

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON APRIL 21, 2014 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.

President Boyeff called the meeting to order at 5:30pm. Roll Call was taken. A Quorum was present.

**MEMBERS PRESENT:** Fleck, Maristuen, Aafedt, Christensen, Haugen, Boyeff.

**MEMBERS ABSENT:** Long

**OTHERS PRESENT:** Kent Jarcik, Planning Director; Donald Kress, Principal Planner; Rachel Ressler, Staff Planner; Nick Vasuthasawat, Code Compliance Coordinator; Christine Edwards (Administrative Assistant); Bob Hanson, Engineering; Ryan Quarne, Assist. City Attorney; Kelly Aberly, Building Dept.

**DISPOSITION OF MINUTES:**

1. Minutes were approved for March 17, 2014 regular meeting as presented. MOTION BY MARISTUEN, SECOND BY CHRISTENSEN. MOTION CARRIED ON VOICE VOTE.

**COMMUNICATION:**

**PUBLIC HEARINGS:**

1. Zone change from A: Agricultural to C-2: General Commercial for Lots 1, 3 and 4 of the Kringen Subdivision, City of Williston – Josh Kringen/Kringen Properties, LLC

Boyeff introduces the first public hearing (as above) and asks Ressler to introduce this item. Ressler states that this is a request for a zone change from A: Agricultural to C-2: General Commercial District for Lots 1, 3 and 4 of the Kringen Subdivision. These properties are south of 70<sup>th</sup> St and east of Hwy 2/85, right along the highway.

Ressler explains that Lot 2 of the Kringen Subdivision was zoned C-2: General Commercial as part of the annexation rezones that occurred last year. The applicant, Kringen Properties, is requesting a change of zoning in order to re-locate Mon-Dak Motor Sports on Lot 3. Ressler says there are no current plans for Lots 1 and 4.

Ressler states that this fits with the long-term corridor plans. Some design comments should be addressed, including orientation of the building toward the highway, with a landscape strip between the highway and any parking in front of the building. For the most part, parking and outdoor display of merchandise should be located toward the sides of the building. Ressler adds that all parking and display areas must be paved and include the proper amount of landscaping, as determined by ordinances. Engineering has stated there will be no new access points approved from the highway.

The ad hoc committee, at the April 7, 2014 meeting, had no concerns about this property being rezoned to Commercial, as long as it was understood that there were no new accesses from the highway allowed. Ad hoc' recommendation was to recommend to the City Commission approval of the zone change from A: Agricultural to C-2: General Commercial, for Lots 1, 3, and 4 of the Kringen Subdivision, contingent on addressing staff comments.

Boyeff called three times for public input, hearing none closes the public hearing and asks for the wishes of the Commission.

MOTION BY FLECK, SECOND BY MARISTUEN, to approve Zone change from A: Agricultural to C-2: General Commercial for Lots 1, 3 and 4 of the Kringen Subdivision, City of Williston, contingent on addressing any staff comments. AYES: Fleck, Maristuen, Aafedt, Christensen, Haugen, Boyeff. NAYS: None. ABSENT/NOT VOTING: Long. ABSTAINED: None. MOTION CARRIED ON ROLL CALL VOTE.

2. Zone change for 16.3 acres from M-2 to C-2, Lots 4 and 5, Camp Creek Industrial Park in the NE corner of Bakken Industrial Park, Part of S1/2 SE1/4, Sec. 13 and part of N1/2 NE1/4, Section 24, T155N, R101W, City of Williston – Granite Peak Development

Boyeff introduced the second public hearing (as above) and asks Kress to present. Kress explains that later on in this agenda he will present the final plat for Camp Creek Subdivision (case no. 14-0114) and reminds the Commission that a portion of what will be Lot 4 of this plat is in two zones—C-2 and M-2. Kress says that the applicant requests to change the M-2 portion of this lot to C-2 so this lot is all in one zone. The applicant also requests to change the zoning on what will be Lot 5 from M-2 to C-2. The total zone change requested here is for 16.3 acres.

Kress add that this request would not change the zone change approved by the City Commission at their March 11, 2014 meeting, which approved changing areas of the plat zoned A: Agricultural and R-5: Mobile Home Court to M-2: Heavy Industrial. There was no change to the existing C-2 zoned area.

