

**REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON JUNE 17, 2013 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:** Aafedt, Long, Brostuen, Fleck, Haugen, Boyeff.

**MEMBERS ABSENT:** Maristuen

**OTHERS PRESENT:** Kent Jarcik, Planning Director; Donald Kress, Principal Planner; Rachel Ressler, Staff Planner; Elaine Sinness, Assistant Planner; Cheyenne Pottridge, Administrative Assistant; Monte Meiers, City Engineer; Bill Tracy, Building Official; Jordan Evert, City Attorney; Ward Koeser, City Commissioner.

**DISPOSITION OF MINUTES:**

Minutes were approved for May 20, 2013 meeting as presented. MOTION BY HAUGEN, SECOND BY BROSTUEN. MOTION CARRIED ON VOICE VOTE.

**COMMUNICATION:** Boyeff announced there is a meeting on June 18, 2013 about the Downtown Williston Plan located at the New Armory starting at 6:30PM.

**PUBLIC HEARING:**

- 1. Proposed Preliminary Plat for L1 First Subdivision, SW1/4 SW1/4, Section 21,T154N,R101W, City of Williston,(139<sup>th</sup> Ave NW- containing 7.5 acres) –Williston Lodge, LLC**

Boyeff opened the public hearing and asked Kress to present. Kress stated that the application received May 17, 2013, requesting a subdivision of approximately 7.5 acres located within the former Lindsey Implement property along Hwy 2/85 and 139<sup>th</sup> Avenue NW. Originally was submitted as the "L.I. Subdivision," however, the applicant requests the name be changed to "WILLISTON KETTLER COMMERCIAL SUBDIVISION." The subdivision provides four commercial lots, ranging in size from 0.98 acres to 2.46 acres. All lots are currently zoned C-2: General Commercial, no zone change is proposed. Kress stated that the project site will take access from 139<sup>th</sup> Avenue Northwest, a dedicated public street. Due to the stacking distance requirement for the intersection of 139<sup>th</sup> Avenue NW and U.S. Highway 2/85, the access to the project site from 139<sup>th</sup> Avenue NW must be at least 360 feet north of that intersection. Access to the lots internally will be by reciprocal access easements. Similar reciprocal access easements for commercial lots in the Sand Creek Town Center are 34 feet wide per Zoning Ordinance No. 948. Additionally, a 40-foot wide dedication will be required along the northern boundary of the project site for the future improvement of an extension of Chandler Loop South to connect to 139<sup>th</sup> Avenue NW. The current final plat depicts this dedication. Kress mentioned that the project site has access to public sewer and Williams Rural Water. The Williams Rural Water connection will be turned over to the city soon. Kress said the project site is proposed to be developed with two 182-room hotels, a bank with drive-through, and a small strip mall. Buildings must be developed following design guidelines, similar to those recently developed for development in the Fairhills Subdivision. These design guidelines will be included in the development agreement.

Kress concluded that the ad hoc committee recommended moving forward with the preliminary plat as long as staff comments have been resolved. Staff recommends approval be contingent on standard development agreement with project specific amendments, including design guidelines.

Boyeff called for public comment. Aafedt asked if the drainage issue has been resolved. Andy Kitchen, Project Engineer with Civil Science, stated public works and he has been working on several issues, with the drainage being one. Mr. Kitchen said they are currently talking to the department of transportation on how that drainage gets to the right of way through the property.

He said the drainage is currently running along 139<sup>th</sup> within the right of way, so that will need to be brought along the western side of the property, which will be shown on the final plat as an easement based on engineering approval.

Boyeff called two more times for public comment, hearing none, he asked for board action. Aafedt asked Meiers if he was comfortable with the drainage issues. He said they are still working on the right of way but all seems workable. He said the developer needs to show extension from Chandler Loop. Discussion took place regarding the parking stalls being modified on the site plan along with other adjustments.

**MOTION BY BROSTUEN, SECOND BY LONG, to recommend approval to the City Commission for the proposed Preliminary Plat for Williston Kettler Subdivision, SW1/4 SW1/4, Section 21,T154N,R101W, City of Williston, (L.I.First Subdivision), contingent upon staff comments being resolved, a standard development agreement with project specific amendments including designed guidelines, and non-protest agreement for future street improvements. AYES: Long, Brostuen, Fleck, Haugen, Aafedt, Boyeff. NAYS: None. ABSTAINED: None ABSENT NOT VOTING: Maristuen. MOTION CARRIED ON ROLL CALL VOTE.**

