

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON MONDAY, SEPTEMBER 19, 2011 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.

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

MEMBERS PRESENT: Chris Brostuen, Deeann Long, Jon Maristuen Nick Haugen, Cynthia Aafedt, Glenn Boyeff

MEMBERS ABSENT: Jerry Fleck

OTHERS PRESENT: Kent Jarcik, City Planner, Jessica Kaiser, Planner I, Elaine Sinness, Assistant City Planner, Monte Meiers, Engineer, Peter Furuseth, City Attorney, Tom Rolfstad, Economic Development Ward Koeser, City Commissioner

DISPOSITION OF MINUTES:

Long indicated that two corrections are necessary, Page 2 and Page 9. MOTION BY MARISTUEN, SECOND BY HAUGEN, to approve the August 15, 2011 minutes as corrected. MOTION CARRIED ON VOICE VOTE.

PUBLIC HEARING:

1. Proposed Zone Change from C-1: Neighborhood Commercial to R-4: Highrise, Multi-Family Residential for S1/2 of Lot 1, & Lot(s) 2-7, Block 35, Bruegger Addition – JTM Properties/Brekke

Boyeff indicated there are five public hearings this evening. The first one is for a proposed zone change from C-1 to R-4 requested by JTM Properties- Jim Brekke. Boyeff opened the public hearing and asked Jarcik to introduce.

Jarcik said the proposed zone change is for the old Law Enforcement Center located along University and 5th Street West. He indicated the request is to allow for the developer (JTM Properties) to re-develop the abandoned facility into apartments with phase one consisting of seventeen (17) units with a projected total of thirty-two (32). Jarcik went on to say that an adhoc did meet and discussed density and adequate off-street parking needing to be met for 32 units. Jarcik reviewed the staff comments. Building: Required off-street parking is 2 spaces per unit. Engineer: Unsure if alley needs to be vacated. Prefers use of building over demolition but questions R-4 zoning. Jarcik asked that the developer address the board.

Mark Schneider, Architect, representing JTM properties, handed out site plan information to the board. He said the applicant (Jim Brekke) is requesting the property be zoned R-4 to provide for 32 apartments units with the restriction that no additional units be allowed. Mr. Schneider explained the two phases that are being proposed for the project, which includes asbestos clean-up and demolition of the north building and remodeling of the southern wing. He said the units would be a mix of one, two, and three bedrooms. He asked for the board's support for this project. Boyeff asked for public comments. Katie Kent, adjoining neighbor, asked about the height of the apartments being they be zoned high-rise. Mr. Schneider indicated the height would be limited to 45 feet and only three stories, should the board accept that condition. Mr. Schneider then referred to the impervious surface area requirement and said the percent of existing buildings will not be altered. Boyeff asked three times for public hearing, hearing none closed the hearing and asked for board action, which is to be forwarded to the City Commission.

MOTION BY BROSTUEN, SECOND BY HAUGEN to recommend approval to the City Commission to rezone the property where the old law enforcement building is located (S1/2 Lot 1 & Lots 2-7, Block 35, Bruegger Addition) from C-1 to R-4, contingent upon a restriction limiting the property to a total of thirty-two (32) apartments, total height not to exceed forty-five (45) feet and the lot coverage is not to exceed the footprint of the existing facility and the off street requirements be met for thirty-two (32) units being sixty-four (64) parking spaces. AYES: Aafedt, Maristuen, Long, Brostuen, Haugen, Boyeff. ABSENT: Fleck. NAYES: None. MOTION CARRIED

2. Proposed Zone Change from Industrial (County) to C-2: General Commercial for Lot(s) 1&2, Block 1, Bakken Industrial Park Subdivision. Missouri Ridge Twp.-Granite Peak Development

Boyeff said the 2nd public hearing is for an Industrial (Williams County) to C-2 General Commercial zone change for Lot(s) 1 & 2, Block 1, Bakken Industrial Park requested by Granite Peak Development. Boyeff opened the public hearing and asked Jarcik to present. Jarcik pointed out the location of the property being north of Williston along Highway 2 & 85, which is next to Sun Well and south of Target Logistics (County Road 6).

He indicated that property is currently County but the developer is in the process of annexing into the City to receive future water and sewer. The intent is to provide for future commercial ventures. Jarcik said an Ad Hoc met and recommends approval of the rezone to C-2, contingent upon Annexation to connect to City water and sewer services. He indicated Rick Leuthold is here representing the applicant. Rick Leuthold with Sanderson Stewart, representing Granite Peak Development, said the property is located within the Bakken Industrial Park.