At the ad hoc meeting held on April 7, 2014 to discuss the proposal there was has no objection to the zone change to C-2 for the area depicted on the attached zoning exhibit.

Boyeff calls for public comment. K. Aberly from the City Building Dept. questioned park dedication for the C-2 zoned area. Kress says he does not believe that was addressed, Aberly suggested the cash in lieu option and Kress agreed to discussing that requirement with the applicant. After calling twice for public comment and hearing none, Boyeff closes the public hearing and asks for the wishes of the Commission

MOTION BY HAUGEN, SECOND BY CHRISTENSEN, to approve Zone change for 16.3 acres from M-2 to C-2, a portion of Lots 4 and all of 5, Camp Creek Industrial Park in the NE corner of Bakken Industrial Park, Part of S1/2 SE1/4, Sec. 13 and Park of N1/2 NE1/4, Section 24, T155N, R101W, City of Williston, contingent on addressing any staff comments including the addition of the park dedication. AYES: Fleck, Maristuen, Christensen, Aafedt, Haugen, Boyeff. NAYS: None. ABSENT/NOT VOTING: Long. ABSTAINED: None. MOTION CARRIED ON ROLL CALL VOTE.

Kress add for the record that as per standard practice this zone change would not become effective until the final plat for Camp Creek Industrial Park records.

COMMITTEE REPORT:

UNFINISHED BUSINESS:

**NEW BUSINESS:**

1. SPU request for storage of oil-field explosives - up to 50 lbs. of 1.4 explosive units in an ATF approved magazine. Wegley Addition Rearrangement, Lot 1R, Block 8, City of Williston – A&G Properties, LLC, d/b/a, Go Wireline

Boyeff introduces the first item of new business (as above) and asks Kress to present. Kress begins by stating that storage of oil field explosives, under 50 lbs., requires a special use permit in the M-1: Light Industrial zone. This application received March 21, 2014 requests a special permitted use (SPU) for storage of special industrial explosive devices under 50 pounds in an indoor magazine in the M-1 zone at GO Wireline, 805-807 East Broadway, City of Williston.

Kress explains that the devices will be stored in a magazine approve by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE). Currently, there is an SPU for storage of explosives in Building 1 of GO Wireline's facility. Kress says that the applicant has provided a diagram in letter indicating that there are no residences within 200 feet of the proposed storage building.

On April 14, 2014, Kress states that he contacted the BATFE office in Fargo and verified that they have no concerns with this project at this time.

At the ad hoc meeting held on April 7, 2014, discussion of this SPU included:

- Order of approval—city first, followed by BATFE
- Though the magazine is on wheels, it is a massive structure and not easy to move

Mark Gjovig, Go Wireline, spoke and explained that typically the BATFE typically will not come do inspections on the storage facilities until the City has approved the SPU; however, the inspector was in town on April 17, 2014, to do a re-certification of an existing unit and did go ahead and inspect and approve the magazine being addressed in this SPU request. Gjovig stated that if he gets City approval all he needs to do is send a letter to BATFE and they will be fully permitted.

MOTION BY FLECK, SECOND BY HAUGEN, to approve the SPU request for storage of oil-field explosives - up to 50 lbs. of 1.4 explosive units in an ATF approved magazine - Wegley Addition Rearrangement, Lot 1R, Block 8, City of Williston, contingent on addressing any staff comments and providing the April 17, 2014, BTAF inspection and approval certificate. AYES: Fleck, Haugen, Christensen, Aafedt, Boyeff. NAYS: None. ABSENT/NOT VOTING: Long. ABSTAINED: Maristuen. MOTION CARRIED ON ROLL CALL VOTE.

2. Final plat, Camp Creek Industrial Park, Lot 1R and 2R, Block 2, North Bakken Industrial Park, part of S1/2 SE1/4, Sec. 13 & part of N1/2 NE1/4, Sec. 24, T155N, R101W, City of Williston – Granite Peak Development ND, LLC/Sanderson Stewart

Boyeff introduces the second item of new business (as above) and asks Kress to present. Kress states that at their March 11, 2014 meeting, the Williston City Commission approved the preliminary plat and zone change for Lots 1R and 2R, Block 2, North Bakken Industrial Park; portion of S1/2 SE1/4 Sec. 13, and portion of N1/2 NE1/4 Sec. 24, T155N, R101W, City of Williston (approximately 132.5 acres), to be known as Camp Creek Industrial Park Subdivision. The project will take access from County Highway 6 and Love's Way. Lot 5 will take access by a reciprocal access easement through Lot 4, as indicated on the plat.