**2. Proposed Preliminary Plat for Daybreak TownHomes Subdivision, a Rearrangement of Lot 2R, Block 1, Daybreak Subdivision,( 14<sup>th</sup> Street West -Containing 2+acres) City of Williston –JFE Construction**

Boyeff opened the public hearing and asked Ressler to present. Ressler stated this application shows a preliminary plat of a lot split into six lots for the purpose of townhomes located along 14<sup>th</sup> Street, west of Motel 6. Ressler commented that these townhomes are currently under construction, as they were originally intended to be condominiums. The lot lines line up with the current shared walls, so the line placement is not an issue. There are sewer and water lines into each lot. She said the one concern shared by Planning and Engineering is the driveway configuration. It was discussed at ad hoc and determined that a shared cross drive with access points at the eastern and western curb cuts would be best. This would eliminate part of the middle driveway, while ensuring that at least 6 homeowners are responsible for the upkeep of the boulevard area and shared driveway. This would also allow an unbroken green space in front of the road frontage.

It eliminates cars backing into the street, as well. Ressler concluded the ad hoc committee members discussed the parking situation on the proposed subdivision and recommends approval to the City Commission, contingent on staff approval of driveway access and any other staff comments. She indicated the park district is asking for cash in lieu of land dedication.

Boyeff called three times for public comments, hearing none, closed the hearing and asked for board action. Aafedt questioned the shared driveways. Kress said a homeowner's agreement would be necessary along with a development plan.

MOTION BY LONG, SECOND BY BROSTUEN, to recommend approval to the City Commission for the proposed Preliminary Plat for Daybreak TownHomes Subdivision, contingent upon staff approval for drive way access, and any other staff comments. AYES: Long, Brostuen, Fleck, Haugen, Aafedt, Boyeff. NAYS: None. ABSTAINED: None ABSENT NOT VOTING: Maristuen. MOTION CARRIED ON ROLL CALL VOTE.

**3. Proposed Zone Change from M-3: Industrial Park District to R-3: Lowrise, Multifamily and Townhouse Residential for Lot 3, Block 1, Jim Bridger Subdivision, City of Williston – Community Development Institute/HeadStart**

Boyeff opened the public hearing and asked Ressler to present. This application is for a rezone from M-3: Industrial Park District to R-3: Lowrise Multifamily and Townhouse Residential District for Lot 3, Block 1 of the Jim Bridger Subdivision just behind McVay School. This is a rezone in order to facilitate the creation of a HeadStart facility on the property. The property was donated to Community Development Institute Headstart by the Williston Park District for the purpose of using it as a school facility. Ressler said with a Special Use Permit a school is how the HeadStart facility would be classified which could be run on the property without changing the zoning classification. However, the Planning Department is recommending that the zoning be changed in order to maintain continuity with R-3 zoned property to the north and northwest. McVay school is west of the property and is zoned P: Parks and Open Space.

Ressler concluded the ad hoc committee members discussed the need for a HeadStart program in town and the desire to fast-track the application as much as possible. Ressler stated that Ad Hoc recommends to the City Commission approval of the zone change from M-3 to R-3 for Lot 3, Block 1 of the Jim Bridger Subdivision.

Boyeff explained that following the zone change, the application for the special permitted use for the same property will be handled. He asked if there was any public comment at this time. Christine Beck was present to answer questions about the project. Ms. Beck is the Site Manager for CID, Headstart, North Dakota. Ms. Beck stated the purpose of the donated land is to build a facility for 110 children of low income and at risk families. The building will be 100% funded by the Headstart Department. Ms. Beck concluded that it has been a long time since the program was so supportive of something. Fleck asked about the number of students being 110. Ms. Beck explained there will be three sessions, two in the morning and one in the afternoon. Haugen asked if the parking could be re-designed to provide safety at the time of dropping off students. He suggested maybe widening both sides of the lot to expand the driving

lanes for the safety of the children. Ms. Beck agreed and said the site plan will be adjusted to provide for better movement of the vehicles. Long asked if the local school district will be the grantee.

Ms. Beck said, not necessarily; the proposals went out last week which will have a 90 days timeframe before a grantee would be awarded. Boyeff called two more times for public comment, hearing none, asked the board to take action.

