



MINUTES
City of Dickinson
PLANNING & ZONING COMMISSION

July 18, 2023

The Dickinson Planning and Zoning Commission met in a duly called and announced Regular Meeting on **Tuesday, June 20, 2023**, at **6:30 PM** in the Council Chamber located at 4403 Highway 3, Dickinson, Texas 77539 for the purpose of considering the following numbered items:

ITEM 1.) CALL TO ORDER AND CERTIFICATION OF A QUORUM

Vice Chairperson Deborah Fortner called the meeting to order at **6:30 P.M.**

Ms. Yvonne Briscoe, Dickinson Senior Planner, called roll and a quorum was verified.

Commissioners present were as follows: Deborah Fortner, John Harris, Phillip Lipoma, Marjorie Morgan, Amy Skicki.

ITEM 2.) INVOCATION

The invocation was led by Vice Chairperson Deborah Fortner.

ITEM 3.) PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Commissioner Amy Skicki.

ITEM 4.) ANNOUNCEMENTS AND PRESENTATIONS

4.A Receive a report from City staff.

Ms. Yvonne Briscoe reported to the Commission about the following subjects:

- Recent City Council actions,
- Recent Unified Land Development Code Update actions,
- New GIS Map.

ITEM 5.) PUBLIC COMMENTS

Members of the public are invited to give comments at this time, lasting not longer than 3 minutes. Comments may be general in nature or may address a specific agenda item, and should be directed at the entire Commission, not individual members of the Commission or staff. Any speaker making personal attacks or using vulgar or profane language shall forfeit his/her remaining time and shall be seated. In compliance with the Texas Open Meetings Act, the Commission may not deliberate.

Vice Chairperson Deborah Fortner read the procedures for public comments.

There being no public signed up to speak, there are no public comments.

ITEM 6.) CONSENT AGENDA

The following items are considered routine and will be enacted by one motion. There will not be a separate discussion on these items unless a Commission member requests, in which event the item will be removed from the consent agenda and discussed after the consent agenda.

- 6.A Consideration and possible action on approving the minutes of the **June 20, 2023** Planning and Zoning Commission regular meeting.

Marjorie Morgan - Position 3 motioned to Approve, and John Harris seconded the motion.

VOTE:

5 AYES (Deborah Fortner, John Harris, Phillip Lipoma, Marjorie Morgan, Amy Skicki)

0 NAYS

MOTION PASSED

ITEM 7.) PUBLIC HEARING(S) AND ACTION ITEMS FROM PUBLIC HEARING(S)

Vice Chairperson Deborah Fortner read the procedures for public hearings.

7.A Conduct a public hearing concerning a request for subdivision variance from Appendix A “Subdivision”, Section 8 “Standards and Specifications”, Subsection J “Lots”, Subsection 3 “Frontage” requirement of the City of Dickinson Code of Ordinances - with such variance allowing a lot to front on a recorded access easement for the required frontage on a public street, for a proposed subdivision of approx. 4.117 acres, generally located approx. 330-feet east of FM 646 approx. 390-feet north of 2nd Street, and legally described as ABST 1 M AUSTIN SUR PT OF LOT 130 (130-7) THAMANS 1ST SUB.

- Staff Presentation
- Applicant Presentation
- Public Comments
- Applicant Rebuttal
- Adjourn Public Hearing

Vice Chairperson Deborah Fortner opened the public hearing at **6:37 P.M.**

Ms. Yvonne Briscoe introduced Miss. Abigail Almendarez, Dickinson GIS / Planning Intern.

Miss. Abigail Almendarez summarized the item.

Mr. Joe Ruiz provided the applicant presentation.

Mrs. Ellen Chicon expressed concern for liability and responsibility of the access easement. Mrs. Chicon inquired:

- if a thirty-foot easement is sufficient for four residential lots, why is a variance is required,
- where would a turn around be located,
- access for emergency services, garbage, mail, power, and other services,
- maintenance and responsibility of the access easement, drainage and detention requirements,
- how are lot sizes calculated with easements.

Mr. Richard Gustafson expressed concern for safety.

Mrs. Sylvia Ruiz declined to speak.

Mr. Greg Snider expressed concern with easement access, minimum lot sizes, and the number of homes being proposed.

Mr. Eric Salinas expressed concerns with access to neighboring properties, drainage and septic requirements, availability of water and sewer to the property, and value of homes constructed.

Vice Chairperson Deborah Fortner inquired if anyone had additional comments who did not sign up to speak.

Mr. RG Reeder Jr. expressed concern with fencing of easements, drainage ditch to the rear of the property, maintenance, minimum lot sizes with easements, and easement access. Mr. Reeder added the cost of these lots should control the value of homes constructed.