Mr. Leuthold pointed out the location of the lots being considered for a future truck stop development, hotel with extended stay units, restaurant facility, and to allow workers be on location while the building are being built. Mr. Leuthold said the annexation has not been completed but that the utilities are being installed within the roads which will meet the city standards. He asked on behalf of the applicant to allow for the commercial zoning for the lots. Boyeff called three times for comments, hearing none, closed the public hearing and asked for board action, which would have contingencies.

MOTION BROSTUEN, SECOND BY MARISTUEN, to recommend approval to the City Commission for the zone change as requested by Granite Peak Development, LLC to C-2 General Commercial from Industrial for Lots 1 & 2, Block 1, Bakken Industrial Park Subdivision contingent on annexation into the City of Williston and connecting to City water and sewer as approved by engineering. AYES: Maristuen, Long, Brostuen, Haugen, Aafedt, Boyeff. ABSENT: Fleck. NAYES: None. MOTION CARRIED

3. Preliminary Plat for Dakota Crossing Subdivision, a Rearrangement of No.3 & Block 1, Mercy Rearrangement and vacating a portion of Gate Avenue and Street Easement – Mercy Medical Center/Grimshaw

Boyeff said the 3rd public hearing is for a Preliminary Plat for the Rearrangement of Block 1 of the Mercy Rearrangement and the vacating of a portion of Gate Avenue and street easement requested by Mercy Medical Center and Matt Grimshaw. He opened the public hearing and asked Jarcik to introduce.

Jarcik pointed out the location of the property north of Mercy Hospital which had been rezoned to R-3 for commercial uses previously and now the proposal is to create three(3) lots and to vacate the right of way (frontage road) in the northwest corner along Highway 2&85 and to vacate a portion of Gate Avenue (north end). He said an adhoc met and discussed the re-routing of the roadway and the need to include a utility easement and buffering. Jarcik went on to say the recommendation was to approve the plat for Dakota Crossing Subdivision and the vacating of a portion of the frontage road and Gate Avenue contingent upon a 20ø utility easement over the vacated frontage road of the proposed Lot 1, Block 2; access and utility easement over the vacated portion of Gate Avenue on the southeast side of Lot 1, Block 1, a title opinion, final plat requirements to be met, a development agreement with wording to address eastside buffering with the development of Lot 3 and park fee at the time of the final plat.

Meiers indicated that there would be no need for the 20ø utility easement over the vacated frontage on the west side of Lot 1, Block 2. Rick Leuthold, representing the applicant, indicated that the hospital is leasing portions of the development to commercial enterprises which has been finalized and are underway with construction of Gate Avenue.

Mr. Leuthold discussed the access and easements which means 14th Street and 15th Avenue will be public right of way. He explained the vacating of a portion of Gate Avenue and the frontage easement. He indicated that couple points of interest this evening are the buffering needed for the neighbors that adjoin the future development. The access easements were reviewed and that the storm drain needs to be shown on the plat. He asked that the commission approves the plat subject to necessary easements and the vacating of Gate Avenue and street easement within the frontage. In addition, Mr. Leuthold requested that Gate Avenue be renamed to Mercy Drive if that would acceptable with the board. Meiers did not have a problem provided there has been no addressing done for Gate Avenue.

Haugen asked how the new clinic will be accessed. Matt Grimshaw said the new building will have two entrances off the current Gate Avenue which means the traffic will flow through the parking lot. The main entrance point will remain. He said by vacating the avenue it will provide a new entrance for the campus with new grading rather than curb and gutter. Brostuen asked about the watershed issue. Mr. Leuthold explained a channel has been re-cut that will drop into an area that will be piped, once the buildings are completed. Boyeff called three times for public comments, hearing none, closed the hearing and asked for the wishes of the board.