**MOTION BY HAUGEN, SECOND BY AAFEDT, to recommend approval to the City Commission for the Proposed Zone Change from M-3: Industrial Park District to R-3: Lowrise, Multifamily and Townhouse Residential for Lot 3, Block 1, Jim Bridger Subdivision, contingent on staff comments. AYES: Long, Brostuen, Fleck, Haugen, Aafedt, Boyeff. NAYS: None. ABSTAINED: None. ABSENT NOT VOTING: Maristuen. MOTION CARRIED ON ROLL CALL VOTE.**

**NEW BUSINESS:**

**1. Special Permitted Use for a School Facility, Lot 3, Block 1, Jim Bridger Subdivision- Community Development Institute/HeadStart**

Boyeff said the next action will be the Special Permitted Use regarding a school within the M-3 or R-3 District for Lot 3, Block 1, Jim Bridger Subdivision. Ressler explained that the use runs with the property, the use permit can be granted for the property while it is zoned M-3: Industrial Park District and it will not be changed or need to be updated if the zone changes to R-3: Lowrise Multifamily and Townhouse Residential is approved by the City Commission.

Aafedt expressed her desire to make sure this project can be completed by fall; therefore, she hopes the zone change can be handled along with the building permit process proceed quickly to accommodate this worthwhile project. Building Official Bill Tracy said the plans have been submitted and are already in review at this time which will help the process go more smoothly. Boyeff thanked him for his efforts on this important project for our community.

**MOTION BY HAUGEN, SECOND BY AAFEDT, to recommend approval of the Special Permitted Use for a school facility on Lot 3, Block 1, Jim Bridger Subdivision. AYES: Long, Brostuen, Fleck, Haugen, Aafedt, Boyeff. NAYS: None. ABSTAINED: None. ABSENT NOT VOTING: Maristuen. MOTION CARRIED ON ROLL CALL VOTE.**

**2. Review Mobile Home Site Plan, SW1/4 NW1/4, Section 2, T154N,R101W, (50<sup>th</sup> Street ) City of Williston – Ponderosa Investments, LLC**

Boyeff said the next item is to review a Mobile Home Site Plan requested by Ponderosa Improvements. Ressler said this application is for a mobile home site plan review which will be required by both this board and the City Commission. Property is located just north of 50<sup>th</sup> Street, surrounded by the Springbrook Mobile Home Park. The property was rezoned from A: Agriculture to R-5: Mobile Home Park District in May by the City Commission pending an administrative review (survey) to re-align 50<sup>th</sup> Street. She further indicated the site plan shows 12 mobile homes around a common cul-de-sac.

The site will be required to have 25 ft concrete pads, a hydrant at the entrance to the development, and an emergency locator sign at the entrance to the development. The site will be required to install appropriate buffering and landscaping pursuant to the landscape ordinance. They will be required to pave the streets, sewer/water must be accessible which should take place this summer.

Ressler then commented that no building permits will be issued until 50<sup>th</sup> street is improved at least up to the access point of the project, buffering is required which the applicant is willing to work with the adjoining mobile home park owner. The applicant will need to consult with the Building Department regarding the addressing. Ressler indicated the adhoc committee recommends Approval of the site plan, contingent on staff comments and an administrative review of a survey/plat to re-align 50<sup>th</sup> street. Short discussion took place regarding the location, adjoining residence, timeline for 50<sup>th</sup> street as well as sewer (district) being completed in the area and possible straightening of the sharp curve on 16<sup>th</sup> Street East located north of the property and applicant meeting all requirements.

MOTION BY BROSTUEN, SECOND BY FLECK, to recommend approval to the City Commission approval of the Mobile Home Site Plan located north of 50<sup>th</sup> Street West and east of 16<sup>th</sup> Avenue West, contingent on addressing all staff comments and an administrative review of plat to re-align 50<sup>th</sup> Street. AYES: Long, Brostuen, Fleck, Haugen, Aafedt, Boyeff. NAYS: None. ABSTAINED: None. ABSENT NOT VOTING: Maristuen. MOTION CARRIED ON ROLL CALL VOTE.

### **3. Special Permitted Use for a Non-Standard Sign for Lot 4, Block 1, North Bakken Industrial Park Subdivision,(Depot Lane) City of Williston – Indigo SignWorks,Inc**

Boyeff said an application for a non-standard sign from Indigo SignWorks is the next SPU. Kress pointed out the location of the sign being east of US Highway 2/85 within the Bakken Industrial Park. He then indicated the application was received May 17, 2013 requesting a special permitted use (SPU) for a sign that exceeds the sign area allowed by the C-2: General Commercial zone. The sign is for the Mobile Motel, a motel and truck-parking business. The maximum sign area allowed in this zone is 125 square feet. The area of the proposed sign is 400 square feet. The project site is a 22.35 acre lot adjacent to the Bakken Industrial Park. Access to this lot is from Love's Way, a dedicated public street. He said in adhoc, staff presented the request for the oversize sign, including three alternate sign sizes provided by the applicant as well as one that combined two signs. Discussion included that the zoning ordinance clearly states the maximum sign area permitted in the C-2: General Commercial Zone and that sign design should have been part of the original development of the property. The ad hoc committee found no support for an oversized sign as requested. The recommendation was to deny the application. He indicated Nathan Helm from Indigo Sign Works was in attendance. Mr. Helm said the reason they are proposing a larger sign is because the building's location is so far back from the highway. It is well over 300' off of Hwy 2, which makes it not readable. Discussion took place regarding a future off ramp which would make it more readable. Boyeff said special circumstances would be necessary before the board would be able to approve oversized signs. Planning Director Kent Jarcik explained that a policy is in process that would provide for variance criteria to best determine how