Kress says that at that March 11, 2014 meeting, there was considerable discussion about the length of paving required for the two dedicated public streets on this plat. Staff had recommended that the full length and width of the entry drive and cul-de-sac on the west side of the project site, and the full length of the dedication portion of 135<sup>th</sup> Avenue NW, including the cul-de-sac, on the east side of the project site, be paved. However, after discussion with the applicant, the city engineer, and the director of public works, the City Commission moved to require paving for the two dedicated public streets to be 200 feet in from the edge of the asphalt on County Highway 6. Staff recommends this requirement be included as a special provision to the standard development agreement.

Boyeff questions access to Lot 5 which Kress points out will be through and easement off of Love's Way. Discussion is had then that since the zoning of this lot will be commercial, the access would be required to be fully paved.

Haugen expresses concern about the City Commission changing the paving requirement. Haugen points out that this was agriculture until recently. At that time the Commission felt that 200 feet of paving from the county roads was sufficient now however Haugen does not like the idea of allowing the developer to pass along the cost to the tenants and does not agree with the City Commission recommendation. Discussion is had as to making a different recommendation on this final plat than the one proposed by the City Commission. Assistant City Attorney Ryan Quarne supported the P&Z Commission's right to do so.

City Engineer Hanson discusses the area south of the sewer easement and suggests that it not be developed due to the slope of the land. Kress suggests that could be a condition of the Development Agreement, Hanson would like it noted on the plat. Jeff Miller, engineer for Sanderson Stewart confirms the developer's acknowledgment and agreement to this condition.

Jeff Miller makes comment to the discussion about paving length. Miller stated that it was his understanding that the City Commissions recommendation of 200 ft. was felt to be sufficient to keep mud and gravel off of the County roads. Hanson interjects that the City Commission also took into account that 200 ft. is the same distance as is paved into the Value Place Motel and as a model for the Bakken Industrial Park they felt is worked. Boyeff reminds that P&Z are a recommending body and City Commission would have final say.

Haugen asks Hanson about his comments regarding the sewer easement. Hanson states that it needs to be a decent road in order to get the sewer jet truck through; it is a gravel surface road now and will remain that way. Hanson's concern is that if it looks like a road people will use it and he would rather it be inaccessible to the public and would like it barricaded in some manner. Jeff Miller states that they have no objection to blocking it off for City use only.

**MOTION BY HAUGEN, SECOND BY FLECK, to approve the final plat, Camp Creek Industrial Park, Lot 1R and 2R, Block 2, North Bakken Industrial Park, part of S1/2 SE1/4, Sec. 13 & part of N1/2 NE1/4, Sec. 24, T155N, R101W, City of Williston, contingent on fully paving the reciprocal easement from Love's Way to Lot 5 of Camp Creek Subdivision, fully paving to the cul-de-sacs in the M-2 zoned portion, installing a proper blockade on the graveled sewer easement, extending the drainage easement per engineer's comments and addressing all other staff comments. AYES: Fleck, Haugen, Maristuen, Christensen, Aafedt, Boyeff. NAYS: None. ABSENT/NOT VOTING: Long. ABSTAINED: NONE. MOTION CARRIED ON ROLL CALL VOTE**

3. Final plat, Sand Creek Town Centre, a rearrangement of Lots 1-6, Block 3, in the NE1/4, Section 21, T154N, R101W, City of Williston – Granite Peak Development ND, LLC/Sanderson Stewart

Boyeff introduces the third item of new business (as above) and asks Kress to present. Kress says that at their March 11, 2014 meeting, the City Commission approved the preliminary plat for a rearrangement of Lots 1 through 6, Block 3 of Sand Creek Town Center, City of Williston.

Kress states that the new lots will be renumbered 1R through 7R and adds that the existing lots are all zoned C-2: General Commercial. No zone change is proposed.

