

**MINUTES**  
**PIERRE CITY PLANNING COMMISSION MEETING**  
**COMMISSION ROOM**  
**MONDAY, SEPTEMBER 28, 2020 5:15 P.M.**

*This meeting was conducted via teleconference.*

*Members present* were: Chair Dave Templeton, Stacey Bartlett, Rick Dockter, Emeline Hoblick, and Bill Markley.

*Staff members present:* Sharon Pruess, John Childs and Susan LaFave.

*Guests present:* Tom Maher Sr.

Chairman Templeton called the meeting to order at 5:15 p.m. A review of the minutes from the 7/27 meeting found a minor error by Chair Templeton. *The actual date of the May meeting was 5/25/20.* The date is incorrect and should be 5/19/20. The sentence with the correction: The actual date of the May meeting was 5/19/20. With that correction, Commissioner Markley moved to approve the 7/27/20 minutes, seconded by Commissioner Dockter. A roll call vote was called with all commissioners voting to approve.

As Mr. Maher was not present on the phone at this point, the first item on the agenda was skipped until later in the meeting.

### **Old Business/New Business**

Sharon Pruess, City Planner, provided information in the meeting packets about avoiding “Ex-parte” contacts. She said that Chair Templeton was contacted by a City customer and wanted the cell phone numbers of the other planning commissioners. She stated that she does not give out planning commission member’s personal cell phone numbers. If a customer wants to share information with the Commission she will forward the information. If members are contacted outside of a meeting, she advised that anything shared with you will have to be shared when it comes to the public hearing and to avoid giving an opinion on proposals before the public hearing.

Commissioner Dockter asked about conversations with county planning commissioners outside of a meeting? Sharon answered try to avoid talking together about upcoming requests. If you do discuss a public matter disclose anything relevant and avoid making any decisions before a public hearing.

### **Agenda Item: Plat – Lot 2C, Wall Plaza Addition. Petitioner – Tom Maher Sr.**

Sharon Pruess provided a summary of the request. Tom Maher proposes to further subdivide Lot 2 in the Wall Plaza Addition. He previously platted off several lots including Lots 2A and 2B for storage buildings, Lot 3A for the Pierre Area Youth Skating Association (PAYSA), Lot 3B for Paws Animal Rescue, Lot 1 for Vern Armstrong currently leased to Fed Ex, Lot 4 to Vern Armstrong for Ag Services Development, and Lot 3C to Jason Ondell for Land and Marine

Auto. The remainder of Lot 2 and a portion of Lot 3 are vacant. Maher is proposing Lot 2C, approximately 12,000 sq. ft., for resale to Jay Livermont to build a storage building/contractor shop. Maher has created a land-locked parcel with no street frontage as the remainder of Lot 3.

Mr. Maher stated this is not true. That parcel is connected to the land that runs all the way north to Airport Rd. The planned lot leaves 150' behind it that runs easterly over to the security fence of Lot 2B.

Sharon stated it is shown on the map as the remainder of Lot 3 with a line all the way around the lot.

Sharon continued the summary: The city staff indicated that no additional lot shall be approved until a plan has been submitted for the remainder of lot 3 and a subdivision plan for the remainder of lot 2. Lots with no street frontage create challenges for the city and the county. There is one (1) water/sewer service remaining along east side of Lowell Ave.

Mr. Maher stated his position. He is never going to land-lock himself into land that he cannot develop. There is land to the north of the proposed Lot 2C that can come around 2C and attach to the remainder of Lot 3.

Mr. Maher explained that he has developed this land and paid for all infrastructure and he does not want to plat the lots prior to selling. He prefers to plat as buyers contact him with their needs/wants. In response to the water/sewer service, he stated that if he needs another line he will pay for the curb/street cut and asphalt repair to hook up to the water and sewer line. He stated possibly Jason Ondell is interested in the remainder of Lot 3 for parking for his business. Also possible that Mr. Maher may build something behind Lot 2B and combine the two lots into one lot. Another possibility is to sell an "L" shaped lot (flag lot) to the north of Lot 2C and to the east of 2C and combine that lot with the remainder of Lot 3. Another option is to sell the remainder of Lot 3 to an owner of one of his other connected established lots.

