



**PLAINVIEW PLANNING COMMISSION MEETING
AGENDA**

Tuesday December 6, 2022, at 6:00 P.M.

Council Chambers- 241 West Broadway, Plainview, MN 55964

- 1. Call to Order**
- 2. Approval of Agenda**
- 3. Approval of Consent Agenda**
 - a. Planning Commission Meeting Minutes – July 25, 2022**
- 4. New Business**
 - a. Development Updates**
- 5. Updates/Discussion**
 - a. Discuss – 2022 Annual Report to Council**
 - b. Update – The new City of Plainview Code of Conduct**
 - c. Discuss – January Election of Chair and Vice Chair**
- 6. Adjourn**

PLAINVIEW CITY COUNCIL ACTION



Executive Summary

Planning Commission Regular Meeting: December 6, 2022

AGENDA ITEM: Minutes	AGENDA SECTION: Consent
PREPARED BY: Carol Kujath, City Clerk	AGENDA NO. 3.a.
ATTACHMENTS: Draft Minutes	APPROVED BY: cjk
RECOMMENDED ACTION: 1. Motion to approve Minutes of the July 25, 2022, Planning Commission Regular Meeting Proceedings.	

(See attached minutes)

CITY OF PLAINVIEW PLANNING COMMISSION
JULY 25, 2022
MEETING MINUTES

The July 25, 2022, meeting for the Plainview Planning Commission was called to order at 5:00 p.m. by Holly Reeve.

Members present: Holly Reeve, Ben Jacobs, Aaron Nicklay, Scott Kujath, and Jim Walkes. Ann Liebenow-Anttila arrived at 5:16p.m.

Members absent: Roger Durgin.

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

Guests in attendance: Brian Malm with Bolton and Menk Engineering, Mike Flaherty with Flaherty and Hood, Steve Sawyer, Tony Montgomery, and Stacy Montgomery.

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

Motion by Kujath, second by Jacobs to approve the Consent Agenda. Motion carried. The April 5, 2022, minutes were approved without any corrections or amendments.

Modification to Skye View Special District:

Commission Chair, Holly Reeve made a motion, second by Jacobs, to open the public hearing at 5:01 p.m. to hear testimony regarding the proposed Modification to Skye View Special District.

Brian Malm from Bolton and Menk gave a short summary of the modifications to the Skye View Special District.

The applicant was not in person; however, City Administrator David Todd reached the applicant via phone. *(See attached document)*

Steve Sawyer – 740 2nd St NW – Part-owner of Piper Hills Golf Course – stated they (Piper Hills Golf Course) have made multiple improvements to the golf course and have concerns regarding the easement access, along with the water runoff, and how this will affect the golf course property.

Motion by Jacobs, second by Nicklay to close the public hearing. Motion carried. Public hearing closed at 5:14 p.m.

Motion by Walkes, second by Jacobs to reopen the Planning Commission meeting. Motion carried. Meeting reopened at 5:14 p.m.

Modification to Skye View Special District:

Applicant Tom Wiener with Skye View Development, LLC has requested to amend parts of the Skye View Special District development code, approved in December 2021. A summary of proposed changes to the code includes, but not limited to:

- Numerous small corrections to improve grammar.

- Numerous small corrections to improve clarity without changing meaning or intent.
- Combining the Commercial Business District code with the Mixed-Use District code.
- Removing Commercial Business District designations from the land use district map and replacing them with Mixed-Use.
- Codify extensions for completing building permits and issuing building permits prior to the first lift of road surface laid.
- Additional definitions and modifying existing definition for clarity.
- A wide range of small to significant changes to zoning performance standards and density/intensity of uses on a parcel.
- Allowances for eaves, stoops, uncovered patios, at-grade landings, and balconies setbacks.
- The applicant proposed changes to driveway widths.
- Changes for stacking requirements for drive-thru businesses.
- Small changes to building orientations for windows and doors, architectural standards that would break monotonous facades and roof lines, and exterior building finishes.
- Changes to building heights across different districts.