Kress explains that the lots will all take access from 34-foot wide access and utility easements that provide access from 7<sup>th</sup> Street West, 11<sup>th</sup> Street West, and 32<sup>nd</sup> Avenue West. Lot 1R will also take access from 7<sup>th</sup> Street West; Lot 3R will also take access from 11<sup>th</sup> Street West. Public water and sewer are available. The rearrangement does not change the overall size of Block 3. This block is undeveloped.

Kress says that this is a rearrangement of an existing subdivision, and is subject to the existing development agreement for Sand Creek Town Center.

City Engineer has one comment, which has been supported by the County Recorder. Lot 3R currently spans the entire north part of this rearrangement. Clark Drive splits that lot and therefore will require that the section to the west of Clark Drive be renumbered, as an easement or street cannot split the lot.

MOTION BY MARISTUEN, SECOND BY CHRISTENSEN, to approve Final plat, Sand Creek Town Centre, a rearrangement of Lots 1-6, Block 3, in the NE1/4, Section 21, T154N, R101W, City of Williston, contingent on an updated title opinion, any necessary plat revisions and addressing any staff comment. AYES: Fleck, Haugen, Maristuen, Christensen, Aafedt, Boyeff. NAYS: None. ABSENT/NOT VOTING: Long. ABSTAINED: NONE. MOTION CARRIED ON ROLL CALL VOTE

4. Final plat, Hawkeye Village Subdivision; proposed zone change from A: Agricultural to R-1: Single-Family Residential, R-2: Single- and Two-Family Residential and Twinhome, R-4: High-Rise Multi-Family Residential, C-2: General Commercial, and P: Parks and Open Space; and an amendment to the future land use map to allow commercial and high-rise residential land use, located in the SE ¼ of Section 16, T154N, R101W--Bakken Housing Company, LLC /Hagen Family Partnership LLLP and American State Bank

Boyeff introduces this item of new business (as above) and asks Kress to present. Kress states that this preliminary plat received approval of the City Commission at its March 11, 2014, meeting and made the following zone change approvals (not become effective until recordation of final plat):

A: Agricultural to:

- R-1: Single-Family Residential (13.34 acres)
- R-2: Single-Family, Two-Family, and Twinhome Residential (41.5 acres);
- R-3: Townhouse and Low-Rise Multifamily Residential (11.5 acres);
- R-4: High-Rise Multifamily Residential (13.1 acres);
- C-2: General Commercial (30.4);
- P: Parks and Open Space (37.15 acres)

Kress reminds that one of the questions regarding this development was access to this project from 11<sup>th</sup> Street West, which borders the southerly boundary of the project site. In order for 11<sup>th</sup> Street to be connected to at West Dakota Parkway, right of way must be obtained through land owned by the Hagan family. Kress questions the City attorney as to the status of this; it is believed that this negotiation was nearly complete.

Kress states that the plat has been slightly rearranged since preliminary approval by increasing the area of several lots. Kress says that it is the developer's stated intent that the lots be intended for single-family residences; however, it is possible to build a duplex on lots of 8,000 square feet or greater in the R-2, and this project was not reviewed for such a density. Kress states that after discussion with the applicant it was decided that an effective way to manage these larger lots in the R-2 zones is to reconfigure them so that the lots in would be less than 8,000 sq. ft. (suggested 7,500 sq. ft.) so it is clear that these lots are intended for single family residences.

The applicant is dedicating Blocks 13, 14, and 17 to the Williston Park District, Kress says that Blocks 14 and 17 will be dedicated as parks and Block 13 will be dedicated as open space. The Park District will own and maintain these lots. The Williston Park Board will have approval of this dedication at their upcoming meeting and will provide Planning staff with a document verifying their acceptance of these lots. Kress adds that this plat will not go before the City Commission for final plat approval until this documentation is received.

Kress states that an additional problem exists in that Lots 11 and 12, and 21 through 26, Block 12, and Lots 7 and 8, Block 11 are currently crossed by an electrical transmission line. Kress says that these lots cannot be platted as individual lots until the power line is relocated. They must be depicted on the plat as unplatted areas, with a plat note that states they can be platted to their original proposed configuration once the electrical transmission line has been relocated. Kress says the applicant has stated that the line cannot be relocated until they are in possession of the property so this will be some time out yet and until then this will be "blank" property. The substation will be relocated across 32<sup>nd</sup> Ave. so will not be on this property at all and the current utility easement will be vacated.