Mr. Richard Chicon expressed concern with maintenance of the property, and having a similar address assigned to his property resulting in large trucks attempting to access the easement, which he placed a gate at the easement to limit. Mr. Chicon inquired if removal of the gate he placed on the easement would be required.

Mr. Joe Ruiz provided the applicant rebuttal. This request for up to four lots is the first step in the process. Existing easements will remain in place. The gate Mr. Chicon placed is due to another property; a remote has been provided for access to the subject property.

Vice Chairperson Deborah Fortner adjourned the public hearing at **7:05 P.M.**

- 7.B Consideration and possible action concerning making a recommendation for a subdivision variance from Appendix A “Subdivision”, Section 8 “Standards and Specifications”, Subsection J “Lots”, Subsection 3 “Frontage” requirement of the City of Dickinson Code of Ordinances - with such variance allowing a lot to front on a recorded access easement for the required frontage on a public street, for a proposed subdivision of approx. 4.12 acres, generally located approx. 330-feet east of FM 646 approx. 390-feet north of 2nd Street, and legally described as ABST 1 M AUSTIN SUR PT OF LOT 130 (130-7) THAMANS 1ST SUB.

Commissioner Phillip Lipoma requested the location of property owned by those who signed up to speak during the public hearing relative to the subject property. It was stated during the public hearing that there is an easement and drainage ditch not shown on the map. Commissioner Lipoma inquired if easements are deducted from the lot size.

Ms. Yvonne Briscoe responded with the following information:

- the request is due to the subject property not having road access,
- easements are maintained by the property owner and are not deducted from the acreage,
- thirty-foot emergency access is sufficient for residential properties,
- the variance is required to plat and obtain a permit,
- the constructed homes will need to be on well and septic,
- WCID #1 does not provide service to the properties in this area,
- minimum one acre lots are required,
- access easements are not permitted to be fenced,
- staff's recommended condition for a turnaround would have to be provided on the subject property,
- trash, mail, and power are not City services,
- drainage and detention are reviewed during the platting process.

Vice Chairperson Deborah Fortner inquired who maintains easements.

Ms. Yvonne Briscoe responded that the property owner maintains easements on their property. Maintenance agreements between property owners can be filed in the deed record.

Commissioner Marjorie Morgan requested staff's recommendation.

Miss. Abigail Almendarez provided the staff recommendation to Approve with Conditions. Staff recommends the following conditions placed on the variance approval:

- The plat must be recorded with Galveston County Clerk's Office within 18 months of subdivision variance approval;
- The configurations shown in Figures A through G are included in the subdivision variance approval. Any other configurations will require a new application and approval;
- All lots must have a minimum 30-foot-wide easement dedicated to ingress and egress; and
- A proper turnaround determined by the City Fire Marshal's Office must be provided at the terminus of the required easement.

Ms. Yvonne Briscoe explained the staff's proposed configurations to be included in the variance approval. The property owner is required to add easements for all lots created.

Commissioner John Harris inquired in Figure G if the southern property line is 2nd Street.

Ms. Yvonne Briscoe responded that the property does not front on 2nd Street.

Commissioner John Harris inquired if the only access to the subject property is through the easement off FM 646.

Ms. Yvonne Briscoe responded that the easement off FM 646 is the only easement that has been verified by staff for access to the subject property. The second easement on the east side of the subject property mentioned in the public hearing has not been verified by staff. The existing easements will limit the ability to develop the property.

Mr. Eric Salinas stated there is an easement on the east side of the subject property that he uses to access his property.

Mrs. Ellen Chicon provided a survey of her property. Mrs. Chicon inquired if the current easement is sufficient, then the variance is to allow additional easements to be created on the northern portion of the subject property so that up to four homeowners can access the property.

Mr. Justin Pruitt, Dickinson Attorney, responded stating the request is due the City code requiring all subdivisions to front on a public street. This property does not have road frontage; it is landlocked. The variance request is since there is no public street if the Board will approve to vary from the City requirement allowing a private access easement instead of the public street. This is the first step in the process. All other codes and ordinances will need to be met.

Commissioner Phillip Lipoma inquired without the variance if one home could be built.

Ms. Yvonne Briscoe responded that a recorded plat is required for any permits and a public road is required for platting. The variance approval is required to allow for any permits. A subdivision is a plat, whether it be for one lot or four lots.

Vice Chairperson Deborah Fortner stated the Commission decision will determine if the property owner can continue the process to plat the property.

Mrs. Ellen Chicon inquired if zoning is changing from Rural Residential.

Vice Chairperson Deborah Fortner responded that the request is not for a zoning change.

Mrs. Ellen Chicon inquired if the property could be subdivided without a zoning change.

Mr. Justin Pruitt responded that the Rural Residential zoning district requirements can be satisfied if the property is divided into four lots. The potential platting of the property is the request being considered. The variance request is since there is no public street if the Board will approve to vary from the City requirement allowing a private access easement instead of the public street. The staff is recommending 18-months from City Council approval for platting to be filed with the County.