the board would need to handle any future requests for oversized signs. He read from the ordinance as it relates to variance and the ways to deal with future requests.

Discussion took place regarding billboards which are next to roadways and would identify upcoming businesses, understanding the code, 125' not being readable. Fleck felt maybe a billboard would be a better way to advertise the business. Aafedt said the rules were in place before the property was built; she was not comfortable with allowing a larger sign at this time. MOTION BY HAUGEN, SECOND BY LONG, to deny the request for a Special Permitted Use for a Non-Standard Sign on Lot 4, Block 1, North Bakken Industrial Park Subdivision. AYES: Long, Brostuen, Fleck, Haugen, Aafedt, Boyeff. NAYS: None. ABSTAINED: None. ABSENT NOT VOTING: Maristuen. MOTION CARRIED ON ROLL CALL VOTE.

Boyeff thanked Mr. Helm and indicated there is an appeal process, should he wish to pursue.

**4. Review Proposed Vacation of Street Right of Way, 3<sup>rd</sup> Avenue East (portion) between Lot 1, Block 26 & Lot 6, Block 27, Brueggers Second Addition, City of Williston – Williams County.**

Boyeff indicated the board needs to review a request to vacate a portion of street right of way from Williams County to provide for additional parking. Kress said the application received May 17, 2013, requests a vacation of right of way for 3<sup>rd</sup> Avenue East south of 4<sup>th</sup> Street East. This section of street ends in a cul-de-sac behind the Law Enforcement Center. Williams County owns the land on both sides of the street to be vacated. The vacated street will be used as additional parking for County buildings. The request for vacation results from an agreement between the Williams County and City of Williston regarding parking for Williams County buildings along East Broadway. He said in ad hoc the discussion included the need to submit a parking plan depicting how parking spaces and access to those spaces will be laid out to demonstrate that a significant number of parking spaces can actually be gained by vacating this short section of a street. The mid-block alley that runs through the cul-de-sac of 3<sup>rd</sup> Avenue East cannot be vacated, as it provides access to garages for houses east of the 3<sup>rd</sup> Avenue East, as well as providing access for garbage pick-up. County will need to describe how they will police who parks in this area. Cluster mailboxes for the apartments on the west side of 3<sup>rd</sup> Avenue East may be required if access for mail delivery within the building is cut off by the new parking lot. An easement for a city sewer line currently in 3<sup>rd</sup> Avenue East must be provided. County must create a maintenance plan for the parking lot. He said subsequent to the ad hoc meeting, staff contacted Williams County administrator, Helen Askim regarding the concerns of the ad hoc committee. She stated the following: The spots on the vacated street will be assigned to apartments, signs will include 'reserved for apartments' wording and numbers. Authorized parking will be enforced by signage and peer pressure from the

tenants – the County does have a property management company that has the authority to tow unauthorized vehicles if needed. Experience indicates that area is not used by the public or employees, due to the distance from the main entrances.

Kress indicated a parking plan was submitted but does not meet the requirements for size of spaces per the zoning ordinance, 20 spaces are depicted. He further reviewed and explained the configurations shown on the plan.

Kress went on to say engineering has a number of concerns, such as there is an east west 20' alley that crosses the proposed vacation. Need for a continuous alley from 2nd Avenue East to 4th Avenue East. There are franchise utilities located in this alley and a 10" sewer main that runs down the center of 3rd Avenue East. An easement needs to be provided for this sewer. The easement should be a minimum of 30 feet wide with 10 feet on one side and 20 feet on the other side of this sewer. There was a 66 foot wide easement provided for this sewer in the previous vacation. There is a City street light located on the east side of 3rd Avenue East just north of the alley. Circuits feeding this street light come off of 4th Street. There is a street reconstruction project scheduled for construction this summer which includes the portion of 3rd Avenue East that is to be vacated. Reconstruction of 3rd Avenue East can be deleted from this project. Need to see a plan showing how the existing street is to be converted into a parking lot. Entrances to the new parking facility from 4th Street need to be shown to accommodate the reconstruction of 4th Street.