Kress explains the last item to discuss is access to four lots facing 32<sup>nd</sup> Ave. which is a major, two-lane street. The lots will not be allowed to take access off of 32<sup>nd</sup> Ave., discussion has been had with the applicant to provide an additional access easement in either one access on to and off of 32<sup>nd</sup> Ave. between the middle two lots and then creating a "T" on the back side of the lots for further access or creating an access behind them from 11<sup>th</sup> St. City Engineer Hanson suggests that drive ways in either location are questionable, because of the short distances from intersections, but that with the addition of proper turn lanes, at the developer's expense, he would defer to the applicants traffic specialist.

John Sessions, Bakken Housing Company, speaks to the reciprocal easement for these lots. Sessions asks that access to those lots from 32<sup>nd</sup> Ave. not be barred until the development is further along as they would like to not take away that possibility from a purchaser right away. Sessions says that the traffic studies show that with proper turn lanes 32<sup>nd</sup> Ave. would work and feels that removing this possibility right now will harm the sale and development of the lots. Sessions and Kress state that the applicant has been agreeable to a rear access if need be. Kress states that the rear access easement put on the plat will prevent land-locked lots on the plat. Further discussion is had that as this development moves forward there may need for some plat adjustments to come back before the Commission but as of right now it is just a matter of getting the subdivision platted. Kress reminds the Commission that drive ways are not shown on a plat but that a reciprocal easement is noted and

suggested that a plat note could be added that there is a “no access” easement on 32<sup>nd</sup> Ave. indicated no access can or will be allowed. Commissioner Boyeff asks Hanson to clarify his position on access from 32<sup>nd</sup> Ave., Hanson stated that with proper turn lanes he would not be opposed to one access in the middle of the four lots (between Lots 2,3). It is further clarified that staff would recommend an easement behind the lots; Jarcik stated that staff would support Hanson’s comments re: the turn lanes and one central access point from 32<sup>nd</sup> Ave. deferring to Commission’s wishes.

MOTION BY FLECK, SECOND BY AAFEDT, to approve Final plat, Hawkeye Village Subdivision, located in the SE ¼ of Section 16, T154N, R101W, City of Williston, contingent upon all lots in the R-2 zone to be less than 8,000 square feet; standard development agreement, with project specific amendments, completion of plat revisions related to platting lots crossed by power lines; documentation from Williston Park District accepting the dedication of park and open spaces; finalized memorandum of understanding between the City, the Hagen Family and developer regarding the acquisition of right of way for 11<sup>th</sup> Street West across Hagen property; an updated title opinion, any necessary plat revision; addressing all staff comments; including an alternate easement on the west side of the 4 lots along 32<sup>nd</sup> Ave.; notation that access to those lots 1-4 could be possible in the future, with staff approval, the North and South turn lanes are constructed. AYES: Fleck, Haugen, Christensen, Maristuen, Aafedt, Boyeff. NAYS: None. ABSENT/NOT VOTING: Long. ABSTAINED: NONE. MOTION CARRIED ON ROLL CALL VOTE

5. Final plat for a rearrangement of Lot1, Block 2 of the Whitlock Industrial Park Subdivision, City of Williston – Craig Whitlock

Boyeff introduces this item (as above) and asks Ressler to present. Ressler states that this is a final plat for a rearrangement of Lot 2, Block 1, of the Whitlock Industrial Park Subdivision. The current lot configuration consists of 5 lots; Lot 1R contains the existing Landmark Hotel and is 2.76 acres. Lot 2 R is 1.31 acres, Lot 3R is 1.79 acres, Lot 4R is 1.37 acres, and Lot 5R is 1.27 acres. Ressler explains Lots 2 R and 3R have access to 139<sup>th</sup> Lane, though the only access into the subdivision will be over 300 feet from the intersection of 139<sup>th</sup> Lane and Hwy 2/85, due to concerns about traffic stacking. Reciprocal access and utility easements have been shown on the plat in order to provide access to the rest of the lots, per City Ordinance 948 (reciprocal access easement). These will be private accesses.

