

**REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON MONDAY, OCTOBER 15, 2012, IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA**

President Glenn Boyeff called the meeting to order at 5:30 PM. Roll call was taken. A quorum was present.

**MEMBERS PRESENT:** Chris Brostuen, Jon Maristuen, Deeann Long, Cynthia Aafedt, Nick Haugen, Glenn Boyeff. **MEMBERS ABSENT:** Jerry Fleck

**OTHERS PRESENT:** Kent Jarcik, City Planner; Rachel Ressler, Staff Planner; Elaine Sinness, Assistant Planner; Donald Kress, Principal Planner; Monte Meiers, Engineer; Kelly Aberle, Building Dept.; Jordan Evert, City Attorney; Ward Koeser, President of City Commission.

**DISPOSITION OF MINUTES:**

MOTION BY HAUGEN, SECOND BY BROSTUEN to approve September 17, 2012 minutes as presented. MOTION CARRIED ON VOICE VOTE.

**PUBLIC HEARINGS:**

**1. Proposed Zone Change from R-1: Single Family Residential to R-3: Low-rise Multi-family and Townhouse Residential for unplatted property located in Section 13, T154N R101W, City of Williston and preliminary plat for Jonathan's Landing-Ventana Design & Development/Melendez**

Boyeff opened the public hearing. Kress presented the request. The applicant is requesting a zone change to R-3 and a preliminary plat for 117 residential lots. The proposed development includes single family homes, twin homes and town houses with an overall density of approximately 6 dwelling units per acre, which is reasonable for such a development. The project will take access from East Dakota Parkway to the east and 26th Street East to the north both of which are dedicated public streets. The interior roadways of the project will be 60 foot wide dedicated public streets.

An ad hoc meeting was held and discussed this proposed request. Discussion included park obligations; project's proximity to the runway protection zone of Sloulin Field; and the need to improve or clearly designate the walking path that crosses the street access from East Dakota Parkway. The ad hoc committee recommendation is approval of the proposed zone change and preliminary plat with consideration of public input, addressing staff comments, development agreement, staff review, meeting final plat requirements and any other required documents. The planning department received a support letter from adjoining landowners who had previously protested because of the commercial zoning which is no longer being considered.

Rick Tofte spoke, and noted that he is against the original application. He said that the subdivision he developed across East Dakota Parkway is the same zoning but the density is far less. It basically amounts to 3 units per acre. Tofte said he discussed a possible TIF with the developers to have the zoning be R-1 for about 75 units. He would like to encourage the commission to consider this as a possibility. The entrance to the development on East Dakota parkway is also a concern of his. He would like to see it relocated to 22<sup>nd</sup> street. He said after discussions with developer Raymond Melendez no conclusion was reached.

Adjoining residents spoke, saying they wished the development would be R-1: Single Family, and expressed concerns about access to the development, including emergency vehicle access, drainage issues. They spoke regarding the safety concerns regarding traffic going in and out of the development. One resident asked if a traffic study has been completed, because he felt the density is too high for so much traffic. Others stated concerns about decreasing the value of surrounding properties, and would like to see continuity in the quality of the homes.

Mr. Melendez said that from their original plan, density has been reduced to 6.3 units per acre, with about 120 units. Concerns were also brought up at the hearing by the public regarding the future land use for the area shown in the comprehensive plan. Jarcik noted that there was an over-shading issue in the new comprehensive plan on the future land use map, and that the area of this development was not supposed to be included in the future land use plan. This area is part of the original comprehensive plan and was shown as residential, so the development is in compliance with the original comprehensive plan.

Boyeff called three times for public comment, hearing none, closed the public hearing. He asked the board for comment regarding this request. Aafedt expressed traffic concerns.

MOTION BY AAFEDT, to recommend to City Commission denial of the Zone Change from R-1: Single Family Residential to R-3: Low-rise Multi-family & Townhouse Residential. Motion failed for lack of second.

AMENDED MOTION BY LONG, SECOND BY MARISTUEN, to recommend to the City Commission approval of the zone change from R-1: Single Family Residential to R-3: Low-rise Multi-family & Townhouse Residential for property (19.96 ac.) located in Section 13, T154N R101W, City of Williston, subject to adhoc issues relating to park district, airport & walking path. AYES: Long, Brostuen, Maristuen, Haugen, Boyeff. NAYS: Aafedt. ABSENT, NOT VOTING: Fleck. MOTION PASSED.

