

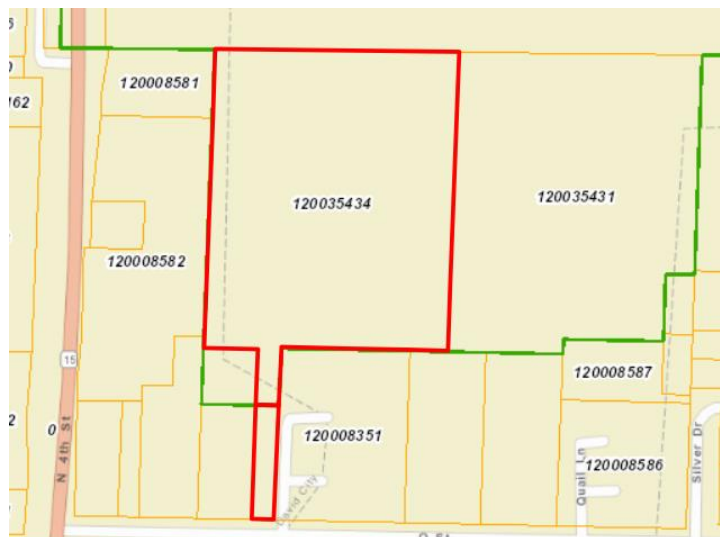
PLANNING COMMISSION
January 9, 2021
8:00 AM

Chairman Jim Masek opened the meeting at 8:00 AM in the lower level of the City Auditorium and notified the public of the "Open Meetings Act" posted on the north wall by the door. The meeting was held at the David City Auditorium (699 Kansas Street) due to the COVID-19 pandemic so as to incorporate social distancing strategies. [It is recommended that individuals be kept at least 6 feet apart.]

Present: Planning Commission members Jim Vandenberg, Keith Marvin, Jim Masek, and Pam Kabourek. Planning Commission member Janis Cameron joined via Zoom. Also present were City Administrator Clayton Keller, City Clerk Tami Comte, Deputy City Clerk Lori Matchett. Building Inspector Michael Payne arrived at 8:05 a.m.

Motion was made to approve the minutes of the December 12, 2020 meeting as presented. This motion, made by Pam Kabourek and seconded by Keith Marvin, carried. Janis Cameron: Yea, Pam Kabourek: Yea, Keith Marvin: Yea, Jim Masek: Yea, Jim Vandenberg: Yea. Yea: 5, Nay: 0.

Keith Marvin spoke in regard to parcels #120035434 & #120008359, North of "O" Street between 5th & 6th Street. "That is Mr. Holoubek's property. He owns just east of Stop Inn and in that area. Thanks to somebody that had us (the Planning Commission) in mind, they went to Jim (Vandenberg) with a plat that was filed at the County Courthouse. The Register of Deeds didn't know what to do with it, so she called the County Surveyor Brian Foral. There has been a plat filed. The plat that was filed, that's illegal, because it didn't go through our process. It doesn't meet our rules and design guidelines. I didn't realize this property wasn't in our city limits, let's bring it in (annex). I don't know what you guys are doing with the subdivision. Has Michael (Payne) contacted Mr. Holoubek? This is one of those things that we need to look at as far as annexing."



Pam Kabourek asked, "Is there anything along that, that is annexed to the city?"

Planning Commission Minutes

January 9, 2021

Page # 2

Jim Vandenberg said, "West of that street."

Keith Marvin said, "The other one that we could look at that has been discussed is the old Alfalfa Mill. That will make a bit more work for Michael (Payne) due to the condition of that building."

Jim Vandenberg said, "Referring back to the properties on the agenda, Mr. Holoubek wanted to do something a while back and we didn't allow him to because of the water drainage issues. That was before they did the Northwest Drainage Project."

Keith Marvin added, "The other problem with this thing is the way he has platted it. There is about half a dozen lots that have the easements on them. The City always has protection with an easement legally, but it is putting that in jeopardy, in my opinion, in that area. Did we find out if that is just an access easement, or did the city end up owning it?"

Building Inspector Michael Payne answered, "It's an easement."

Keith Marvin added, "So, it's like a normal utility easement?"

Building Inspector Michael Payne answered, "That is correct."

Keith Marvin said, "Michael, my question is, have we notified him (Mr. Holoubek) that we are aware of what he is doing and tell him to quit?"

Building Inspector Michael Payne answered, "No, I haven't. What we did was, was do a breakdown and analysis based on subdivision requirements in the Municipal Code. I went over them; Clayton went over them. I submitted the analysis to you. It's the same analysis that I went through with Clayton. He meets or exceeds all the minimums."

Keith Marvin added, "Well, no. He misses one very important item; the city has control over subdivisions. And he didn't run through the city government to get permission to do it. I don't care if he meets the standards, he didn't go through the process that he is expected to go through."