Commissioner Templeton questioned if Lot 2C was approved if the Commission still had an option in the future to turn down additional action on Lot 2 to ensure a land-lock situation does not occur. Sharon stated the Commission does have that option.

Commissioner Bartlett asked if Mr. Maher would be acceptable if something was approved based on no additional access to Lowell Avenue or Airport Road due to subdividing. Mr. Maher said that he would not be acceptable to those terms. The land is entitled to access to Lowell Avenue or Airport Road and each plat should be judged on its own merits when it is brought before the planning commission. Mr. Maher stated he would not bring a plat to the commission that does not have access. He does not want to be burdened in the selling of his land. Every other lot in his area has been platted as they were sold.

Commissioner Bartlett asked Sharon what the preferred access spacing is on Lowell Avenue Sharon responded there is nothing currently in city ordinance.

Commissioner Dockter asked Mr. Maher if he currently has plans to develop the remainder of Lot 3. Mr. Maher responded that he is working on it daily and trying to find a buyer. He stated he has in mind a business that could make use of an “L” shaped lot off of Lowell to the security fence to be combined with the remainder of Lot 3. Mr. Maher talked about the cost of developing the land and the businesses established paying taxes. He will not agree to restrictions that were not in place when he developed the land.

Commission Markley asked Mr. Maher if someone bought the remainder of Lot 3, how they would access the lot. Mr. Maher responded with 3 ways: #1. Access off of Lowell -come in 150’ the north side of Lot 2C extending to Lot 2B and combining with the remainder of Lot 3. #2. Access off of Airport Road – come in just west of Lot 2B straight back to the remainder of Lot 3. Have not been talking about this option as the City has not yet lowered Airport Road. #3. If any of the lots already platted have a use for more land, the lot could be re-platted to include the remainder of Lot 3.

Commissioner Bartlett commented she sees Mr. Maher’s point about access from Lowell Ave or Airport Rd. It should have never gotten to this point of a flag type lot. Mr. Maher stated he would agree to the line coming out that goes from the northeast corner of Lot 3A to the southwest corner of Lot 2B, then it would be all of Lot 2. Sharon clarified this would be revising the plat to include the remainder of Lot 2 and the remainder of Lot 3 as one large Lot. Sharon stated the only way to delete that line is to have a new plat. Sharon asked if Mr. Maher was agreeing to follow up with a replat to combine Lot 2 and the remainder of Lot 3. Mr. Maher stated he would not do that now. He will not do that until he comes to the planning commission with another lot, then he will do the replat. He stated he will never sell a land-locked lot. He also commented that if the owner of Lot 3B decides to buy the remainder of Lot 3, then the line would need to stay.

Chairperson Templeton confirmed that he is hearing from all parties that Mr. Maher is not going to develop or sell the remainder of Lot 3 and the planning commission is not going to approve a plat that would land-lock the remainder of Lot 3. Mr. Maher agreed with the statement.

Commissioner Markley questioned if in the future the remainder of Lot 3 was developed would hooking up utilities be at Mr. Maher’s expense, the new owner’s expense or the City of Pierre’s expense. Mr. Maher responded he would be paying for it if the need arises.

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With no further comments or questions, Commissioner Bartlett noted that this remnant lot is on the Commission's radar and made a motion to approve the plat of Lot 2C, Wall Plaza Addition, as proposed as Mr. Maher has acknowledged it is his issue, he owns the land, he pays for the utilities, and he pays for the access so he does not want to land lock himself. The motion was seconded by Commissioner Markley. A roll call vote was called with all commissioners voting to approve.

#### **Public Comment Period per SDCL 1-21-1**

Chairperson Templeton questioned if anyone on the line would like to comment. Hearing no one, Chairperson Templeton closed the public comment period.

#### **Adjourn**

With no further business, Commissioner Bartlett made a motion to adjourn, seconded by Commissioner Dockter. A roll call vote was called with all commissioners voting to approve. Chairman Templeton declared the meeting adjourned at 5:57 p.m.

*Minutes by Susan LaFave*