Ressler says there is a 50’ utility easement on the south side of the proposed subdivision that is proposed to be vacated by this plat. An adjacent 30’ along the southern lot lines will be given to a utility easement. There is also a 65’ stormwater retention pond easement on the eastern edge of the subdivision to address drainage on the site. A 15’ utility easement is located along the western edge of the subdivision.

A development agreement does not appear necessary for this plat, as the water, sewer, and access roads are already installed. All other development standards will be required to be met at the time of building.

Ressler stated that ad hoc committee members discussed reiterating a requirement for a restaurant on this location, which was a provision of changing the zoning to C-2 over a year ago. In addition, all fire department needs will need to be met with appropriate hydrant locations and large enough accesses. Staff comments included appropriate screening of the detention pond.

Discussion is had about having seen some form of this in the past. Ressler reminded the Commission that in October 2013 they had a submitted a proposal that was before the P&Z for

preliminary plat. Access was an issue and the plat was revised and since it was a significant change it was suggested that they re-submit and start the process over. Ressler also clarifies that right now there is only one large lot in this area and with this split it will allow sale or lease of lots for more commercial use, specifically the restaurant that was part of the zone change agreement in 2012.

MOTION BY MARISTUEN, SECOND BY HAUGEN, to approve the final plat for a rearrangement of Lot 2, Block 1 of the Whitlock Industrial Park Subdivision, City of Williston, contingent on properly abandoning the 50' easement, Lot 1R fully containing all parking required by the existing hotel and filling of any reciprocal accesses easement, detention pond screening and addressing all staff comments. AYES: Fleck, Haugen, Christensen, Maristuen, Boyeff. NAYS: Aafedt. ABSENT/NOT VOTING: Long. ABSTAINED: NONE. MOTION CARRIED ON ROLL CALL VOTE

6. Final plat for Code Estates allowing for 73 townhouse lots and zone change from A: Agricultural to R-3: Low Rise Multifamily and Townhouse Residential, 11.08 acres in the SE1/4 of Section 1, T154N, R101W, City of Williston- Linda Code

Boyeff introduces this final item (as above) saying that the zone change has previously been approved by the City Commission and asks Ressler to introduce. Ressler states that this final plat is for 11.08 acres of property in the SE ¼ of Section 1, T154N R101W, currently with one dwelling unit on it. Ressler states that property is currently zoned R-3 and explains that surrounding properties are zoned R-3 to the west, A: Agricultural to the north and south and to the east is US Army Corps of Engineers' property.

This plat shows 73 townhouse lots of widths from 21 to 29 feet wide and adds that in an updated proposal the lots are not to be a minimum of 24 ft. Ressler points out that the plat also shows a private street running along the back of most properties, as well as a public street that allows access to the development at 45<sup>th</sup> St. and 42<sup>nd</sup> St. This plat also includes Lot 49 of Block 1, currently owned by Dean Benth, in order to facilitate a lot line adjustment for Mr. Benth.

Ressler states that this property requires a unique viewpoint when reviewing, due to the unusual configuration of the property and the circumstances of the surrounding properties. To the east is the US Army Corps of Engineers' property, which is unlikely to be developed at any point. To the west is a large multifamily development.

The project takes access from 42<sup>nd</sup> St through an existing driveway, and from 45<sup>th</sup> St on the north side of the development. Ressler says that the developer will discuss some possible alternatives for 45<sup>th</sup> St. in his presentation.

Ressler says there were two additional ad hoc meetings held for this plat, April 8 and April 10, 2014. At ad hoc, committee members noted first their concern about 45<sup>th</sup> St. Commissioners expressed concern that the street may not be completed to County Road 7, as well as that it may never be able to be fully constructed to the north due to the current property owner. Engineering and Planning noted a level of comfort with the street being fully constructed at a later date. Ressler says that the plat does propose 40 ft. of right-of-way and would be restricted to no parking on either side of this street and curb and gutter on the south side only. Ressler adds that given the unlikelihood that 45<sup>th</sup> St. will continue through to 13<sup>th</sup> Ave E (County 7) the staff was comfortable with the 40 ft. right-of-way. Engineering also presented a plan that would allow a full construction of the street entirely on the Code property, but would require an agreement with the development to the west in order to fully construct and complete the street. Ad hoc committee members did express the need for this street to be fully constructed. Ressler says the applicant is currently working to determine if an agreement with



the development to the west is agreeable and reiterates that the project engineer will discuss this further during his presentation.