Mrs. Ellen Chicon inquired if the Commission is approving four lots with the variance.

Mr. Justin Pruitt responded that the applicants request is to allow a subdivision to front on a recorded access easement instead of the required frontage on a public street.

Ms. Yvonne Briscoe added that if the variance request is granted without any conditions, as long as all other codes are met a plat with any configuration of lots could be recorded. The conditions are narrowing the possibility of what configurations could be approved.

Commissioner Marjorie Morgan stated the conditions provide some protection to neighboring properties by limiting the possibilities.

Commissioner Amy Skicki added that once the platting process begins it could be discovered that not all proposed configurations are possible. The variance request provides the ability to start the process.

Mr. Justin Pruitt explained the request could have been to allow the property to be platted. Instead, the request included in the request to be for up to four lots. The platting process will determine what configurations may be possible when all codes are applied. The approval would grant the ability to utilize an access easement for up to four lots. Only the public road requirement is included in the variance.

Mrs. Ellen Chicon expressed concern that a subdivision is being approved with this request.

Ms. Yvonne Briscoe responded a subdivision is not being approved. The variance is required to subdivide the property. If not granted, the property cannot meet City requirements. The variance request occurring first protects the owner from unnecessary costs of surveying and platting if not permitted. Until a plat is filed with the County, it is not a legal subdivision.

Mrs. Ellen Chicon expressed concern with the ownership of proposed easements.

Mr. Justin Pruitt explained the easements have not been created. The conditions recommended by staff include an 18-month timeframe to complete the platting process. This is a tight timeline for this request. No plat application has been submitted. A permit cannot be issued until the property is platted.

Mr. Richard Chicon expressed concern with major drainage issues on the property.

Commissioner Amy Skicki stated drainage is not a consideration tonight.

Vice Chairperson Deborah Fortner stated the concerns brought forward are important and will be addressed during the process. The community and residents working together is essential.

Mr. Justin Pruitt added a lot of work is still needed. It is a long road before development can begin on the property. At any stage in the process, public participation is welcome for any items presented to the Commission or Council. The decision on this request will be determined by the Council at a future meeting. The condition of an 18-month timeframe to complete the platting process is a tight timeline. A lot of work between property owners to record easements and maintenance agreements. Mr. Justin Pruitt inquired how long the platting process is currently taking.

Ms. Yvonne Briscoe responded once submitted to the City it is not long. Although surveyors are quoting six, nine, and sometimes twelve months on simple plats that have frontage and meets all requirements.

Mr. Greg Snider stated the Code requires 125 feet of frontage. It is not possible for four lots to meet this requirement.

Ms. Yvonne Briscoe responded that this is the reason for the variance request. The variance would allow the four lots to be accessed by an easement.

Mr. Greg Snider inquired if the easement required to also have 125-feet of frontage.

Mr. Justin Pruitt responded that these are two different codes. One code states that all lots must front on a public road. The other code requires 125-foot lot width for Rural Residential district. The lot width will be required to be met.

Mr. Joe Ruiz stated he wants to develop or sell the property. He does not have exact plans due to the access issues. The City of Dickinson does not recognize an easement for access. When he purchased the property, he was not aware the property did not meet the city codes.

Mr. Richard Chicon stated an easement was granted when he purchased the property from them.

Commissioner Marjorie Morgan inquired if Mr. and Mrs. Chicon sold the property without frontage knowing he would not be able to build on the property. They are now voicing concerns in opposition to his request. All lots are required to be a minimum of one acre.

Mr. Joe Ruiz requests for the variance to be granted so he can start the process to develop the property.

Marjorie Morgan motioned to Recommend for approval as recommended by staff with the following changes: The plat must be recorded with Galveston County Clerk's Office within 24 months of subdivision variance approval, and Amy Skicki seconded the motion.

VOTE:

4 AYES (Deborah Fortner, Phillip Lipoma, Marjorie Morgan, Amy Skicki)

1 NAYS (John Harris)

MOTION PASSED

ITEM 8.) ACTION ITEMS FOR CONSIDERATION

ITEM 9.) ADJOURNMENT

Marjorie Morgan motioned to Adjourn, and Phillip Lipoma seconded the motion.

VOTE:

5 AYES (Deborah Fortner, John Harris, Phillip Lipoma, Marjorie Morgan, Amy Skicki)

0 NAYS

MOTION PASSED

Vice Chairperson Deborah Fortner adjourned the meeting at **7:55 P.M.**

PASSED APPROVED, AND ADOPTED this 15TH DAY OF AUGUST 2023.

BRUCE HENDERSON

PLANNING AND ZONING COMMISSION,
Chairperson

ATTEST:

Yvonne Briscoe

YVONNE BRISCOE,
Senior Planner