Kress concluded that the ad hoc committee recommended the request for the vacation of 3<sup>rd</sup> Avenue East south of 4th Street East be brought before the full Planning and Zoning Commission, along with additional information, including a parking plan, provided by Williams County. He said after analysis and discussion today it could be approved contingent on meeting with city and county staff to determine the parking space, resolve issue relating to the reconstruction of 3<sup>rd</sup> Avenue and street light relocation, to retain the utility easement and access. He added that a public hearing has been set for June 25<sup>th</sup> before the City Commission.

Kress said Deanna Senior, the project manager for Williams County, may wish to address the board. Ms. Senior said they are hoping to get additional parking because of an oversight/error by the architect for the new building at 302 East Broadway. She said they are hoping to create more parking through the vacating of 3<sup>rd</sup> Avenue and would be willing to meet with engineering to see about proper ingress and egress. Aafedt asked about the apartment parking. Ms. Senior said there are 8 apartments so they need 16 parking spaces. Discussion took place regarding who is the parking for, townhomes, law enforcement, employees. Aafedt expressed her disappointment about what happened with the inadequate parking when the new facility was built. They can blame it on an architect's mistake but it makes the city look bad, she feels the county should provide written reasons why this happened. Ms. Senior said they are going back to the architect to try get some answers.

Haugen suggested taking out the boulevard and sidewalk and make it a parking lot to gain more footage. Ms. Senior has recommended that option to gain 11 feet, she showed additional parking plans. A lengthy discussion continued regarding what would be gained by vacating the street, the need to leave the east-west alley for the residents to the east of 3rd, need to start asking questions of architects and builders, need for a better parking study completed; such as, actual angles and depth, meeting the ordinance requirements, county owned apartments, need for a specific number of spaces required, rebuilding of the street, overbuilding of the lot across the street, re-configure the parking for the entire area, agreement between city/county on how to maximize the parking for all non-employee vehicles being utilized by the city/county/sheriff/police, should the parking be diagonal or not, consider tabling action. Aafedt said the question before the board is should the street be vacated or not. Boyeff asked that the parking be re-configured to see if parking might be available without going through the vacating process. Meiers said 3<sup>rd</sup> Avenue already dead-ends into the law enforcement parking lot. He said all that is needed is the easement for the sewer line, keep the alley way (east to west) and maybe look at removal of sidewalks/boulevard, it could be vacated. Boyeff asked about the mail boxes. Ms. Senior said she spoke with the post office and would be able to provide one main mail box on the corner, making it easier for delivery. Haugen said he would like to see a better plan from the county. Ms. Senior said that study will be completed and is willing to work with city staff. Attorney Evert said should the property be vacated there would need to be a parking design that meets the requirements of a parking lot because the property would then be considered private property, city would no longer be responsible. Koeser commented that any action tonight will be forwarded to the Commission. He asked the board to recommend approval subject to a parking study be completed before the hearing takes place giving the commission a better understanding of the situation. Ms. Senior agreed and will help make that happens.

MOTION BY BROSTUEN, SECOND AAFEDT, to recommend to the City Commission approval of the proposed Vacation of Street Right of Way, 3<sup>rd</sup> Avenue East (portion), south of 4<sup>th</sup> Street East (between Lot 1, Block 26 & Lot 6, Block 27, Brueggers Second Addition), contingent on the crossing alley (east-west) and sewer easement remain. AYES: Brostuen, Fleck, Haugen, Aafedt, Boyeff. NAYS: None. ABSTAINED: LONG. ABSENT NOT VOTING: Maristuen. MOTION CARRIED ON ROLL CALL VOTE.

Boyeff asked Ms. Senior that all the necessary questions be answered and to provide the City Commission with those answers as requested by Mayor Koeser and thanked her for her efforts being she was not involved earlier with this matter.

##### **5. Final Plat for Fairhills Subdivision – Nygard/Roers Williston, LLC.**

Boyeff said there are three final plats to review, the first is for Fairhills Subdivision. Kress indicated the plat is located north of 26<sup>th</sup> Street west and east of 32<sup>nd</sup> Avenue West. He said the City Commission approved, with a vote of 5-0, a zone change from A: Agricultural to R-1: Single Family Residential, R-3: Lowrise Multifamily & Townhouse Residential, and C-2: General Commercial, and a preliminary plat located in the SW1/4,



June 17, 2013

-9-

Planning and Zoning

Section 10, T154 N, R101W, City of Williston. This subdivision is to be known as "Fairhills." He went on to explain that the project will have various zoning to provide for C-2: (13.6 acres); R-1: (22.9 acres); R-3: (53.61 acres).