The City Engineer has the following comments and finding:

1. Exhibits B, C, and D show a 26-ft public street extension in the SW corner of the development within a 38-ft right-of-way and sidewalk within a 10-ft easement. This should be revised to show a 50-ft right-of-way with the street and sidewalk entirely contained within the right-of-way.
2. The proposed street connection to TH 42 shall be formally approved by MnDOT, prior to approval of the final plat.
3. The final plat (or plats, if the proposed subdivision is phased) shall avoid conflicts with existing underlying access easements.
4. Exhibit C shows proposed City utilities and street typical sections. Final approval of city street and utility layout, design, and details shall be based on final engineering plans, as approved by the City Engineer and other appropriate regulatory agencies, and may vary from what is shown on Exhibit C.

Staff recommends the Planning Commission forward this item to City Council, recommending approval with the following conditions:

1. Exhibits B, C, and D shall be amended to show a 26-ft public street extension in the SW corner of the development within a 50-ft right-of-way with the street and sidewalk entirely contained within the right-of-way.
2. The proposed street connection to TH 42 shall be formally approved by MnDOT, prior to approval of the final plat.
3. The final plat (or plats, if the proposed subdivision is phased) shall avoid conflicts with existing underlying access easement.
4. Proposed City utilities and typical street sections shown in Exhibit C shall be subject to final approval by the City Engineer and other appropriate regulatory agencies and may vary from final engineering plans.

Motion by Jacobs, second by Walkes to recommend Council approval of the Modifications to the Skye View Special District with conditions as listed:

1. Exhibits B, C, and D shall be amended to show a 26-ft public street extension in the SW corner of the development within a 50-ft right-of-way with the street and sidewalk entirely contained within the right-of-way.
2. The proposed street connection to TH 42 shall be formally approved by MnDOT, prior to approval of the final plat.
3. The final plat (or plats, if the proposed subdivision is phased) shall avoid conflicts with existing underlying access easement.
4. Proposed City utilities and typical street sections shown in Exhibit C shall be subject to final approval by the City Engineer and other appropriate regulatory agencies and may vary from final engineering plans.

Aye: Reeve, Nicklay, Walkes, Kujath, Liebenow-Anttila, and Jacobs.

Nay: None

Absent: Durgin

Motion carried 6-0.

Skye View Development Final Plat:

The request by applicant, Tom Wiener, is for approval of a final plat for 11 parcels and 5 outlots, with one outlot dedicated for stormwater management. Block 1, Lot 1 will allow for an apartment building. Block 2 of the plat includes 10 parcels for attached single-family homes and townhomes. Outlots A-D are set aside for possible future development, which would require future replatting. Outlot E is for stormwater management purposes. 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 423 feet. The property is currently zoned SD for the Skye View Special District under City Code 611.7.7. The proposed final plat does not conform to the current City Code requirements for the Special District, primarily in that the proposed street and lot layout is different and that the land use boundaries do not match the proposed lot layout. However, the applicant has requested modifications to the Skye View Special District in City Code to address the non-conformities. The staff report has been prepared evaluating the proposed final plat against those proposed modifications, and the staff recommendation section of the staff report includes a recommendation that if the final plat is approved, it should be conditioned on subsequent approval of the modifications to the Special District in City Code.

Motion by Reeve, second by Jacobs to forward the proposed Skye View Development, recommending denial to City Council, with the following findings:

1. The Applicant has not met condition 2(e) of Preliminary Plat approval, which is copied below in bold. The City has not received any documents demonstrating that MnDOT has given formal approval for the development property to access Highway 42.

“Formal MnDOT approval for Highway 42 access shall be required prior to final plat approval.”

2. The Applicant has not met condition 2(j) of Preliminary Plat approval, which is copied below in bold. The City has not received complete plans, specifications, and permits for required infrastructure improvement from the Applicant, and the City Engineer has not approved the same. Specifically, the Applicant has not provided the following required permits: MDH watermain plan review, MPCA sanitary sewer extension permit, MnDOT work in right-of-way permit, and MPCA NPDES Construction Stormwater Permit; and has not provided complete plans and specification and supporting information.