Ressler says the ad hoc committee was also split on a desire for the developer to provide single family homes in this development. Several of the committee members felt that the density, at 7 units per acre, was high. Other committee members felt that this was an adequate use along an arterial street, next to a large parcel of multi-family apartment buildings. Ressler states that the developer has chosen not to add single family homes to the development, given the financial ramifications of doing so, in addition to the considerations given to the location of the property along both a high density parcel and an arterial street.

Other notes from the preliminary plat were the private drives, Ressler says that staff's level of comfort with them has stayed the same. The majority of townhomes in this project are accessed from a private drive behind the houses, noted "24' Wide Reciprocal Access Easement" on the plat. This allows the avoidance of the "garage only" look, as well as provides space for visitors to park on the public street. Trash pickup will take place through the private drive. The City does not normally promote private drives functioning as alleys, but due to the physical constraints of the property and the desire to still have an attractive neighborhood, have determined this to be acceptable

Ressler adds that a hydraulic report still needs to be given to and approved by the City Engineer before the City Commission could approve this project. Also Planning will require a properly formed Home Owner's Association to be set up and that the staff would retain the right to review any CC&R's, buffering will be required across from the private drives and the apartment buildings to the west.

Ressler discloses that there has been a lot of public opposition to this project after the public hearings and acknowledges letters and e-mails regarding this. The applicant has had multiple conversations with surrounding owners and wishes to address some of the opposition.

Boyeff calls for any comments/discussion. Tim Pirtz, Sanderson Stewart, addresses the Commission beginning with density stating that there are 7 units per acre proposed here and suggests that next door are 17 units per acre and points out that putting single-family homes next to that kind of density is not desirable. He adds that the approved R-3 zoning would allow 40% area coverage by buildings and this proposal is only 28% area coverage by buildings explaining that at full development possible 145 units could be put in this area reminding the Commission that they are only proposing 73. In comparison, if this were to be developed with single-family housing there could be 56 units only reducing the density by 17 units.

As to 45<sup>th</sup> St., Pirtz states there was discussion with Braxton's and North Gate about how to put a road in there. One proposal would shift the road slightly south of Kathy Harger's property which would require that one apartment unit be moved to the south and the loss of some parking area. Braxton's may be willing to work with the Code Estate developers but this would cause issues. Moving one building 10 ft. to 20 ft. to keep street setbacks will crowd it next to another building which may not be allowed by fire code. The second option would be asking Kathy Harger to give a 3,700 sq. ft. (30 ft.) right-of-way which would allow 45<sup>th</sup> St. to be fully built and prevent Ms. Harger from ever having to give up any more ROW. Code Estates would have to give up one town home for full development of the street to create a full 60 ft. right-of-way and thus lower the density a bit more. Pirtz intends to continue to work with the Braxton's on this and asked for approval contingent on his continued communications with Braxton's to resolve this matter. Pirtz points out that if neither Braxton's or Ms. Harger are willing or able to work with these options the 3<sup>rd</sup> option is to go back to the 28 ft. right-of-way and develop only the south half of 45<sup>th</sup> St. up to the Code Estates.

Discussion is had about the reason for R-3 zoning on the Benth property. It is explained to the Commission that it was part of the zone change application and while it was zoned R-1 changing it to R-3 did not change Benth's ability to keep his single family use there as it is still a permitted use in the R-3 zone. The developer, Shannon Moser, stated that Mr. Benth was included in the plat because he and Linda Code had previously discussed a land swap of 17 ft. on the east and west sides of his property so this would clean up Mr. Benth's property lines instead of him having to do an administrative review. Kress states that the planning staff had been working with Mr. Benth for some time on that exact thing but it was never finalized or brought forward but this addition to the Code Estate application will take care of that.