Kress said the subdivision provides the following: 107 - R-1 single-family lots; density 4.7 dwelling units per acre. 43 - 6,000 to 9,000 square foot lots in the R-3 zone. 24 - 15,000 to 25,000 square foot lots in the R-3 zone. 1 - 80,609 square foot lot in the R-3 zone. 450- apartment units; density 15.6 dwelling units per acre; 4 - commercial lots; no density assigned and one 4.41 acre zoned lot on the west side of the project site is proposed for a church and will not be developed with housing. The project also includes the following lots that are not proposed to be developed: 4.48 acre water tank lot in the southwest corner of the project site, dedicated to the city of Williston. 1.78 acre lot in an existing drainage area. Two detention basins, total of 0.83 acres. A lot in the southeast corner of one-half acre, owned by the Williston Public School District No. 1, will be conveyed as a result of negotiations between the developer and the school district. This lot is proposed as a detention basin and will not be developed.

Kress went on to say the approval required the following amendments to the development agreement: A method for ownership and maintenance of the detention basins. Screening of the detention basins with shrubbery or attractive fencing. Fencing or buffering along the rear yards of the lots along the east side of the project site, adjacent to existing apartments and mobile home court (Bakken Heights & Cimmarron). Future buildings shall not be built across lot lines as platted on the recorded final plat. The "Alley" identified in the SE corner of Sheet 2 of the preliminary plat must be an easement granted to the adjacent property to the east for access. Compliance with site design standards for orientation of buildings on the lots, location of parking lots, internal connectivity between lots.

The approval was contingent upon; development agreement; final plat requirements; title opinion; addressing staff comments. Staff has reviewed the final plat submitted by the applicant's engineer.

The applicant has requested a title opinion, which is being prepared by an attorney. The applicant has agreed to the amendments to the development agreement. Adjustments to certain lot areas requested by the developer since preliminary plat approval have been reviewed and approved by Planning and Engineering and are reflected on the current final plat.

Staff's recommendation is to forward a recommendation to the City Commission to approve the final plat subject to approval of all required documents, final staff review; and any necessary plat corrections. He said the applicant's engineer, Andy Kitchen, may have comments. Boyeff said the plat appears to be in order. Meiers asked about the 15' alleyway which is just an access (east) to a parking lot and to check setbacks because of existing structures. If the roadway exists on the Hagen property or not. Mr. Kitchen thought the 15' would be dedicated on each side for a total of 30'. Staff will review the plat and determine if proper setbacks are acceptable.

MOTION BY FLECK, SECOND BY HAUGEN, to recommend approval to the City Commission for the final plat for Fair hills Subdivision subject to approval of all required documents, final staff review; and any necessary plat corrections AYES: Long, Brostuen, Fleck, Haugen, Aafedt, Boyeff. NAYS: None. ABSTAINED: None. ABSENT NOT VOTING: Maristuen. MOTION CARRIED ON ROLL CALL VOTE.

#### **6. Final Plat for Jonathan's Landing Subdivision – McCreary/Redland,LLC.**

Boyeff said the 2<sup>nd</sup> plat is for Jonathan's Landing Subdivision along East Dakota Parkway. Kress stated that on March 26, the City Commission approved, with a vote of 5-0, a zone change from R-1:Single Family Residential to R-3: Lowrise Multifamily & Townhouse Residential and a preliminary plat to create 59 single-family lots and 50 twin-home lots, two detention basin lots, and a 0.88 acre lot to be dedicated to the city of Williston as a drainage channel on an approximately 19.9 acre property located in NE 1/4 Section 13, T154N, R101W (along the east side of East Dakota Parkway south of 26<sup>th</sup> Street East), Williston. This subdivision is known as "Jonathon's Landing."

Kress indicated the approval required the following amendments to the development agreement: Dedication of the drainage easement as depicted on the preliminary plat. A method for ownership and maintenance of the detention basins. Screening of the detention basins with shrubbery or attractive fencing.6-foot tall vinyl fencing along the backyards of residences along East Dakota Parkway and 26<sup>th</sup> Street East. Re-routing of the trail along East Dakota Parkway to be done at the developer's expense. Future buildings shall not be built across lot lines as platted on the recorded final plat, which means multi-family buildings will be prevented by not building across lot lines. This makes it clear that twin homes, which have a lot line running between the two sides of the twin home, will be permitted. The applicant has agreed to the amendments of the development agreement.