MOTION BY BROSTUEN, SECOND BY HAUGEN, to recommend to the City Commission approval of the preliminary plat for Jonathan's Landing Subdivision contingent on development agreement, park dedication, airport comments, and the designation of a walking path. AYES: Maristuen, Long, Brostuen, Haugen, Boyeff. NAYS: Aafedt. ABSENT, NOT VOTING: Fleck. MOTION PASSED.

**2. Proposed Zone Change from A: Agricultural to M-2: Heavy Industrial, for unplatted property located in the SW1/4, Section 17 T154,R100W,Stony Creek Township and preliminary plat for Eastside Industrial Subdivision - Falk**

Boyeff opened the public hearing. Ressler presented the request. In 2011, a final plat and zone change to M-1: Light Industrial was approved for the East Side Industrial Subdivision, which consisted of 6 lots along the east side of County Road 9. This application is for another 86.84 acres directly to the east of the previously approved subdivision. The original application noted a zone change to M-1: Light Industrial. This application has since been amended. A majority of the new lots were discovered to previously have been zoned to M-2: Heavy Industrial, so the application has now been adjusted to only include the areas which were Agricultural and the request for these areas has been changed to Heavy Industrial. The property owner is in the process of applying for annexation. If the annexation is denied, the plat could still go through the subdivision process but as each lot would need to be on individual wells and septic tanks, lot sizes would need to be equal to at least one acre.

An ad hoc committee meeting was held and discussed this request. Discussion included access to the eastern lots and street names. Ad hoc committee recommended approval of the zone change to M-2: Heavy Industrial for the remaining land that is currently A: Agricultural and approval of the preliminary plat contingent on annexation, addressing staff concerns, final plat requirements, development agreement and any other required documents.

Boyeff called three times for public comment, hearing none, closed the public hearing. He asked the board for action regarding this request.

AMENDED MOTION BY BROSTUEN, SECOND BY MARISTUEN, to recommend to the City Commission approval of the zone change from A: Agricultural to M-2: Heavy Industrial for property located in the SW1/4 of Section 17, T154N R100W, Stony Creek Township, ( containing 86.84 acres).AYES: Brostuen, Haugen, Aafedt, Maristuen, Long, Boyeff. NAYS: None. ABSENT, NOT VOTING: Fleck. MOTION PASSED.

MOTION BY MARISTUEN, SECOND BY HAUGEN, to recommend to the City Commission approval of the preliminary plat for Eastside Industrial Subdivision contingent on annexation, development agreement, staff review, final plat requirements and other required documents. AYES: Aafedt, Haugen, Brostuen, Long, Maristuen, Boyeff. NAYS: None. ABSENT, NOT VOTING: Fleck. MOTION PASSED.

### **3. Preliminary Plat for Sublots 2 & 3 in Section 25, T155N R101W, City of Williston - Stamp/Morkin**

Boyeff opened the public hearing. Ressler presented the request. On July 10, 2012, a zone change from A: Agricultural to C-2: General Commercial was approved contingent on a plat being filed, removal of debris on the property and compliance with the zoning within one year. This plat will fulfill part of that requirement and the applicant is working on the other two contingencies, phasing out the RV/Mobile Home Park on one of the proposed lots. The plat included in the packet denotes the two lots as "Sublots" but has been determined to be a subdivision, so the final plat will depict Lots 1 and 2 of Block 1, of the Red Barn Subdivision.

An ad hoc committee meeting was held and discussed this request. Discussion included the applicant's adherence to the requests of the previous approval from the city commission. In addition, the ad hoc committee discussed the current and proposed uses on the lot, which includes a modular hotel. Ad hoc committee recommendation is approval on the preliminary plat for Sublot(s) contingent on addressing staff concerns, final plat requirements, development agreement and any other required documents.

During the hearing, there was a discussion that there needed to be a 40 foot right of way along 70<sup>th</sup> Street, and the applicant was in agreement with this. Haugen verified with the applicant that the remaining trailers are to be removed from the lots by July, 2013. Mr. Stamp agreed.

Boyeff called three times for public comment, hearing none he asked the board for action on the request.

MOTION BY MARISTUEN, SECOND BY BROSTUEN, to recommend to the City Commission approval of the preliminary plat for Lot(s) 1 & 2, Block 1, Red Barn Subdivision, contingent on addressing staff concerns, final plat requirements, development agreement and any other required documents and change plat title. AYES: Haugen, Aafedt, Maristuen, Long, Brostuen, Boyeff. NAYS: None. ABSENT, NOT VOTING: Fleck. MOTION PASSED

### **4. Proposed Zone Change from M-1: Light Industrial to C-2: General Commercial for two unplatted properties located in the SW1/4SW1/4, Section 1, T154N R100W, and Block 1 & 2, Sawvell Subdivision (containing 120 acres)-Christianson/Bradley**

Boyeff opened the public hearing. Ressler presented the request. The application is requesting to change two unplatted lots and two blocks of the Sawvell Subdivision from M-1: Light Industrial to C-2: General Commercial. This change would be consistent with the City's Future land use plan.

