

AND ZONING COMMISSION WAS HELD ON MONDAY,  
IN ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.

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

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

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Kent Jarcik, City Planner, Elaine Sinness, Assistant Planner, Monte Meiers, Engineer, Jordan Evert, Attorney, Ward Koeser, City Commission.

#### **DISPOSITION OF MINUTES:**

MOTION BY BROSTUEN , SECOND BY HAUGEN , to approve the December 19, 2011 minutes be approved as presented. MOTION CARRIED ON VOICE VOTE.

#### **PUBLIC HEARING:**

#### **1. Proposed Amendment to the Future Land Use Classification from Industrial to Residential and Zone Change from A: Agricultural to R-4: Highrise, Multi-Family Residential for property located in the NE1/4SW1/4, SECTION 2, T154N, R101W – Brutger/Rose Land, LLC.**

Boyeff said there will be four public hearings this evening and that the first public hearing is for an amendment to the FLU and zone change from Industrial to Residential and zone change from A to R-4 for property located in the NE1/4, SW1/4, Section 2, T154N, R101W, requested by Brutger Equities and RoseLand, LLC. Boyeff opened the public hearing and asked Jarcik to present. Jarcik pointed out the location of the property, which is located north of the airport and north of 42<sup>nd</sup> Street, just west of Williston Park Subdivision. Jarcik indicated the future land use plan for the area. He said the applicant is looking at developing to the south for residential (70 acres) which would fit the previous land use plan for the area with a mix of commercial/light industrial along with residential (existing Williston Park Subdivision & old T&C Trailer Park).

Jarcik said the 40 acres between the residential and industrial is being proposed for a multi-family development (R-4). He went on to say in adhoc the main discussion was access with one off 16<sup>th</sup> Avenue W and second off ¼ line to 42<sup>nd</sup> with the consideration for the entire 110 acres (future plat) and the future land use. In addition, he indicated a traffic study for impacts on the roads and primary intersections should be provided with a future subdivision plat. Jarcik said the airport said future development in the area could be an issue regarding densities and height and reviewed other departments comments relating to permit construction, development agreement, plat required for entire 100 acres, water pressure to the west and access issue. Recommendation from adhoc was in favor of the land use change and re-zone contingent on a subdivision plat for the entire 100 acres, development agreement and annexation of the northern portion (40 acres), the southern portion (70) has been annexed.

Boyeff then asked the applicant to review the proposal. Larry Brutger with Brutger Associates indicated that they are requesting the rezone of the 40 acres as describes to R-4. He said they have developed a number of projects in Williston (Homestay, Holiday Inn, Candlewood, Big Willies, Williston Gardens). He

40 acres showing the 40 acres which has a purchase agreement for the bulk of the property to the south (110 acres). Mr. Brutger indicated the 110 is not being rezoned at this time but being considered in the future. He said the 40 acres is ideal for multi-family being to the west is residential (Ratzak/Williston Park) north is the ole T&C trailer park even though the property to the east is light industrial. He indicated sewer and water will be to the area next year which will provide for the current housing demand. Mr. Brutger said they did look at R-3 zoning but are wanting to provide 4-story buildings with 50 units with one elevator, which the R-4 will allow upon approval from the FAA. He went on to explain two access points will be needed per engineering and the property owner (42<sup>nd</sup> and 16<sup>th</sup>). The property will be designed to provide a community type environment with playgrounds, green spaces, community building, picnic area for families similar to the Williston Gardens project to be called Renaissance Heights. He asked the board to consider approval of the zone change and thanked the board for heir consideration. Boyeff asked for public comments. Terry Starkey, adjoining property owner to the west, asked if the cement plant will remain should the apartment be allowed. Boyeff said that would probably be considered grandfathered in. Mr. Starkey said that he thought the area was to be zoned light industrial and wondered if the property to the south will remain industrial. Boyeff said at the time of the earlier request it was contingent on submission of a subdivision plat which means the industrial zoning did not happen. Mr. Starkey said he was opposed to a 4-story apartment complex and feels it should remain agricultural or light industrial because of the airport and existing cement plant.