MOTION BY BROSTUEN, SECOND BY LONG to recommend to the City Commission approval of the Preliminary Plat for Dakota Crossing Subdivision and the vacating a portion of the frontage road and a portion of Gate Avenue right of way on the southeast side of proposed Lot 1, Block 1, to identify the existing storm water drainage, a development agreement addressing the east side buffering with development of Lot 3, Park fees at time of recording the final plat, a title opinion, and meeting final plat requirements AYES: Brostuen, Haugen, Aafedt, Maristuen, Long, Boyeff. ABSENT: Fleck. NAYES: None. MOTION CARRIED

**4. Preliminary Plat for Arctic Acres Subdivision, City of Williston/Arctic Lands,LLC.
/Branson**

Boyeff said the 4th hearing is for a Preliminary Plat for Arctic Acres Subdivision requested by Dale Branson, Arctic Lands, LLC. He opened the public hearing and asked Kaiser to present.

Kaiser pointed out the location of the property (8.09 acres) being south of 53rd Street and East of Highway 2&85, across from the fairgrounds. She indicated that the City Commission approved the zone change to the R-3 zoning, subject to submission of a plat. Kaiser explained that initially the applicant submitted a plat containing three (3) two-plus acres lots, but after review it was determined that one lot was undevelopable due to the topography of the acreage; therefore the plat was changed to only two lots for multi-family residential apartments. She went on to say in adhoc it was discussed that with the future extension of University, additional easement may be needed for roadway and that a sewer line will be brought past the property which will run along

the section line to the north. Kaiser indicated that the adhoc committee was in favor of the plat and recommended approval contingent upon a park fee be paid at the time of the building permit, a development agreement, title opinion and final plat requirements being met.

Rod Westrum, surveyor, spoke to the board regarding the undeveloped portion of the plat. He said there are preliminary plans to use part of the land for a private park for the apartment complex and possible storage units for equipment. He also mentioned the need for possible future road right of way for the extension of University Avenue. A short discussion took place regarding the location of the creek, future roadway, need for equipment storage, appropriate use of the unplatted property, and how much area is needed to establish a future right of way for University.

Boyeff called three times for comments, hearing none, closed the public hearing and asked for board action.

MOTION BY LONG, SECOND HAUGEN, to recommend to the City Commission approval of Preliminary Plat for Arctic Acres Subdivision, contingent upon a park district fee at the time of the building permit, a development agreement, title opinion and final plat requirements. AYES: Haugen, Aafedt, Maristuen, Long, Brostuen, Boyeff. ABSENT NOT VOTING- Fleck. NAYES: None. MOTION CARRIED

5. Preliminary Plat for Zavanna Subdivision, City of Williston –Zavanna, LLC./Erickson

Boyeff indicated the fifth and final public hearing is for a Preliminary Plat for Zavanna Subdivision requested by Orville Erickson and Tom Reed. He opened the public hearing and asked Kaiser to present.

Kaiser pointed out the location of the property (24.30 acres) being located north of 42nd Street and West of HWY 2&85. She indicated the property was recently rezoned to C-2 for an office building but subject to a plat. The preliminary plat submitted, contains three lots. Lot 2, along 42nd containing 3.77 acres; Lot 1, 4.01 acres and Lot 3, 16.51 acres. She said an adhoc met and discussed the need for an easement along the north end of the property for future sewer and water lines and recommended approval of the plat for Zavanna Subdivision, City of Williston. Tom Reed, contractor, said he has septic and rural water permits and will be meeting the building permit requirements. He said Mr. Erickson would like to address the water/sewer easement at a later date. Boyeff asked Meiers about the easement. Meiers said it would make sense to get the easement along the north line for water/sewer to extend through to 16th Avenue for the trailer park to the north. He would like to see the easement part of the plat. Craig McIvor, representing Orville Erickson, said it could be considered. Boyeff called three times for comments, hearing none, closed the public hearing and asked for board action. Haugen felt the easement should be part of the plat.

MOTION BY HAUGEN, SECOND BY BROSTUEN, to recommend City Commission approval of Preliminary Plat for Zavanna Subdivision, contingent upon an easement (water & sewer) across the north portion of the plat. AYES: Maristuen, Long, Brostuen, Haugen, Aafedt, Boyeff. ABSENT NOT VOTING: Fleck, NAYES: none. MOTION CARRIED.