Kress further stated the approval was contingent upon a development agreement; final plat requirements; title opinion; addressing staff comments and deed restriction prohibiting multifamily within this subdivision. (not be able to build across lot lines)The applicant has submitted a title opinion and is working with the city auditor to prepare the improvement security using the lien option. Staff recommends forwarding a recommendation to the City Commission to approve the final plat subject to staff approval of all required documents, final staff review; any necessary plat corrections. He said Raymond Melendez representing the developers may wish to address the board. Mr. Melendez informed the board that he would like to re-visit the access point off East Dakota Parkway. The new plat shows the access has been moved to the south approximately 150' which should help with the earlier concerns made by property owners within Spring Creek Estates. Boyeff thanked him and asked for board action.

MOTION BY LONG, SECOND BY BROSTUEN, to recommend approval to the City Commission for the final plat for Jonathan's Landing Subdivision, contingent on subject to staff approval of all required documents, final staff review; any necessary plat corrections. AYES: Long, Brostuen, Fleck, Haugen, Aafedt, Boyeff. NAYS: None. ABSTAINED: None. ABSENT NOT VOTING: Maristuen. MOTION CARRIED ON ROLL CALL VOTE.

## **7. Final Plat for North Gate Subdivision – StoneCrest Management**

Boyeff said the last item this evening is the final plat for North Gate Subdivision located North of 42<sup>nd</sup> Street. Kress said this plat has taken some time to complete. He said on July 10, 2012, the City Commission approved, a zone change from R-2: Single-Family & Two-Family Residential to R-3: Lowrise, Multi-Family & Townhouse Residential and a preliminary plat to create 130 lots for twin home and townhouse development and five lots for park/storm water detention. Also approved at that time was a zone change from the existing R-2 to R-3, contingent on final plat approval on approximately 28.7 acres on property located in the NW1/4,SE1/4&SW1/4SE1/4, Section I, T154N,R101W. This subdivision is known as "North Gate Subdivision (2<sup>nd</sup> Addition)."

Kress pointed out a considerable change was made from the time of the preliminary plat in 2012. The 1<sup>st</sup> preliminary had more lots than is now seen in the final, leaving large lots to the north. He said it is rare to have developers request less, usually more. Approval of a zone change from the existing R-2 to R-3 was contingent on final plat. At the time of approval, there was no access to the project site from a dedicated public street as University Avenue had not been extended north of 42<sup>nd</sup> Street East. In August, 2012, the project was put on hold pending the development of an area-wide plan for water, sewer, and streets in the University Avenue and 42nd Street East area, including extension of University Avenue. The bids were let that will result in the extension of University Avenue north of 42<sup>nd</sup> Street East past the point where the project will take access to 47<sup>th</sup> Street.

Kress went on to say in May 16, 2013, the developer submitted a final plat that depicts a different number and configuration of lots than approved in 2012. This final plat proposes 54 - Twin home Lots (Blocks 1 and 2) - 3 Single-family Lots (Block 1, Lots 2-4) and 1 Detention Basin Lot (Block 1, Lot 1) He said all the lots are in the southern 1/3 of the project site, with the future University Avenue on the west and the future 47<sup>th</sup> Street East to the south. The remainder of the area included in the preliminary plat is depicted - Block 3 (11.12 acres) and Block 4 (5.85 acres) plus a 4.3 acre dedicated open space along Chinaman Coulee. Neither Block 3 nor Block 4 is platted for individual lots.

Kress continued saying that discussion between city staff and the developer since submittal of the final plat have resulted in changes to the original plat. The created development agreement will be replaced by the current standard development agreement with any necessary amendment by city staff. He said only the area of the final plat that depicts platted lots will change to the R-3 zone. The remaining portion of that final plat that is depicted as undeveloped (Blocks 3 and 4) will remain in the R-2 zone. Approval of this final plat is still contingent on the extension of University Avenue to provide access to this property. The bids have been let. He added that the "Building Permits" section of the development agreement will apply to the streets required to access the project—University Avenue and 47<sup>th</sup> Street---as well as the internal streets.

Kress said before continuing, he said Rick Leuthold, project representative, has asked to participate of the meeting via phone. He informed Mr. Leuthold what has taken place so far. Mr. Leuthold said if there are any questions he would be happy to answer questions.

Kress went on to say the "Building Permits" section of the development agreement will apply to the streets required to access the project—University Avenue and 47<sup>th</sup> Street---as well as the internal streets. Additionally, negotiations are continuing between the developer and the Williston Parks and Recreation department for an acceptable parkland dedication for this project.

Kress then noted that any future development or rezoning of Blocks 3 and 4 will have to be undertaken by a separate platting and rezone process, including public hearing. That means Block 3&4 will remain zoned R-2. This is not a phased project. The remainder blocks will be re-zone to R-3. The applicant has requested a title opinion, which is being prepared by a local attorney. City staff is preparing the amended development agreement submitted by the subdivider.