Ressler further explained the existing uses on this property include Champs bar and Badland's Clutch and Transmission. Badland's Clutch proposes to remain as is while the proposed use on the three lots with Champs will be a hotel.

An ad hoc meeting was held and discussed this request. Discussion included concerns about the existing liquor license, a request that the three lots owned by James Christianson be tied together and a need for the applicant to meet with the Airport Board of Adjustments due to proximity to Sloulin Field International Airport. Ad hoc recommendation is approval of the zone change to bring the area into compliance with the future land use plan. Koeser clarified that the alcohol committee was looking at the liquor license to determine how to handle county licenses that are now in the city limits.

Meiers indicated that the property should have a right of way given with the zoning and would need to be platted. The corridor off of 2/85 lines up with the right of way of Sande Subdivision. Meiers would like to see a 30' right of way along the northern end of the lot where Champ's Bar is located.

Jerry Campbell, the applicant's representative, pointed out that the access to the lot would be from the frontage road, but would prefer access from the north of the lot. He also is concerned about gaining an equal right of way north of the lot, from the property owner, Dale Branson. Boyeff called three times for public comment, hearing none, closed the public hearing. He asked the board for action regarding this request.

MOTION BY HAUGEN, SECOND BY AAFEDT, to recommend tabling this request. AYES: Maristuen, Long, Brostuen, Aafedt, Haugen, Boyeff. NAYS: None. ABSENT, NOT VOTING: Fleck. MOTION PASSED.

**5. Proposed Zone Change from A: Agriculture to C-2: General Commercial for various lots in the Sunset and Whitlock Subdivisions and unplatted property in Sections 20 and 21, T154N R101W, City of Williston-City**

Boyeff opened the public hearing. Ressler presented the request. This application requests to change 11 lots west of the Chandler Field Subdivision and east of Schlumberger from A: Agricultural to C-2: General Commercial. This change would be consistent with the City's future land use plan and would create a commercial rather than industrial corridor upon the entrance to the City. Existing uses on these properties include vacant land, a pipe yard, an oilfield service company and several farm equipment sales companies, such as Lindsey implements. Some uses will be non-conforming but will be allowed to remain until such circumstances as the non-conforming uses section of the code indicates.

An ad hoc meeting was held and discussed this request. Discussion included the need to verify notification of neighbors and owners of affected areas. Ad hoc recommendation is approval of the zone change to bring the area into compliance with the future land use plan.

A representative from Thomas Tools asked for clarification of the re-zoning and what a non-conforming lot would be. Staff providing an explanation as it relates to properties being non-conforming. Ressler said the majority of properties agreed to the change. Boyeff was concerned about the existing use of properties and how the change would affect the future use of those properties.

Boyeff called three times for public comment, hearing none, closed the public hearing. He asked the board for action regarding the request.

MOTION BY BROSTUEN, SECOND BY MARISTUEN, to recommend to the City Commission approval of the zone change from A: Agricultural to C-2: General Commercial for various lots in the Sunset and Whitlock Subdivisions and unplatted property in Sections 20 and 21 T154N R101W, City of Williston. AYES: Long, Brostuen, Maristuen, Haugen, Aafedt, Boyeff. NAYS: None. ABSENT, NOT VOTING: Fleck. MOTION PASSED.

**6. Request to consider variance to allow an accessory building larger than the primary structure on N50' of S150', Plot 18, Hillcrest Subdivision (327 14th Ave West) - Holman**

Boyeff opened the public hearing. Ressler presented the request. The applicant, Everett Holman, is requesting to build a 40'x80' garage on the west side of the lot. Because there is no alley connected to the lot, he maintains that if he were to put up a larger primary structure first, he would not be able to construct the garage. He does have the plans to construct a house that is larger than the garage once the garage has been constructed.

An ad hoc meeting was held and discussed this request. Discussion included a review of the "hardship" shown by the applicant. The main concern was determining how the applicant would be held to his plan to build a house that would allow the entire lot to be in compliance with the zoning ordinance. The ad hoc committee also discussed the desirability of replacing small, older homes with newer ones. Ad hoc committee recommendation is that the full Planning and Zoning Commission review the variance request, with council from the city attorney regarding a way to compel the applicant to follow through on his plans to build a primary structure that would become the largest building on the lot.