“Plans and specification and all applicable permits for the required infrastructure improvements shall be submitted for City review and shall be approved by the City prior to Final Plat approval.”

3. The Applicant has not met condition 2(l) of Preliminary Plat approval, which is copied below in bold, because Applicant has not provided complete plans and specifications and supporting information, which is necessary for the City Engineer to determine whether any adjustments or additions to easements on the final plat are needed.

“Easements included on the final plat shall conform with those shown on the preliminary plat, as well as any adjustments or additions determined to be needed by the City during preparation and review of final plans and specifications for the proposed subdivision improvements.”

4. The Applicant has not met condition 2(c) of Preliminary Plat approval, which is copied below in bold, because the Final Plat conflicts with the Sky View Special District, Plainview City Code Section 217.7.7 in that the boundaries depicted on the Final Plat do not conform to the boundaries described and depicted within the Sky View Special District section of the City Code.

“The preliminary plat shall generally be consistent with the Skye View Special District.”

Motion carried unanimously.

Updates/Discussion: None

Motion by Jacobs, second by Walkes to adjourn.

Motion carried unanimously. Meeting adjourned at 5:27 p.m.

Planning and Zoning Commissioner

City Clerk

Date

The staff report does a great job of discussing the changes; but doesn't necessary explain why the changes are requested. Although the code is workable, now that we've taken a deeper dive into design, on multiple levels, we believe with the requested changes to the Special District take a good code and makes it an exceptional code. We worked diligently with the City Planner to reconcile our proposed changes.

After that reconciliation we received the staff report that showed additional Engineer recommendations.

- We take no exception to the Engineer Finding and Recommendation #2, as it was a previous condition of the existing adopted Special District Code.

However, the other conditions were not part of the existing Special District code conditions, and we believe staff recommendations 1, 3 & 4 are contrary to existing adopted Special District Code and should be rejected.

For example. City Code 611.7.7.9(1) already codified the street section. It is not ambiguous. It reads,

"Public street section for Skye View Development shall follow the cross-sections shown in Exhibit C"

The problem with making these types of simple nuanced changes is that we have been marching forward putting together a very detailed plan on how this development fits together. From densities, to covenants, to park calculations, to traffic and even pedestrian flows; but most importantly how it affects the proforma and bank documents – there is a tremendous amount of interrelated pieces to this puzzle. What may seem like a minor change has a ripple effect beyond what is easily seen. Even if the Engineer wishes he would have made those conditions to the existing Special District they were not – and we can't plan intent. We have put a tremendous amount of work into creating design documents around the areas of the Special District that is now ordinance. Adding conditions that are contrary to existing ordinance not only doesn't make legal sense to me, it adds unfair burden and additional costs to not only rework design documents, but – but also puts the development in financial risk of when needing to rework a very complex financial model - this is no small task.

At a minimum I think there needs to be a meeting with the city engineer, city attorney and myself to reconcile our differences regarding conditions 1, 3 & 4.

I believe PZ has at least the following 2 Motions if you decide to accept with conditions.

Motion 1: Accept Condition 2, and reject conditions 1, 3 & 4 on the bases they are not applicable or contradict current code.

OR

Motion #2: Accept Condition 2 and recommend for city council to have their city Attorney provide them an opinion on conditions 1, 3 & 4.

Sincerely Tom Wiener

PLAINVIEW CITY COUNCIL ACTION



Executive Summary

Planning Commission Regular Meeting: December 6, 2022

AGENDA ITEM: Development Updates	AGENDA SECTION: New Business
PREPARED BY: David Todd, City Administrator	AGENDA NO. 4.a.
ATTACHMENTS: Summary of Developments to date	APPROVED BY: DT
RECOMMENDED ACTION: Discussion/Review Summary of Developments to date in Plainview.	