Building Inspector Michael Payne said, "What I did was a mathematical analysis, how many square feet?"

Keith Marvin added, "In my mind, that doesn't even come into play yet, he missed the first step. We require any land that is subdivided within our one mile to be approved as a plat in some form."

Jim Vandenberg added, "Well, the other thing, even on the county level or in the one mile, he's got to have five acres for a house."

Keith Marvin added, "Well, is he zoned TA (Transitional Ag)?"

Jim Vandenberg said, "But he still has to have five acres. They told Dave Vandenberg that they had to have five acres."

Keith Marvin said, "It depends on the zoning district that's within that one mile."

City Clerk Tami Comte added, "I think Dave's in TA (Transitional Ag) too. Unless he had it rezoned."

Keith Marvin stated, "I don't know what it is zoned."

Building Inspector Michael Payne said, "It's R-1 (Single-Family Residential). It's quite irregular the geometry in that area."

Keith Marvin said, "The subdivision regulations are an Ordinance and the first thing it says, it follows state statutes definition, it says anytime you take a parcel and divide it into two or more parcels and the smallest resulting parcel is ten acres or less it is a subdivision. Which means, then we say okay it's a subdivision, then depending on if it is administrative or what, it has to go through a process to do it. We have to sign off on it."

Building Inspector Michael Payne said, "The first time I saw this was when the surveyor brought it to the office. You are correct, there has been no formal submission. There's been no formal requests. There's been no formal plan. What I did was, I looked at what he submitted, to see where we are."

Keith Marvin said, "The other thing, the lots meet standards but he doesn't meet standards for platting streets because they are easements."

Building Inspector Michael Payne said, "It's almost set up like a HOA (homeowner's association). We have no formal submission, no formal plan."

Keith Marvin responded, "Okay, and you are not going to get one. Because what happens is, under state law, you have the subdivision definition but it also says over in the register of deeds statutes that if I come in with a plat, regardless if it's been approved or not by the governing body or not, I have to accept it. So, it is technically on record in the County Courthouse, and he can sell lots, because of that statute for the register of deeds, which is in conflict."

City Clerk Tami Comte asked, "So, what do we do?"

Keith Marvin responded, "We need to tell him to cease and desist because he is in violation of the Ordinance No. 909. And then, bring him into the city limits."

City Clerk Tami Comte asked, "What happens if he doesn't stop?"

Keith Marvin replied, "Then, we file a restraining order on him."

Discussion continued in regard to the subdivision, annexation of the parcel, utility easements and possible issues with the Northwest Drainage Project items for the subdivision.

Planning Commission members recommended that a letter be written asking Mr. Holoubek to cease and desist, detailing where the violations are in municipal codes, ordinances and sections. This letter will need to be served by certified mail or personal delivery to Mr. Holoubek.

The Planning Commission members would like to hold a public hearing on February 13, 2021 at 8:00 a.m. to annex parcel # 120035434. Notices will be published and mailed to Mr. Holoubek of the annexation request.

Building Inspector Michael Payne started the discussion on contractor bonding. Michael Payne stated, "We started this ball rolling two months ago, and visited with you folks (Planning Commission members). Clayton and I have had a discussion on this, what this is, is this is becoming an issue now. We want to be able to have control over our contractors from the stand point of knowing who they are, what they are doing, and establishing limits and boundaries for them. We have several current issues in town that are really goofy, where contractors have gotten in over their head. The city is now working with them to try and straighten out those issues and get that corrected. Rarely do we have the "in your face", "I'll do what I want", and "just forget about the rules" contractor. We do have a couple of those. We have sent them letters and we have told them don't do that. They have just completely ignored us. We have had an issue with a contractor lately that involves a sewer line and not putting a tracer wire on the sewer line. He did the water line and put a tracer line on the water line. We have no enforcement; I can send letters and I can recommend fines but until it works its way through the court system — the court levies the fines based on our recommendation. It's business as usual; I can't stop them. I have a contractor that this is the fourth time we have had to send him a letter. I have another contractor that has a stop work order, this contractor is doing things that he shouldn't be doing. Depending on your licensing will depend on the bond, depending on your bond will determine what you can build. We have a lot of folks that can change windows, fix a roof, put in a garage door, those would be your tier one contractors. Tier two contractors would be building a garage. But our tier three contractors they would build houses, these contractors would be established, be able to read plans and understand it. Just because they can swing a hammer and knows a guy who has a friend, doesn't mean you can build a garage. This would also give us the ability to control better what our clients do..... Ultimately my goal is a quality structure. It's to make sure the homeowner's protected and the contractor, by the same token, is not being taken advantage of. So, we want to run through David City, and keep that possible relationship. If we can rate our guys, which is something Clayton and I have spoken about. We are planning to have a meeting with all of our contractors and go over the code; introduce them to the code. I have visited with a

Planning Commission Minutes

January 9, 2021

Page # 5

variety of contractors and everybody's response was "You should have to do that; I think it's a good idea". One guy said, "It will filter everybody out." Which is correct, because there are a lot of people who aren't going to be able to go in and do some of the things that they are doing right now because they won't be able to bond to that level since they don't have the experience; but as they grow, they take contractor's license tests. If you want to be a contractor, we encourage you to do that. The Contractors Association has all kinds of steps for you to follow."