Dale Branson, property owner, said the cement plant (Stratra) will probably not remain at the present location because the company is building west of town; therefore, negotiations are taking place with owners. He said he is also working getting the right of way along the ¼ line from 42<sup>nd</sup> Street. Branson said the town needs more housing and believes this is one way to help solve the problem and has no intent on leaving the property along 42<sup>nd</sup> industrial, his plans are residential and believe the Brutger project will be a good fit for the area. Boyeff asked Larry Brutger if it's his understanding that the southern property would be residential. Mr. Brutger said that is true, He further said a traffic study will be provided subject to what staff is asking. A short discussion took place regarding the future intent of the remainder acreage (70) owner by Mr. Branson.

Boyeff called three times for public comment, hearing none, closed the public hearing. He asked the board for action relating to the zone change.

MOTION BY BROSTUEN, SECOND BY FLECK, to recommend to the City Commission approval of the proposed Future Land Use Amendment from Industrial to Residential for property located in the NE1/4, SW1/4, Section 2, T154N, R101W, Williston Township, containing 110 acres. AYES: Aafedt, Maristuen, Long, Brostuen, Fleck, Haugen, Boyeff. NAYES: None. MOTION CARRIED.

MOTION BY BROSTUEN, SECOND BY FLECK to recommend to the City Commission approval of the Zone Change from A: Agricultural to R-4: Highrise, Multi-Family Residential for property located in the NE1/4 SW1/4, Section 2, T154N, R101W, Williston Township, containing 40 acres, contingent upon a subdivision plat for the entire 110 acres, development agreement, traffic study and annexation of the northern portion currently out of the City Limits (40 acres). AYES: Maristuen, Long, Brostuen, Fleck, Haugen, Aafedt, Boyeff. NAYES: None. MOTION CARRIED.

**2. Proposed Amendment to the Future Land Use Classification from Park and Open Spaces to Commercial and Zone Change from A: Agricultural to C-2: General Commercial for property located in the SW1/4 NE /4, SECTION 22, T154N, R101W and VO Subdivision – Reiger**

Amendment to the FLU and zone change from Parks and Open Spaces to Commercial for property located in the SW1/4, NE1/4, Section 22, T154N, R101W, and VO Subdivision, Williston Township, as presented (25 acres) requested Martin and Sylvia Reiger. Boyeff opened the public hearing and asked Jarcik to present. Jarcik pointed out the properties location, being west of the bypass and south of the OB Gunderson's (Sundown Subdivision) property adjacent to Highway 2&85. He said the proposal is to rezone 25 acres to commercial which includes the VO subdivision (8+ acres). He said the comprehensive plan shows the area for Parks and Open Spaces but is being considered for commercial if the drainage, access and city utilities are addressed through annexation. He said city water is proposed to be extended from the north along the east side of the Gunderson property (frontage road) and sewer to be extended using the proposed future lift station along the west side. Jarcik said an adhoc met to discuss the eleven (11) lot commercial development. He said the provision of water and sewer, access to align with potential corridor improvements for 2&85 and realignment with 2<sup>nd</sup> Ave, floodplain requirements. Jarcik reviewed the staff comments regarding flood plain (FEMA), need for filling and bridge, confirming with NDDOT on 2&85 access right of way's location and width (80'), need for plat and development agreement. He indicated the committee was in favor of the zone change contingent upon a subdivision plat and development agreement. Boyeff asked if Walk from DOT has gotten back with information. David Bauer with AE2S Engineering, said he has not gotten with Walt lately bust as of last fall he was ok with the location and width, but that more verification will take place with the preliminary plat regarding access and floodplain issues at that time. Kenneth Will, representing Ravin Medical Services, who is looking at being part of the development to the north (Gunderson/Sundown Subdivision), said they are in support of the zone change and looking forward to working together with the developers of this property. Boyeff called three times for public comment, hearing none, closed the public hearing. He asked the board for action relating to the zone change.

MOTION BY FLECK, SECOND BY ???????? to recommend to the City Commission approval of the Amendment to the Future Land Use from Parks and Open Spaces to Commercial for property located in the SW1/4, NE1/4 and VO subdivision, Section 22, T154N, R101W, Williston Township, as presented (25 acres). AYES: Long, Brostuen, Fleck, Haugen, Aafedt, Maristuen, Boyeff. NAYES: None. MOTION CARRIED.