NEW BUSINESS:

1. Special Permitted Use for a liquid nitrogen tank on Lot(s) 5&6, Block 11, Wittmeier 2nd Addition – Aspen Air/ Crosby

Boyeff indicated the next agenda item is for a Special Permitted Use for a Liquid Nitrogen Tank on Lot(s) 5&6, Block 11, Wittmeier 2nd Addition requested by Aspen Air and Doug Crosby. He asked Kaiser to present. Kaiser pointed out the location of the proposed tank being along 2nd Street West and 12th Avenue, across from Ryan Motors. She indicated the tank will be low-pressured and non-flammable holding 15,000 gallons and that an adhoc met to discuss the permit. Kaiser said the main concerns were the three points of access and what would be the best route for the incoming and outgoing semi-trucks (2 or 3 daily) and the need to prevent gravel being drug unto 2nd Street. The tanks will be fenced for security purposes. Kaiser said the commissioners in attendance were in favor of the liquid Nitrogen tank, contingent upon hard surfacing the access points and drive aisles. She further indicated that the applicant may want to add a second tank in the future. She said the applicant may wish to address the board.

Doug Crosby, property owner, was not sure if the application needs to be amended to allow for a second tank but asked that the board consider a second one. He further commented that the area will be hard surfaced as requested. Boyeff said in adhoc the amount of room available for the trucks to maneuver was discussed. A short discussion took place regarding the amount of hard surfacing necessary, the placement of the tank(s) to provide adequate space for the trucks to turn around, allowing for the placement of a second tank, proper fencing, emergency contact information and need for safety lights.

MOTION BY BROSTUEN, SECOND BY HAUGEN, to approve the Special Permitted Use for liquid nitrogen tank(s) on Lot(s) 5&6, Block 11, Wittmeier 2nd Addition for up to (2) two 15,000 gallon tanks, contingent on hard surfacing of the access and drive aisles, security fencing, and posting of proper information for public safety. AYES: Aafedt, Maristuen, Long, Brostuen, Haugen, Boyeff. ABSENT: Fleck. NAYES: None. MOTION CARRIED

2. Special Permitted Use to allow an office building at 10-1st Avenue East, Lot(s) 14&15, Original Townsite – Bakken Staffing/Enget

Boyeff said the next special permitted use is for an office building at 10 -1st Avenue East for Bakken Staffing requested by Dwight Enget. He asked Kaiser to present. Kaiser indicated the existing building zoned light industrial is to be used for an office building, which is required by special permitted use. She said Bakken Staffing is an employment business, which is a division of Command Center, Inc. Kaiser went on to say an adhoc meeting was held and the commissioners in attendance were in favor of the request. Boyeff indicated parking is adequate and the review in committee found the use acceptable.

MOTION BY LONG, SECOND BY MARISTUEN, to approve the Special Permitted Use for an office building on lot(s) 14 & 15, Block 17, Original Townsite, City of Williston. AYES: Maristuen, Long, Brostuen, Haugen, Aafedt, Boyeff. ABSENT NOT VOTING: Fleck. NAYES: none. MOTION CARRIED

Boyeff thanked Mr. Enget for his patience regarding the process needed to allow for this type of use in the existing zoning.

3. Review Petition to Vacate a portion of 100' street ROW for Halliburton Drive – Halliburton/Falk

Boyeff said the next item is to review a Petition to Vacate a portion of Halliburton Drive within Halliburton Subdivision. He asked Sinness to present the request. Sinness indicated that a petition has been submitted by Halliburton Services asking that a portion of Halliburton Drive (1240 ϕ) be vacated. She stated that Halliburton owns both sides of the right of way except for a small portion (.27 acres); which is owned by Neal Falk who has agreed to the vacation. She went on to say an adhoc did meet and discussion took place regarding a gated entrance is planned, if the vacation take place and that the fire chief felt if emergency vehicles are ever needed there would be no problem accessing the complex. The egress and ingress was felt to be adequate, provided proper access (26th Avenues NE) to the old salt plat area (Sea Pacific, Inc.) be built to proper specs and a water easement to the north is provided.

Sinness indicated that adjoining owners were notified and that the adhoc recommends approval provided 26th Avenue NE is completed and an easement for water drainage to extend to the north end of the property subject to engineer's approval. She indicated a public hearing will be held on September 27, 2011 before the City Commission.

Sinness further indicated that Auditor Kautzman commented that he believes there should be a charge for the vacation. She said that Bob Skurdal, representing Halliburton, is here to answer any questions. A short discussion took place regarding the drainage easement and that the road (26th) being built to meet specs (graveled).