Several members of the audience spoke to their concerns an opposition to this development:

- Lois Scheely, lives across the street, concerned about possibly 400 car trips per day on 42<sup>nd</sup> St., University Ave. and 13<sup>th</sup> Ave.
- Kathy Harger, owns property to the north, states she will absolutely not give any right-of-way from her property, intends to keep her shelter belt in place for the privacy of her land
- Dean Strinden, neighbor, suggests that adding more traffic from 42<sup>nd</sup> down to 26<sup>th</sup> St. E in the area of Jonathan's Landing and E. Dakota Parkway is asking for more accidents
- Tom Powers, neighboring property owner, supports the statement of Dean Strinden stating there are already a fair number of accidents into Lois Scheely's property. Also expresses concern about the City not following their own future land use plan pointing this area being set as R-1: Single Family and not being R-3 and also to Jonathan's Landing having been planned to remain "green" space.
- Dan Bostic, neighbor, asks if the Planning Dept. or Commission has actually been to this area and walked through it. States that the driveways are too crowded, suggest emergency vehicles would have difficulty accessing. Boyeff explained that the emergency departments are presented the plans for any development to comment on as to their accessibility.
- Eleanor Olson, sold land to the Braxton's. Olson had an offer for an oil drill site and she refused all to protect her neighbors from high-density and oil field work ruining their quiet community. Sold to the Braxton's to prevent the oil drill site(s) not believing that the density was going to become what it is. Concerned that the Code Estates would essentially become a man camp for oil field workers in that nothing prevents an oil field company from buying the townhouses and housing 4 men in them, states that unlike a traditional man camp there would be no one there to oversee their activities. Not a development for young families, no yards for kids. Olson does not believe that the City should make any special exception to standard roadways by allowing only the south half of 45<sup>th</sup> St. to be developed to the north of the Code Estates.
- Penny Slagel, neighbor, supports Olson's statements and also reiterates concern about traffic.

Commissioner Aafedt asks the neighbors to state exactly what they want. Lois Scheely replies single-family and/or twin-homes would be acceptable to the neighbors.

Tim Pirtz, Sanderson Stewart, offers rebuttal by saying that once the Olson property was sold to the Braxton's and they developed it for the apartments it created a situation leaving the neighboring Code property worthless in that putting single family homes there backed up to apartment buildings no one would buy them. Pirtz adds that they would be happy to complete 45<sup>th</sup> St. to full width if they are allowed right-of-way to do so.

Commissioner Christensen questions Pirtz statement about the Code Estate being worthless with the apartment buildings to the west and suggests that he Code Estates proposal would be doing the same thing to the properties to the north and south of Code Estates by putting high density "in their back yards", this is supported by members of audience. Pirtz responds by explaining that he fundamentals of development is to transition from high density down to lower and lower density as in this case from the Braxton apartments on the west to townhomes and if land allowed to the east then down to single family and/or twin homes. Pirtz reminds that the proposed Code Estates with an R-3 zone could, but is not, proposing more apartments and instead offering a more attractive townhome community.

Fleck states that he has been at both of the April ad hoc meetings for this project. He says that they expressed that 45<sup>th</sup> St. would have to be built through to 13<sup>th</sup> Ave. East to even consider going ahead with this project given the traffic expected to be generated. Fleck said that they (ad hoc committee) wanted to see single family homes at a minimum along 42<sup>nd</sup> St. and along 13<sup>th</sup> Ave. E. Fleck expresses surprise that this had come to the Commission at this point with no attempt, with exception of options for 45<sup>th</sup> St., to meet the requests of the ad hoc committees.

MOTION BY FLECK, SECOND BY CHRISTENSEN, to recommend to the City Commission that they deny the final plat for Code Estates, 11.08 acres in the SE1/4 of Section 1, T154N, R101W, City of Williston. AYES: Fleck, Haugen, Maristuen, Christensen, Aafedt. NAYS: Boyeff. ABSENT/NOT VOTING: Long. ABSTAINED: NONE. MOTION CARRIED ON ROLL CALL VOTE

**DATE OF NEXT REGULAR MEETING:** May 19, 2014

**MEETING ADJOURNED.**

  
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Kent Jarcik, Williston Planning Director

**APPENDIX**  
to the  
**April 21, 2014 PLANNING AND ZONING COMMISSION MINUTES**

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1. Finding for a special use permit for the storage of oil-field explosives - up to 50 lbs. of 1.4 explosive units in an ATF approved magazine - Wegley Addition Rearrangement, Lot 1R, Block 8, City of Williston – A&G Properties, LLC, d/b/a, Go Wireline