MOTION BY HAUGEN, SECOND BY MARISTUEN to recommend to the City Commission approval of the Zone Change from A:Agricultural to C-2: General Commercial for property located in the SW1/4, NE1/4, and VO subdivision, Section 22, T154N, R101W, Williston Township, contingent on a preliminary plat and development plan. AYES: Brostuen, Fleck, Haugen, Maristuen, Long, Aafedt, Boyeff. NAYES: None. MOTION CARRIED.

### **3. Preliminary Plat for – Scully**

Boyeff said the third hearing is for a preliminary plat for Scully Subdivision within Block 1 of the MR Subdivision as requested by Jon Scully. He opened the public hearing and asked Kaiser to present. Kaiser showed the location of the property being south of 34<sup>th</sup> and west of 3rd Avenue East within the City limits. She indicated that the applicant would like to replat a once acre lot into 5 lots. She indicated the City Commission approved the zone change from R1A to R-3, contingent on a plat with a restriction to not allow multi-family/twin homes but did not specify the number of lots to be allowed. Kaiser said the applicant is now planning to plat five lots single family homes rather than four and that is adhoc the number of lots were discussed; however, no recommendation was made and that the applicant (Jon Scully) is here this evening. Scully explained his initial request was to provide four lots to build twin homes but the neighbors were in opposition so he plans to build single family homes but is asking to allow for five lots rather than four which meets the R-3 zoning for square footage (under 7000 sq/ft). He

west side of the lots (3<sup>rd</sup> Ave. E). Boyeff asked about an existing plat of the acreage. Mr. Scully said the lines run along with the east side of the lots. Discussion took place regarding the location of the waterline, future expansion of University Commons to the south, easement to run east/west within 34<sup>th</sup> Street, and the need to show proper utility easements. Boyeff asked Mr. Scully to address the number of lots being requested. Mr. Scully said at the City Commission meeting the discussion was regarding the minimum lot size required in the R-3 and that there was no action requiring only four lots and that no multi-family units were allowed. He asked that the board consider five lots being the square footage of the lots meets the R-3 zoning. Sylvia Reiger, adjoining owner, said she was at the City Commission meeting and because of the adjoining homes being single family she feels having five homes will cause a lot of congestion and felt the intent of the commission was to allow for four lots and did not think it's right to now allow five on only one acre of land. Shelly Bethke, adjoining owner, was also opposed to allowing five lots.

Boyeff called three times for public comment, hearing none, closed the public hearing. He asked the board for action relating to the zone change. He said the adhoc did not make a recommendation.

MOTION BY HAUGEN, SECOND BY AAFEDT to recommend to the City Commission that the preliminary plat for Scully Subdivision be for four (4) lots and that an agreement between neighbors for access to the current waterline. Discussion took place regarding the need to re-plat the property into four lots rather than five to eliminate any confusion. HAUGEN ASKED TO WITHDRAW THE MOTION, AGREED BY AAFEDT.

MOTION BY HAUGEN, SECOND BY AAFEDT, to recommend to the City Commission approval of the preliminary plat for Scully Subdivision, Rearrangement of Lot 2R, MR Subdivision, contingent upon replatting the property from five lots to four and that an agreement between neighbors to allow access to the current waterline until such time that new services are put in this area from the south (University Commons Subdivision).

AYES: Fleck, Aafedt, Maristuen, Long, Brostuen, Haugen, Boyeff. NAYES: None. MOTION CARRIED.

#### **4. Preliminary Plat for Sublot No. 17 , City of Williston – Falk**

Boyeff said the fourth hearing is a preliminary plat for Sublot No. 17, requested by Falk. Boyeff opened the public hearing and asked Kaiser to present. Kaiser pointed out the location of the subplot containing .56 acres which was a piece of area left over from the time of the vacating of Halliburton Drive. She indicated that in adhoc it was discussed that the area is just a parking area and that only .28 acres of property are useable and the northern portion is a 60' road and utility easement. Kaiser said the committee and staff recommended approval and that it helps clean up the area, providing the 60' road and utility easement is shown on the plat.