Ma Sing (Victor), owner of the old Salt Plat, asked if the road being built will remain gravel rather than paved. Meiers said because the road is currently gravelled, he does not have a problem leaving it that way. Boyeff said the final decision regarding the road being built would be for the City Commission to determine if the road is to be paved. Sing expressed his concerns regarding having to access his property through 26th which is not as accessible as Halliburton Drive provides and was concerned about future access to his property, should Halliburton decide to change access points. Skurdal pointed out that the access to the old salt plant is gravel, not paved. He said the old highway ends at the curve and if access were to be changed another process will be required. Boyeff asked if there are any utilities in the roadway. Meiers said there is a shut-off valve that will require retaining the easement for that purpose. He recommended that be shown on the exhibit which will be attached to the resolution. Boyeff agreed the easement needs to be shown somehow. Skurdal said that can be done. Boyeff asked for action from the board, which will be forwarded to the City Commission for any final action. The public hearing takes place on the 27th of this month.

MOTION BY BROSTUEN, SECOND BY MARISTUEN, to recommend to the City Commission approval of the vacation for a portion of Halliburton Drive(1240ø) between Lots 1&3, Block 1, Falk-Reiger Subdivision and Lot 1, Block 1, Halliburton Subdivision and an unplatted parcel containing .27 acres in Section 20, T154N R100W, Stony Creek Township, contingent upon completion of 26th Avenue to the NE meeting gravel specs prior to the vacation and the site plan to include appropriate water and drainage easement as required by engineering. AYES: Maristuen, Long, Brostuen, Haugen, Aafedt, Boyeff. ABSENT NOT VOTING: Fleck. NAYES: None. MOTION CARRIED

Rolfstad commented that with the platted process it is to assure that land locking of property does not take place and how important that concern is reviewed whenever the vacating of public right of ways are looked at by the planning commission.

4. Review City's Acceptance of Park Land – Harvest Hills Subdivision – Staff

Boyeff said the last item of business is to review the City's acceptance of park land within the Harvest Hills Subdivision. He asked Attorney Furuseth to explain. Furuseth said it's his understanding that the Harvest Hills developers want park land within the subdivision; however, the park district does not want to accept the space because they don't have the dollars to maintain the property. He said after researching the issue he said if the park district does not want the responsibility and the Planning Board wants park space in the subdivision they can ask the City to accept the park land and keep it maintained. Furuseth asked Boyeff to check with the district to make sure they do not want the parkland. Boyeff said they do not want the land because of the maintenance expense. Koeser said the City Commission has had discussions and feels there is need for the development and are willing to move forward with the project even though it would not be their first choice to do so. Rick Leuthold representing Harvest Hills said there are several parks in the subdivision and a parcel being set aside for the school district. He said at the time of the first presentation a maintenance district was discussed and that the property be handled by either the City or Park District. In addition a homeowner's association was mentioned but those are not always successful and feel it makes better sense to have the property owned by a public entity. He commented that in meetings with the park district they are more than happy to take over the land if the 1-cent sales tax passes which can provide the needed financing but in the mean time the plat needs go forward. He said the main purpose this evening is to have this board aware of the situation and offer a recommendation to the City Commission.

Koeser said by having the City take on the responsibility it will provide for a means to generate the revenue to maintain the parkland. He said it would be through an assessment district which will not utilize general fund dollars.

Meiers asked if the improvement requirements (trees, sprinkler system, etc.) would be met by the developer. Mr. Leuthold said the development agreement indicates that all the capital improvements will be installed by the developer. The maintenance aspect is all that is being considered at this time. General discussion took place regarding the need for Green space, setting up homeowner's to be responsible works in the beginning but after time passes there are serious problems such as what has happened with the Pheasant Run area, and how the need for an assessment would be placed on the subdivision itself and the means to make that happen.

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Planning and Zoning Commission

MOTIONBY BROSTUEN, BY SECOND AAFEDT, to recommend to the City Commission that the City accepts the Park Dedication for Harvest Hills Subdivision. AYES: Long, Brostuen, Haugen, Aafedt, Maristuen, Boyeff. ABSENT NOT VOTING: Fleck. NAYES: None. MOTION CARRIED

Attorney Furuseh asked if a special meeting could be considered to review a special permitted use for an Oil well Site requested by Oasis Petroleum. Boyeff said an adhoc will be needed and asked that notification be made by staff to those who can attend.

Meeting adjourned. Next Meeting is set for October 3, 2011(Special Meeting). Regular meeting will be October 17, 2011.

Kent Jarcik, City Planner