SUMMARY

The following is a summary of developments in Plainview to date. Please take a look and if there are any questions, we can discuss as a committee.

The list did not include Skyview Development (Tom Weiner) or Pleasant Acres Development (Tony Montgomery) as those two developments are not moving forward currently. We can discuss the reasons as a body during the meeting on December 6th.

Respectfully submitted,

David Todd, City Administrator

Here are the updates on developments currently in progress in Plainview. The requirements for completion and city acceptance are taken from the development agreements.

Marshman Addition (Building Design Systems, LLC - Lucas Marshman)

- Work is complete
- Developer needs to provide the following information for the City to accept the improvements:
 - Certificates (all are included in the Development Agreement)
 - Contractor's Certificate
 - Land Surveyor's Certificate
 - Developer's Certificate
 - Surveyor's verification that all iron monuments have been set
 - Record Grading Plan (dwg and pdf format)
 - Warranty Period Security (warranty period is 1-yr from City Acceptance of improvements)
 - Warranty/Maintenance Bond for 100% of the cost of the improvements, or
 - Letter of Credit or Cash Security in the amount of 25% of the cost of the improvements
 - Note that retainage from project security may also be used for this if it satisfies requirements
- Security can be released once Developer provides required information for City acceptance of improvements (unless remaining security is used for warranty period).

Orchard Hills 7th (Orchard Hills 7th Addition , LLC – Fran Fox)

- Remaining Work (as of 11/2/22)
 - Bituminous wearing course
 - Sidewalks (development agreement allows for them to be constructed as homes are built, with final completion no later than 10/31/24)
 - Some curb corrections required
 - Final grading and turf establishment
 - Storm sewer televising
 - Tracer wire testing
 - Private utilities (gas, communications, electric, etc.)
 - Traffic control and street name signs (City to provide requirements, Developer to purchase and install)
 - Street lighting
- Once remaining work is completed, Developer needs to provide the following information for the City to accept the improvements:
 - Certificates (all are included in the Development Agreement)
 - Contractor's Certificate
 - Land Surveyor's Certificate
 - Developer's Certificate
 - Surveyor's verification that all iron monuments have been set
 - Record Grading Plan (dwg and pdf format)
 - Warranty Period Security (warranty period is 1-yr from City Acceptance of improvements)
 - Warranty/Maintenance Bond for 100% of the cost of the improvements, or
 - Letter of Credit or Cash Security in the amount of 25% of the cost of the improvements

- Note that retainage from project security may also be used for this if it satisfies requirements
 - Title insurance policy indicating the improvements are free and clear of liens and encumbrances (if required by Administrator)
- Security can be reduced by 90% of work completed to date, not less than 10% (currently being calculated).

Orchard Hills 8th (Pete and Marian Meyer)

- Remaining Work (as of 11/2/22)
 - Bituminous wearing course
 - Sidewalks (development agreement allows for them to be constructed as homes are built, with final completion no later than 12/31/24)
 - Some curb corrections required
 - Final grading and turf establishment
 - Storm sewer televising
 - Tracer wire testing
 - Private utilities (gas, communications, electric, etc.)
 - Traffic control and street name signs (City to provide requirements, Developer to purchase and install)
 - Street lighting
- Once remaining work is completed, developer needs to provide the following information for the City to accept the improvements:
 - Certificates (all are included in the Development Agreement)
 - Contractor's Certificate
 - Land Surveyor's Certificate
 - Developer's Certificate
 - Surveyor's verification that all iron monuments have been set
 - Record Grading Plan (dwg and pdf format)
 - Warranty Period Security (warranty period is 1-yr from City Acceptance of improvements)
 - Warranty/Maintenance Bond for 100% of the cost of the improvements, or
 - Letter of Credit or Cash Security in the amount of 25% of the cost of the improvements
 - Note that retainage from project security may also be used for this if it satisfies requirements
- Security can be reduced by 90% of work completed to date, not less than 10% (currently being calculated).