Boyeff said in adhoc it was recommended to approve. He asked Roger Cymbulak who is representing the owner if he has comments. Mr. Cymbulak said the purpose of the plat is to get a document to transfer ownership and asked the board to approve.

Boyeff called three times for public comment, hearing none, closed the public hearing. He asked the board for the wishes of the board.

G to recommend to the City Commission approval of the  
ston; contingent on a 60' road and utility easement.

AYES: Haugen, Aafedt, Maristuen, Long, Brostuen, Fleck, Boyeff. NAYES: None. MOTION CARRIED.

## **COMMITTEE REPORTS:**

### **1. Election of Officers**

Boyeff indicated that January is the board's re-organization meeting. He asked for a report from the nominating committee (Haugen/Long) on the election of officers for the chairman, 1<sup>st</sup> vice-chairman and 2<sup>nd</sup> vice-chairman. Long indicated that the committee met and would like to nominate Glenn Boyeff for Chairman, Cynthia Aafedt for 1<sup>st</sup> Vice-Chairman and Chris Brostuen for 2<sup>nd</sup> Vice-Chairman.

MOTION BY FLECK. Asked that the nominations cease and to elect the officers as nominated by the committee. SECOND BY HAUGEN. MOTION CARRIED ON VOICE VOTE.

Boyeff said he will try his best another year and thanked Aafedt and Brostuen for accepting the vice chairman positions.

### **2. Review of Bylaws**

Glenn indicated that review of the Bylaws is the next item. He indicated that Article I on item E master plan information be updated.

MOTION BY BROSTUEN, SECOND AAFEDT to amend the bylaws as requested. MOTION CARRIED ON VOICE VOTE.

MOTION BY HAUGEN, SECOND ??? the 5:30pm time and regular meeting dates for 2012 being the 3<sup>rd</sup> Monday unless a holiday. MOTION CARRIED ON VOICE VOTE.

## **UNFINISHED BUSINESS**

### **1. Proposed Zone Change from A: Agricultural to C-3: Restricted Commercial for Sundown Addition – Dakota Parkway Investments/Shaw**

Boyeff said the first unfinished business is for a zone change requested by Shaw. He asked Jarcik to provide information. Jarcik said this item was tabled at the previous meeting pending additional information which has been worked on providing additional access from Mr. Gunderson and new development to the south (Reigher). He said there still is need for a temporary access route and that the applicant has been working with engineering and the DOT but no final conclusions have been made yet. Boyeff asked is the item needs to be tabled. Jarcik agreed. Boyeff asked Mr. Shaw to explain the progress regarding the water/sewer and access issues (frontage road) and feels a good plan is in process but will need to assure safety during future construction. Mr??? with Medical??? Updated the board on the intent to place 3-story medical facility on the (Gunderson/Sundown) property and that

engineering on the project. He would like to begin the  
ning and thanked the staff for the efforts being made. Meiers

indicated that a development plan is in process but the main concern is access across Sand Creek, which  
is being worked on.

Boyeff said hopefully something can be resolved by February and that the item is to remain tabled.

## **2. Preliminary Plat for Replat of Lot 5, Pleasant View Addition – Redland,LLC.**

Boyeff asked Jarcik to present. Jarcik indicated the location is south of 5<sup>th</sup> Street between Reclamation Drive and University Avenue and that the proposal is to split a single lot with an existing multi-family development along with a shared driveway across Lot 2 to service Lot 1. He said additional information as provided since the December meeting. Jarcik said an adhoc met and discusses the request is a variance for 4.1 setback instead of 6 feet for Lot 2 and a graveled parking as open space (hard surfacing is required by ordinance). The committee recommended to deny the plat due to not meeting development standards. Boyeff asked the applicant to address the board. Kevin Lenseen, with Redland, LLC said the purpose of the split is to allow the purchase of the duplex off University. Mr. Lenseen said they would consider landscaping the graveled parking to provide open space rather than parking and that the setback issue was unexpected once the survey took place and was unknown by the general contractor and is willing to proceed with the variance process.