Aafedt asked what enforcement mechanisms were in place and what happens if owner is out of compliance. Attorney Evert said the lot would be treated as non-compliant. He also pointed out that non-compliance can be a Class-B misdemeanor, with a maximum of either 30 days in jail or \$500 or \$1000 dollar fine, and each day would be a separate violation.

There was discussion about whether the lack of alley constitutes a hardship. Evert pointed out the variance section of the Zoning Ordinance to show the definition of a hardship.

Haugen pointed out that the driveway would provide enough room to drive to the back of the lot. Mr. Holman said that the cost of the garage would be higher if the house were to be built first. Aberle confirmed that by just pouring a concrete pad, the square footage would be considered the same as a structure. Boyeff called three times for public comment, hearing none, he asked the board for action on this request.

MOTION BY HAUGEN, SECOND BY BROSTUEN, to recommend to the City Commission denial of the variance. AYES: Long, Brostuen, Haugen, Maristuen. NAYS: Aafedt, Boyeff. ABSENT, NOT VOTING: Fleck. MOTION PASSED

### **UNFINISHED BUSINESS:**

**1. Special Permitted Use for towing impound yard for Lot 1, Sowitch Plat & West of Lot 7, Hillcrest Subdivision – Chaney** Item remains tabled.

### **NEW BUSINESS:**

**1. Special Permitted Use for Oil well Site on a portion of unplatted property in the NW1/4NW1/4, Section 17, T154N R100W, Stony Creek Township - Brigham**

Kress presented request. This request is for an oil well to be located in Stony Creek Township, within the one-mile extra territorial jurisdiction of the City of Williston. The well site will include approximately 13 acres of disturbed area. Drilling is expected to take approximately 45 days. Access to the project site will be from County Road 9.

An ad hoc committee meeting was held and discussed this request. Discussion included the project site being screened with fencing, trees and landscaping similar to the StatOil site on 26th Street and 32nd Avenue West in Williston, the applicant to provide a schedule of when drilling will take place and when it will be completed, applicant to provide a FAA Form 7460 to the airport manager, applicant should provide an estimate of the increased traffic that will be created on County Road 9 during the development and operation of the well. Ad hoc committee recommendation is approval of the SPU for an oil well contingent on addressing the ad hoc committee's concerns and staff comments.

MOTION BY MARISTUEN, SECOND BY HAUGEN, to approve the SPU request for an oil well site in the NW1/4NW1/4, Section 17, T154N R100W, Stony Creek Township contingent on ad hoc's conditions relating to buffering/diking/shield, drilling schedule, FFA form to airport and provide traffic estimates. (Approximately 13 acres of disturbed area) AYES: Brostuen, Haugen, Long, Aafedt, Maristuen, Boyeff. NAYS: None. ABSENT, NOT VOTING: Fleck. MOTION PASSED.

## **2. Special Permitted Use Application for Storage of Hazardous Materials on a portion of Lot 2, Sundby Subdivision, City of Williston- Weatherford**

Ressler presented request. The application is to allow for the storage of explosives and radioactive materials. Weatherford has provided a site plan and letters indicating the amount of explosives, indoor explosives will be no greater than 50 pounds net explosive weight. Outdoor explosives will not exceed what is allowable by ATF and IME safety factors. The setbacks proposed by Weatherford would allow 1800 pounds of explosives but they will only be storing 500 pounds at a maximum.

An ad hoc committee meeting was held and discussed this request. Discussion included concerns about a nearby school and the state and federal regulations regarding storage of these materials. Ad hoc committee recommendation is approval of the SPU for storage of explosive and radioactive materials contingent on meeting state and federal requirements and providing North Dakota Nuclear Regulatory Certificates and ATF permits.

MOTION BY LONG, SECOND BY BROSTUEN, to approve the request of storage hazardous material for explosives and radioactive materials, North of Hwy 1804 on a portion of Lot 2, Sundby Subdivision, contingent on meeting state and federal requirements and providing North Dakota Nuclear Regulatory Certificates and ATF permits. AYES: Aafedt, Maristuen, Long, Haugen, Brostuen, Boyeff. NAYS: None. ABSENT, NOT VOTING: Fleck. MOTION PASSED.

## **3. Final Plat for Town Centre Subdivision-Granite Peak**

Ressler presented the request. On September 11, 2012, the City Commission approved the Preliminary Plat, contingent on the development agreement, annexation of a right of way at 7th Street W, addressing staff comments, title opinion, at least 1 parking space per 250 sq. ft. of building space and meeting final plat requirements. The property for Town Centre East is located on the south side of 7th St West; to the southeast of Sand Creek Town Centre. The property to the south of 7th St West has been annexed into the City. However, the right of way for 7th St West currently lies outside of the city and annexation of an area to the north was placed as a contingency on approval of the plat. The area is still in the process of being annexed. Future proposed development includes 19 office buildings on 35 lots. The easternmost lot and westernmost lot both include drainage easements. Sixteen of the lots were platted without access to public roads and will require a reciprocal access agreement granted to the lot owners and invitees as required by Ordinance 948.