Building Inspector Michael Payne continued by adding, "The primary goal is to continue to produce real quality. You folks have major companies that have made a commitment to be in David City, and we want to be able to follow them. Especially with the push we are making towards homeownership. The last city council meeting where they talked about the Aquinas parcel (the parcel south of town that is 20 acres) which was deemed more necessary as industrial. The mayor was shocked that nobody cared about the industrial when the need is residential. Our number one issue, we have such great resources educationally, is to bring those families here. There are other things Clayton and I, and Mr. Reiter (the Parks & Recreation guy), to try and integrate a walking trail. To bring things here that will allow people to be in David City. It will help David City to flourish to its full potential. Part of that is making sure that our construction is good; our contractors are taken care of; but also, that the population has access to quality handymen, with change orders that can fix roofs. You don't always have to hire a "A" Contractor because a limb fell on your house or your gutters were stripped off or you wanted to change your door, remodeling, renovation. We want to be able to moderate that. It has gone on pretty well, but as we have seen here, we have a couple of bad actors here in town. We need a way to level the playing field for them. All I do is inspections. And we want to be able to provide guidance for these guys. That is the intent. Everyone that did respond, responded positively in favor. Others looked at me and said, "Ugh, that will cost me a \$100 to bond in." We are not asking them \$100 per project, we are asking them an annual fee, we wouldn't even collect it, you would just go to a bonding company and they would do it. That would ensure a homeowner is cared for, so in the event, if we have a miscue or something to the work happens, that project can be finished, it can be finished based on that bond."

City Clerk Tami Comte asked, "So does that have to come here first (to Planning Commission) or does that just go to Council?"

Keith Marvin answered, "That's council."

Discussion continued.

Pam Kabourek asked, "Would the bonding help you correct the situation?"

Building Inspector Michael Payne answered, "It would set it up that they have to come to us first. They would have come in and we would have taken a look at it and we would have known and been able to make recommendations because the design would

Planning Commission Minutes

January 9, 2021

Page # 6

have been submitted to us. We could inform them of any issues with drainage and access.”

Keith Marvin added, “The nice thing about a bond is that you will probably get the contractor to cooperate with you faster because they don’t want to have a claim on a bond. That’s like having a claim on a car insurance policy but it’s a big mark on their record.”

Building Inspector Michael Payne added, “You are correct. If you have more than two claims you don’t get bonded.”

Keith Marvin said, “It impacts their way of making a living.”

Building Inspector Michael Payne said, “What we proposed was that we would, if you have one flagrant violation, we would send them a letter telling them not to do that anymore and you need to correct that. We would go back and reinspect the violation, if it still is in violation, that would be strike number two. Now your bond is suspended, for six months you don’t get any work in town. You get everybody’s attention then. Three strikes you are out on the bond, you’re done, you have to reapply in twelve months. These are serious issues. Things that I deal with are; foundations, they are construction, they are permanent issues; they are things that have a great fiscal impact on the homeowner, the property, and in some situations the neighbors, and we want to be able to control that. I know it sounds self-serving to say that we are doing this for the interest of the homeowner because this just creates more work for me. It puts a little more burden on me and also, I have the responsibility to take care of these things when I had no authority or control. To have one without the other makes me spin tires to a certain extent. What I do is send out notices of violations, okay, they keep working and trucks keep running. So that is what we are thinking, that is why we are pushing in this direction. Also, Clayton and I are planning to meet with them (contractors) in March before the building season begins to cycle up. Go over the code, go over the IRC (International Residential Code) and the IBC (International Building Code) for commercial stuff; what our codes are; the way they work. All this information is available on the website and other places. We want to present that to them, because when they sign a building permit, they are responsible for that. It’s like the terms and conditions on google, everybody just hits enter and keeps going, nobody really reads it but it has zero implications. We are going to invite people who would be considering remodeling in their own home and things to let them know. We want to make sure that everybody has the same information.”

There being no further business to come before the Planning Commission, Chairman Jim Masek accepted a motion made by Keith Marvin to adjourn and declared the meeting adjourned at 9:10 a.m.

Minutes by Lori Matchett, Deputy City Clerk