Discussion took place regarding adequate parking, access off University and Reclamation Drive, water/sewer for separate lots, shared access to garages, open spaces not being met, paved parking requirement, removal of gravel (Lot 2), garage stalls (4-spaces) (Lot 1), variance for the north side, building on Lot 2 needs access through Lot 1 which needs an access agreement between property owners, inadequate fire access and need for a variance and how that process works.

Boyeff said the reason for splitting the lots is to sell to separate owners but the setbacks seems to be the problem even though the parking and open space requirements are adequate and that it appears a variance to the subdivision regulations is necessary. Aafedt said it sounds like another case of after the fact being the buildings are built. Maristuen said it appears the structures were built to be managed by one owner, which probably met the parking and open space as that time but by allowing for splitting lots for separate ownership it is creating problems with the back lot (Lot 2) for safety reasons plus other concerns. Brostuen said the real issue appears to be the 6' setback requirement so he wondered if there is a separate variance procedure needed. Jarcik said yes. Boyeff said it appears the board could either recommend approval of the replat with a contingency to secure a variance or to deny the plat. A short discussion took place regarding the necessary variance requirement and the procedure on how to deal with the improper setback.

MOTION BY MARISTUEN, SECOND BY HAUGEN to recommend to the City Commission denial of the replat of a portion of Lot 5, Pleasant View Addition.

A short discussion took place about the open space requirement and the variance process. Rob Kram, possible buyer, said his family moved from Bismarck and wants to own the property facing University (Lot 1) and said he would be willing to sign an agreement regarding the parking.

AYES: Aafedt, Maristuen, Long, Fleck, Haugen. NAYES: Brostuen, Boyeff. MOTION CARRIED.



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**1. Application for Special Permitted Use for Storage of Hazardous Materials on Lot(s) 2-6, Block 10, Ledosquet Addition & Lot 4, Block 5, Glacier Park First Addition – Horizon Resources/Salvevold**

Boyeff said the next item is a SPU for Storage of Hazardous Material for Horizon Resources and asked Kaiser to present. Kaiser showed the location of the proposed chemical storage building south of 2<sup>nd</sup> Street and 4<sup>th</sup> Avenue West. She indicated that an adhoc met and discusses the proposed warehouse (100'x200') being built next to the existing fertilizer plant. Kaiser indicated the chemicals are relatively not hazardous and are farm chemicals, such as round up and that the reason for the review is because of the large quantity being stored (10,000 pounds/1,000 gallons). She indicated the fire chief said the facility would need to be sprinkled because the chemicals can burn easily and that a plaque will be installed on the building.

**2. Application for Special Permitted Use for Group Daycare at 511 5<sup>th</sup> Avenue West – Huelsman**

**3. Ordinance Revision – Staff**

**DATE OF NEXT MEETING:**

Next meeting is set for February 27, 2012. Meeting Adjourned.

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Kent Jarcik, City Planner



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Boyeff said the first public hearing is for an amendment to the FLU and a zone change from Agricultural to M-1: Light Industrial for 23+ acres E1/2, SW1/4, Section 20, T154N, R101W, Williston Township along with a Plat for the rearrangement of Sublot No. 1 and vacation of the existing public access for Schlumberger, which is now annexed. He indicated this property was already zoned commercial/industrial by the County but since it's annexed the zoning will need to follow City regulations. Boyeff opened the public hearing and asked Kaiser to present.

Kaiser pointed out the property, which is located west of Lindsey Implement north of 2&85. She indicated the applicant has submitted a preliminary plat for Lot 1R containing 67+ acres and an Amendment to the Future Land Use classification from Agricultural to Industrial and rezone from