PLAINVIEW CITY COUNCIL ACTION



Executive Summary

Planning Commission Meeting: December 6th, 2022

AGENDA ITEM:	City of Plainview Code of Conduct Policy	AGENDA SECTION:	New Business
PREPARED BY:	David Todd, City Administrator	AGENDA NO. 5.b.	
ATTACHMENTS:	City of Plainview Code of Conduct Policy	APPROVED BY:	DT
RECOMMENDED ACTION: Discussion/Comments on City of Plainview Code of Conduct Policy.			

SUMMARY

The City Council of the City of Plainview desired to craft a code of conduct policy for all boards, committees, and commissions as well as the City Council that defines standards of conduct for its members and protocol for communications with staff, each other, and the public. This policy defines those parameters as well as establish a procedure for reconciliation should one become necessary. The scope and intent of this policy is to standardize the policies and protocols, not only for the current council, but for councils of the future as well, to establish a decorum that promotes trust, equity, faith and confidence among its members, staff, and the community.

The City Council of the City of Plainview determined that a code of conduct for its members, as well as the members of the various boards and commissions of the City of Plainview, is essential for the public affairs of the City. By eliminating conflicts of interest and providing standards for conduct in City matters, the City Council hopes to promote the faith and confidence of the citizens of Plainview in their government and to encourage its citizens to serve on its council and commissions.

Respectfully Submitted,

David Todd, City Administrator

CITY OF PLAINVIEW

Council Code of Conduct Policy

Purpose

The City Council of the City of Plainview determines that a code of conduct for its members, as well as the members of the various boards and commissions of the City of Plainview, is essential for the public affairs of the city. By eliminating conflicts of interest and providing standards for conduct in city matters, the City Council hopes to promote the faith and confidence of the citizens of Plainview in their government and to encourage its citizens to serve on its council and commissions.

Standards of Conduct

1. No member of the City Council or a city board or commission may knowingly:
 - a. Violate the Open Meeting Law.
 - b. Participate in a matter that affects the person's financial interests or those of a business with which the person is associated, unless the effect on the person or business is no greater than on other members of the same business classification, profession, or occupation.
 - c. Use the person's public position to secure special privileges or exemptions for the person or for others.
 - d. Use the person's public position to solicit personal gifts or favors.
 - e. Use the person's public position for personal gain.
 - f. Except as specifically permitted pursuant to Minn. Stat. 471.895, accept or receive any gift of substance, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or any other form, under circumstances in which it could be reasonably expected to influence the person, the person's performance of official action, or be intended as a reward for the person's official action.
 - g. Disclose to the public or use for the person's or another person's personal gain, information that was gained by reason of the person's public position if the information was not public data or was discussed at a closed session of the City Council.
 - h. Disclose information that was received, discussed, or decided in conference with the city's legal counsel that is protected by the attorney-client privilege unless a majority of the City Council has authorized the disclosure.
 - i. Council members shall respect and preserve the confidentiality of non-public, protected non-public, private, and confidential information provided to them concerning matters of the city. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.
 - j. Represent private interests before the City Council or any city committee, board, commission, or agency.

