer approve the specifications is sufficient.

Rynders, seconded by Loeffler, moved to adopt PC Resolution No. 11-13-18-01, Approving Amendment to Bakken Development Agreement #39633498 Related to Right-of-Way Access for XXX 239th Street Court North as presented. The motion carried 4-0.

The recommendation to approve the amendment to the Bakken Development Agreement will be presented to the City Council at their November 20, 2018 meeting.

DISCUSSION ON THE REGULATION OF ANIMAL NOISE AND ACCESSORY STRUCTURES

Administrator Soltis explained a situation that a resident has approached the City with on enforcement of the noise ordinance, and asked for the Commissioners’ perspective on regulating agricultural related noises through the development code. The resident has complained about a braying donkey from an adjacent property that houses animals for a mobile petting zoo. The property is 5 acres in size where the keeping of livestock is an allowed use. Soltis provided excerpts from the noise ordinance that prohibits noises that disturb the well-being of residents, but also exempts noises related to agricultural activities.

The Commissioners noted that the noises from the animals are agriculture related and not enforceable under the current noise ordinance. Deputy Yetter stated that he surveyed other adjacent property owners about the noise level coming from this property. None had concerns about the volume or had complaints about the property’s use. Commissioner Rynders stated that based on publications from the League, this appears to be a private issue between the residents and not considered a public nuisance. Soltis added that the City’s prosecutor commented that it would be difficult to cite this as a public disturbance.

Doran O’Brien identified himself as the complainant, and asked about the language in the ordinance that prohibits noise that affects property values. Chair Squyres said this would be hard pressed to prove as he would have to provide the data to establish a case by finding other homes that sold for less due to comparable noise.

The Commissioners agreed that Scandia is a rural area where agricultural activities are encouraged, but the definition of agricultural activities could be better defined in the development code. Staff will research language to bring back for discussion at a future meeting.

Soltis explained that the second issue with the property is number of structures housing the animals. The property is in compliance with the allowed square footage of accessory structures, but the number of small shelters exceeds the maximum number of structures allowed. The Planning Commissioners were asked to consider what defines a structure.

Commissioner Hogle stated that the former township clerk told her that structures without a foundation are considered temporary are not defined as accessory structures.

Clapp-Smith stated that the Commissioners should approach the question of why the number of buildings is being regulated in the first place – is it aesthetics or environmental? Chair Squyres said that there is value in the traditional groupings of multiple farm buildings.

Deputy Yetter agreed that there is a need for clarification for all properties in Scandia, as many properties have small shelters no larger than a dog house counting towards an excess in the allowed number and would be in violation of the literal language of the ordinance. Yetter said he would not be comfortable in writing a citation for this particular property.

Commissioners asked that this also be a future discussion topic. Staff will research model ordinances and language for an improved definition of accessory structures and bring back to a future meeting.

DISCUSSION ON IMPACTS TO THE SHORELAND ORDINANCE

With the adoption of the amended shoreland ordinance in May 2018, Administrator Soltis described notable changes from the previous ordinance that merit discussion.

- Provision for the construction of decks within the OHWL
- Restrictions for fences
- Setbacks for properties in the shoreland

Decks

Soltis provided an excerpt from the DNR's model ordinance that allows for deck additions not meeting the required setbacks as allowed without a variance under certain conditions. This exception was also in the previous shoreland ordinance. The Commissioners were in consensus to leave this out and require any activity within the shoreland setback to pursue a variance.

Fences

Soltis explained that the current ordinance contains no reference to fences in the shoreland, so that the section in the development code would apply which has no restrictions on building a fence up to the ordinary high-water mark. Commissioners agreed restrictions belong back in the ordinance, and it was recommended that an amendment to the Development Code Chapter 2, Section 3.5(2) Fences should be done with the addition of Section 16.3 from the old shoreland ordinance as 3.5(2)(C) and remove paragraph (B) from this section:

16.3 No fence shall be constructed closer to the lake than the required lake setback requirement unless the existing home is located closer to the lake than the required setback in which case the fence may be constructed even with the lake side of the home.

Setbacks

The previous ordinance provided for a 10' side yard setback for parcels 1.0 acre or less. The new ordinance omits setback standards so that the 20' side setback for the zoning district in which the parcel is located applies to all lot sizes. Soltis noted that this may result in many projects requiring a variance on small lake lots. Commissioner Loeffler said that a 20' side setback could also affect the configuration of new houses and the views from the lake.

The Commissioners concluded to remain with the 20' side setback of the underlying zoning district. If logical variance requests become numerous, they will look at changing it back to a lesser measurement.

ITEMS FOR FUTURE AGENDAS

Legal counsel will present on variances and land use issues, Council may direct a discussion on a community solar ordinance to the Commission, discussion on Comprehensive Plan implementation, amendment to the development code regarding fences, and a discussion of definitions for agricultural activities and accessory structures.

ADJOURNMENT

Loeffler, seconded by Rynders, moved to adjourn the meeting. The motion carried 4-0.

The meeting adjourned at 8:45 p.m.

Respectfully submitted,

Brenda Eklund
Deputy Clerk