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23+ acres north of the road easement for future oilwell services. A public hearing was held and discussed that the applicant is wanting to rezone to allow for a future cement mixing plant and chemical storage facility. The plat has been submitted and shows they plan to vacate and relocate the road access to the east and north of the property. She said in addition, there has been an agreement with the landowner to the west to put in the road meeting City standards (going north/south) if the neighbor dedicates the full 80' easement. Kaiser said the adhoc committee was in favor of the zone change and FLU amendment, the preliminary plat and road vacation contingent upon a development agreement that addresses who will be putting in the roads and how they will be paid for. She indicated the applicant's representative (Ron Slade) is available for any questions. Boyeff asked about the southern portions zoning. Kaiser said that was recently zoned M-1: Light Industrial by the City Commission now that the property has been annexed. The northern portion was left agricultural until the applicant figured out the use of the 23+ acres, which is being planned for industrial use. Boyeff asked for public comment. Tammy Hirsch, adjoining neighbor, expressed her concerns about the change being requested because the neighbors were told when Schlumberger bought the property that they were leaving the north portion for residential, so why is industrial being requested. Ron Slade, representing Schlumberger, said the company does not want to provide residential so I now wants the property rezoned industrial. Ms. Hirsch said there is so much commercial in the area that it is unbelievable they are changing now that its annexed. Mr. Slade said they has been asking a year ago to provide housing for Schlumberger's employees which would have been high density residential housing such as apartment type facilities which that use has now been abandoned and not being considered any longer. Ms. Hirsch reiterated that the neighborhood was told residential. Mr. Slade said he recalls the intent was to leave the northern portion agricultural until a use was finalized by the company. Boyeff explained that this board only makes a recommendation to the City Commission who will make the final decision regarding the zone change and plat. He asked what is the plan for traffic flow for the future facility to the northern portion of the plat. The representative.....

Boyeff called three times for public comment, hearing none, closed the public hearing. He asked the board for action relating to the zone change.

MOTION BY LONG, SECOND BY BROSTUEN, to recommend to the City Commission approval of the Future Land Use from Agricultural to Light Industrial (23+acres –North of Road Easement in Lot 1R), contingent on a Development Agreement as recommended by Engineering and proper buffering. AYES: Maristuen, Long, Brostuen, Haugen, Boyeff. ABSENT NOT VOTING: Aafedt, Fleck. NAYES: None. MOTION CARRIED.

MOTION BY BROSTUEN, SECOND BY HAUGEN, to recommend to the City Commission approval of the Preliminary Plat for Lot 1R, contingent on AYES: Maristuen, Long, Haugen, Maristuen, Boyeff. ABSENT NOT VOTING: Aafedt, Fleck. NAYES: None. MOTION CARRIED.

**2. Review application for Temporary Workforce Housing (SPU) on a portion of Block 1, Cenex Subdivision –Sabin Metals/Gafjken**

Boyeff said he next hearing is for Temporary Housing requested by Sabin Metals, which requires a Special Permitted Use. He asked Kaiser to introduce. Kaiser showed the location south of East Broadway

Property is zoned heavy industrial, which allows for temporary use. Kaiser went on to say that the applicant is wanting to place one modular (3-bedroom) for the owner and company representatives and also 5 to 6 matching workforce housing trailer units to provide housing for approximately ten (10) future employees. The units will serve as housing for workers up to five (5) years or until housing becomes available. Kaiser indicated an adhoc met and discussion took place regarding fencing and the need for the fire department needing access in case of emergency as well as proper addressing. She said an added comment from Assessing if units are on a chassis they will be assessed by ND law and ????? Kaiser said the adhoc recommends approval of the request and the time frame would need to be discussed by the board this evening. She indicated the applicant is in attendance this evening.

Boyeff reminded the board that this use is allowed in the M-2 zoning by SPU and that the only use of the units will be only allowed by Sabin employees and not outside sources which requires the City Commission to review the request. He called three times for public comment, hearing none, closed the public hearing. He asked the board for action relating to the zone change.

Long asked if the board needs to place the number of units in the motion. Maristuen said it would be best to place a number allowed and a time frame for review. Haugen commented that up to 5 years is allowed but would like to see a one-year review. Discussion took place regarding the number of years, if review is based on time of application or occupancy, which board handles the review process and time table for placement of units depending on weather conditions.

MOTION BY MARISTUEN, SECOND BY BROSTUEN, to recommend to the City Commission approval of the Temporary Workforce Housing (SPU) on a portion of Block 1, Cenex Subdivision for a maximum of seven (7) units with the condition there be a one year review starting with the time of occupancy of the units as requested by Sabin Metal West Corporation.