2. Except as prohibited by the provisions of Minn. Stat. § 471.87, there is no violation of subdivision 1 b. of this section for a matter that comes before the council, board, or commission if the member of the council, board, or commission publicly discloses the circumstances that would violate these standards and refrains from participating in the discussion and vote on the matter. Nothing herein shall be construed to prohibit a contract with a member of the City Council under the circumstances described under Minn. Stat. § 471.88, if proper statutory procedures are followed.
3. Respectful Behavior/Conduct. The following types of conduct by members includes how members relate to each other, City staff and members of the public. Members share a joint responsibility in modeling, monitoring and addressing behavior within the group that is respectful of others.
 - a. Responsibilities of Members. All members of City boards and commissions should:
 - i. Demonstrate honesty and integrity in every action and statement;
 - ii. Comply with both the letter and spirit of the laws and policies affecting the operation of government;
 - iii. Prepare in advance of meetings and be familiar with issues on the agenda;
 - iv. Fully participate in meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others;
 - v. Participate in scheduled activities to increase board and commission effectiveness;
 - vi. Respect the proper role of board and commission membership and activities in the context of governing law as well as elected officials and City staff in ensuring open, transparent, and effective government;
 - vii. Provide accurate contact information to the designated City staff liaison.
 - b. Interactions With Members and Public. During member interactions at meetings and with the public, members should strive to:
 - i. Follow Robert's Rules of Order and bylaws;
 - ii. Treat people with courtesy, politeness and kindness;
 - iii. Tolerate and accept differences of opinion;
 - iv. Encourage others to express their opinions and ideas at meetings;
 - v. Prepare for the issues to be discussed at a noticed meeting;
 - vi. Focus on the agenda business of the government body at meetings;
 - vii. Consider only legally germane information in decisions and in considering matters at meetings;
 - viii. Avoid speaking over, interrupting or cutting off another individual's comments, unless a rule of decorum or procedure of the government body has been violated, as determined by the chair or another member who identifies a rule of decorum violation, or the time for speaking has ended; and

- c. Interactions With City Staff. During member interactions with City staff, members will:
 - i. Respect staff as credible professionals, valued resources and members of the City team;
 - ii. Support the maintenance of a positive and constructive workplace environment for City employees where individual members, City staff and the public are free to express their ideas and work to their full potential;
 - iii. Provide input to the City staff as a body and not direct the work of Departments or individual City staff;
 - iv. Never publicly criticize an individual employee. All critical comments about City staff performance should only be made to the City; Administrator through private correspondence or conversation;
 - v. Unless an issue arises during a meeting, notify City staff in advance of a meeting of questions or requests so the appropriate staff can compile the information needed to respond at the meeting in a meaningful manner;
 - vi. Agree that information they ask of the City staff will be shared equally with all members; and
 - vii. Copy the designated applicable department head on all communications with City staff, including questions.

4. Prohibited Behavior/Conduct. The following are types of disrespectful behaviors/conduct, which cause a disruption in meetings and are prohibited:
 - a. Violent behaviors including but not limited to the use of physical force, harassment, or intimidation;
 - b. Discriminatory behaviors including but not limited to inappropriate remarks about or conduct related to a person's race, color, creed, religion, national origin, disability, sex, marital status, age, sexual orientation, or status with regard to public assistance; and
 - c. Offensive behaviors including but not limited to rudeness, angry outbursts, inappropriate humor, vulgar obscenities, name calling, disrespectful or demeaning language, or any other behaviors regarded as offensive to a reasonable person.
 - d. Insulting, disparaging or putting down people or their ideas or opinions; and
 - e. Bullying other members by displaying a pattern of belittling, demeaning, judging or patronizing comments.

5. Violent Behavior/Conduct. The City is committed to providing a work environment free from violence for all elected and appointed officials, employees and visitors. The City does not tolerate any form of violence in the workplace including threats, harassment, or intimidating actions by or against any group or individual person.
 - a. Violence and threats may include, but are not limited to:
 - i. Any act which is a physical assault; and

- ii. Any threat, behavior or action that is interpreted by a reasonable person to carry the potential to harm or endanger the safety of others, or result in an act of aggression, or destroy or damage City property.
- b. The chair-person and City staff liaison have the right to call for the immediate removal of any person who threatens or commits an act of violence on City property.

Complaint

1. Violations. Any violation, intentional or unintentional, of this policy by a member may be cause for appropriate disciplinary action, including but not limited to, an apology by the member, written notice and direction to stop the behavior, counseling, verbal or written warning, removal from the board or commission, and/or such other actions as may be necessary or appropriate under the circumstances or as required by applicable law.
2. How to Report. Members can report cases of unethical conduct to the City Administrator. Violence or threatening behaviors should be reported to law enforcement. In an emergency, members should dial 9-1-1.