Boyeff clarified that if the old Lot 38 on the plat was ever separated from the original Lot 1, there would need to be access to that lot. Staff concurred. Haugen made mention of the previous action which allowed for reduction in parking. He believes that could be problematic with future unknown uses in the development.



MOTION BY BROSTUEN, SECOND BY MARISTUEN, to recommend to the City Commission approval of the final plat for Town Centre Subdivision, contingent on a reciprocal easement, development agreement, annexation (7<sup>th</sup> street West), park dedication, final staff review and any necessary plat corrections. AYES: Maristuen, Brostuen, Aafedt, Long, Boyeff. NAYS: Haugen. ABSENT, NOT VOTING: Fleck. MOTION PASSED.

#### **4. Review request to reduce parking (East Broadway) for County Facility- Staff**

Kress presented the request. The request by the Williams County Government is for a reduced parking requirement for an "office" use from the requirement stated in Williston Zoning Ordinance Section 25H (5). That requirement is one parking space per 250 sq. ft. of gross floor plus one space per each employee on the largest shift. The County requests a reduced requirement of one parking space per 250 feet of gross floor area only, for the new Williams County office/apartment building located at the corner of 3rd Avenue East and East Broadway. Williston Zoning Ordinance Section 25 H states "If it can be demonstrated by the property owner through market studies or other means that the required off- street parking is excessive and a lesser requirement is justifiable, the Planning and Zoning Commission may consider reducing the number of required spaces".

Three offices are proposed for this building - County Planning, NDSU Extension Office and County Building Inspector-in the 4,000 square foot first floor office area. The County proposes a plan under which the employees of these offices will park across East Broadway in the existing law enforcement center parking lot. The County believes that the 16 spaces resulting from a requirement of one space per 250 square feet will provide sufficient on site visitor parking for these offices. Therefore, reduction of the parking requirement from one parking space per employee plus one parking space per 250 square feet of gross floor area for an office use to one parking space per 250 square feet of gross floor area is justifiable.

This request for reduced parking has come about from discussion between County and Williston City staff regarding a parking plan for the County Building that includes on-site parking, off-site parking, and development of additional parking areas in the immediate environs of the County Building in the near term.

An ad hoc meeting was held and discussed this request. Discussion included the format for applying for a request for a reduced parking requirement, that the planning & zoning commission wishes to have reports from the Planning Department and Building Department with a recommendation for action on the reduced parking requirement, parking requirements must be satisfied. Ad hoc committee recommendation is that the Planning & Zoning Commission will hear the request for reduced parking in the format directed by the ad hoc committee and that the request be approved. The Building Department concurs with this recommendation.

County Commissioner Dan Kalil discussed the original issues with the parking plan for the building. Both Kress and Kalil clarified the county's plans for allocating spaces so that all necessary parking spaces will be met.

MOTION BY HAUGEN, SECOND BY LONG, to approve reduction in parking by not requiring the one space per employee for the Williams County Office/Apartment Building. (302 East Broadway). AYES: Brostuen, Maristuen, Long, Aafedt, Haugen, Boyeff. NAYS: None. ABSENT, NOT VOTING: Fleck. MOTION PASSED.

### **5. Revisions to Section 25.G - Sign Regulations-Staff**

Kress presented the request. The revision to Section 25 G- General Sign Regulations of the Williston Zoning Ordinance was prompted by a need to clarify regulations for billboards, dynamic messaging signs and temporary signs.

Features of the revised ordinance are:

Regulation of billboards-maximum size of billboards, separation distance between billboards, zones where billboards can be located.

Regulation of dynamic messaging signs-location of dynamic messaging signs, separation from residential zones, prohibited types of messaging, limitations on hours of dynamic messaging, and technical regulations of the messaging.

Regulation of temporary signs-specific identification of types of temporary signs, limitations on display of temporary signs, fine for display of temporary signs in violation of the ordinance.

Emergency locator signs-a new type of sign required for multi-building developments to aid emergency services personnel in responding to emergencies at these locations.

The Planning Commission approved setting public hearing for November 19th meeting.

### **DATE OF NEXT MEETING:**

Next meeting will be on November 19, 2012.

Meeting adjourned at 8:00 pm