AYES: Brostuen, Haugen, Maristuen, Long, Boyeff. NAYES: None. ABSENT NOT VOTING: Aafedt, Fleck.  
MOTION CARRIED.

### **3. Preliminary Plat for Replat of Lot 5, Pleasant View Addition – Redland,LLC.**

Boyeff said the last hearing is for the replat of Lot 5, Pleasant View Addition. He asked Jarcik to comment regarding the request. Jarcik said an adhoc met on this plat and has asked for additional information be submitted therefore, the applicant has asked that the item be tabled. No public comment was heard.

MOTION BY BROSTUEN, SECOND BY HAUGEN, to table action on the preliminary plat for the replat of Lot 5, Pleasant View Addition. MOTION CARRIED ON VOICE VOTE.

**1. Proposed Zone Change from A: Agricultural to C-3: Restricted Commercial for Sundown Addition – Dakota Parkway Investments/Shaw**

Boyeff asked Jarcik to present. Jarcik said there is continued progress on the study being made regarding the egress and ingress but that the applicant has asked this item remain tabled. Mr. Shaw, representing Dakota Parkway Investments, commented that with Meiers help there has been a lot of progress made but asks for more time.

MOTION BY HAUGEN, SECOND BY LONG to table action on the Zone Change from Agricultural to Restricted Commercial requested by Dakota Parkway Investments. MOTION CARRIED ON VOICE VOTE.

**NEW BUSINESS:**

**1. – Review Request to allow vacation of a portion of 66' Street Right of Way (Front Street & 3<sup>rd</sup> Avenue East –Cymbulak**

Boyeff said the next item is to review a request to allow the vacation of a portion of 66' street right of way for Front S. and 3<sup>rd</sup> Avenue East from Roger Cymbulak. HE asked Kaiser to present. She pointed out the location of the streets and indicated that the petitioner is asking that section of the public right of way be vacated in order to decrease traffic and increase safety near Black Hills Trucking's operations. Kaiser indicated that in adhoc it was discussed that the vacating will create a dead-end street; therefore, there is need for a cul-de-sac to provide for a turnaround for public use and emergency vehicles. She said it would also provide access for Lot 6 to prevent it being landlocked. She pointed out the location of the rail spur running up through the alleyway in Block 22 that goes across Front Street. Kaiser said she did contact Steve Kuzma, the real estate manager for BNSF and stated they are against the vacation because they want it to remain as is and will not want to deal with this any further, even though their documentation was uncertain as to the legal description and actual location of the spur. Boyeff asked Roger Cymbulak if he has any additional information. He said dealing with the Railroad has been frustrating. Mr. Cymbulak went on to show the location of property where the spur line is located as well as who owns the surrounding properties (Tesoro, Gaudreau, Moen, True Land/Black Hills). He went on to explain that the existing rail line, which goes across Front Street, was used to unload coke products and has not been used for a number of years. The reason for Black Hills wanting to purchase property in the area is to try to get an additional spur off the rail line which was finally accomplished after months of working with the railroad. Mr. Cymbulak explained that contact has been made with Horgan Surveying to provide a drawing for the future cul-de-sac, providing the vacation is allowed. He feels the vacation will not change the easement for the existing spur located in the alleyway. Meiers indicated he has checked the rail easement and railroad drawings that show an active easement through Block 22. He said the easements cannot be vacated and it would be in the railroad's best interest to not have a spur across Front Street, which could require a crossing should Front Street be developed. Mr. Cymbulak agreed. A short discussion took place regarding the road surfacing, use of recycled asphalt, gravel or hard surfacing, depending on what the city requires.

Boyeff said this would be a recommendation to the City Commission, which would hold a public hearing on December 27<sup>th</sup>. He asked for the wishes of the board.

BRISTUEN to recommend to the City Commission approval to for Front Street and 3<sup>rd</sup> Avenue East as requested, contingent upon the installation of a City approved cul-de-sac to assure that Lot 6 is not landlocked.

Haugen asked if the alleyway is to be vacated. Boyeff said no that will not be necessary. Mr. Cymbulak said the petition is not intended to vacate the railroad easement for the spur line located within the alley.

AYES: Haugen, Maristuen, Long, Brostuen, Boyeff. NAYES: None. ABSENT NOT VOTING: Aafedt, Fleck.  
MOTION CARRIED.

## **2. Special Permitted Use for future wellsite – Brigham/ Hagen**

Boyeff said the last item is an application for a Special Permitted Use for a future Oilwell Site in the NW1/4, NW1/4, Section 14, T154N, R101W, Williston Township submitted by Brigham Oil and Gas. He asked Jarcik to present. Jarcik pointed out the proposed location of the Pyramid drill site and oil production for approximately seven (7) acre drill pad site. The site being in the SE corner of the intersection of 26<sup>th</sup> Street and 32<sup>nd</sup> Avenue (Municipal Golf Course Road). He said an adhoc meeting was held where discussion took place regarding the location, future development, access, flaring, pipe route for the production phase and screening requirements. Jarcik indicated the committee recommended approval contingent on: security fencing, shelter belt/vegetative buffering, non-protest future, a closed loop system, flare shield, gas to be piped per NDCI requirements, provide maps of pipe line, emergency response plan, diking, access to the site from the west and city not being held responsible for safety issue/detrimental effects associated with the site. Jarcik provided copies of recommendation by adhoc and maps for the audience.

JayDee Aten, representing Brigham Oil and Gas, pointed out that the total size of the site is 24 acres but the drilling pad is 8.2 acres as shown on the aerial/site plan provided to the board. Boyeff said the screening and buffering would be provided around the perimeter of the well site along with security fencing and that a distance of 500' from any residence or buildings. Mr. Aten agreed. He asked if the audience has any comments or questions. RJ Benth, adjoining neighbor to the east, said everything will be blowing towards his property which is his biggest concern regarding the future development of the land. He was also concerned about the truck traffic along 26<sup>th</sup> Street and the new residential development to the north (Harvest Hills). Boyeff said he is aware the truck traffic will be increased while the drilling operation is happening but there will be pipelines to take the product away. Mr. Aten said the gathering system is already available to the west, so traffic will be going west, not east. Clarence Slingsby, neighbor to the south, asked about the odor from H<sub>2</sub>S gas, which can cause nerve damage. Russel Rankin, with Brigham, indicated that would not be a serious odor problem in this area because the formation is different which produces sweet crude/gas. Boyeff said there was the same question asked at the time of the first well site by Sabin Metals and temporary housing which it was stated that times there is not H<sub>2</sub>S in the Bakken formation, so the concerns are not as great but wondered if the emergency response plan addresses gas control. Mr. Rankin said yes and that low lying gasses will always exist and protection will be handled on site in case of a serious discharge.

He took time to explain to those present about the safety operations involved with this site and through the utilization of the pipe line (1-mile) to the west, parallel with 26<sup>th</sup> to help lessen the traffic concerns and that Brigham will be keeping the neighborhood uppermost in their minds during the drilling phase



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adequate tree buffering, secure fencing and a flare shield. Boyeff  
I be going to the west and not to the east part of Williston.

A lengthy discussion took place between the resident and Brigham's representatives to answer questions and provide information to the public in attendance regarding the need to secure agreements and securing proper right of ways. Boyeff said this site is approved by the NDIC and this board is given the chance to place conditions that will hopefully cover the necessary assurances to provide safeguards for the neighborhood. He then reviewed the nine criteria necessary for granting the Special Use Permit on agricultural property. He asked the board if there are any concerns relating to the future well site.

MOTION BY LONG, SECOND BY MARISTUEN to recommend approval of the Special Permitted Use for Brigham Oil and Gas in the NW1/4, NW1/4, Section 15, T154N, R101W, Williston Township contingent upon the eleven (11) conditions required by the adhoc committee. AYES: Maristuen, Long, Brostuen, Haugen, Boyeff. NAYES: None. ABSENT NOT VOTING: Aafedt, Fleck. MOTION CARRIED>

Boyeff said the next meeting will be held January 23, 2012 and the adhoc will need to be held on Tuesday the 17<sup>th</sup> because of the holiday. He wished all a Merry Christmas and Happy New Year.

Next meeting is set for January 23, 2012. Meeting Adjourned.

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Kent Jarcik, City Planner