Kress said that staff recommends to forward a recommendation to the City Commission to approve the final plat subject to addressing any remaining staff comments; agreement between the developer and the Williston Parks and Recreation Department on acceptable park dedication; staff approval of all required documents, final staff review; and any necessary plat corrections.

Kress said the in addition to Mr. Leuthold we have representatives from Sanderson and Stewart and Lee Sandifer with StoneCrest Management here this evening. Boyeff said it appears to have changed from the time of preliminary and that the development agreement has changed. Mr. Leuthold said there were concerns about the development. He said there has been considerable adjustments which he feels has been satisfied and agreed upon. He said when they met with the Parks Department there was a good discussion and believes that a pedestrian trail will work to be utilized as a park dedication. He mentioned the larger parcels can be rearranged at a future time which would be acceptable as presented and asked for the board support of the final plat. Haugen asked about the street being mislabeled.

June 17, 2013

-13-

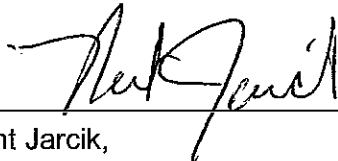
Planning and Zoning

Kress said the final redlines are yet to be finalized and all corrections will be made prior to the final going before the City Commission. Planning Director Kent Jarcik clarified for Mr. Leuthold that the large unplatted portions of this plat would not be automatically rezoned to R-3 is a separate final plat is presented, and emphasized that it is the city's policy to not rezone large areas without knowing the nature of the proposed development. Boyeff asked Mr. Leuthold if he understands that the larger parcels will remain R-2 until such time a future development takes place. Mr. Leuthold said he will agree with whatever the board recommends. Boyeff asked for board action.

AMENDED MOTION BY BROSTUEN, SECOND BY HAUGEN, to recommend approval to the City Commission for the final plat for North Gate Subdivision, contingent on subject to addressing any remaining staff comments; agreement between the developer and the Williston Parks and Recreation Department on an acceptable park dedication; staff approval of all required documents, final staff review; and any necessary plat corrections and that the Large lots (Block 3&4) to the north remain R-2 and any changes would require further zoning process. AYES: Long, Brostuen, Fleck, Haugen, Aafedt, Boyeff. NAYS: None. ABSTAINED: None. ABSENT NOT VOTING: Maristuen. MOTION CARRIED ON ROLL CALL VOTE.

**DATE OF NEXT MEETING:** July 15, 2013

**MEETING ADJOURNED.**



---

Kent Jarcik,  
Williston Planning Director

APPENDIX  
to the  
JUNE 17, 2013 MINUTES

SPU FINDINGS FOR THE FOLLOWING:

- (1) Special Permitted Use for School Facility – Lot 3, Block 1, Jim Bridger Subdivision – Community Development Institute/Head Start, North Dakota
- (2) Special Permitted Use for a Non-Standard Sign or Lot 4, Block 1, North Bakken Industrial Park Subdivision,(Depot Lane) City of Williston – Indigo SignWorks,Inc (DENIED)

**FINDINGS OF THE PLANNING AND ZONING COMMISSION**

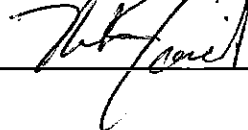
**In APPROVING a SPECIAL USE PERMIT  
for a**

**SCHOOL in an M-3 or R-3 ZONE for LOT 3, BLOCK 1, JIM  
BRIDGER SUBDIVISION, CITY OF WILLISTON**

Sections 13 and 24 of Ordinance 613, the Zoning Ordinance of the City of Williston, both state that a school is acceptable special permitted use in an R-3 or M-3 zone. In approving this permit, the Planning and Zoning Commission has made the following findings:

1. *Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.* The property will take access off of 4<sup>th</sup> St W. Children will access the building from either the east or west sides, but will be required to be walked inside the facility by a parent.
2. *Off-street parking and loading areas where required, with particular attention to the items in "1" above and the economic, noise, glare, or odor effects of the specialpermitteduseon adjoining properties and properties generally in the district.* Parking depicted on the site plan exceeds the parking requirement determined through parking calculations. Outdoor activities are located on the north side of the lot, closer to contiguous R-3 properties.
3. *Refuse and service areas, with particular reference to the items in "1" and "2" above.*  
Trash receptacles will be located per Public Works requirements.
4. *Utilities, with reference to locations, availability, and compatibility.* City water and sewer are available.
5. *Screening and buffering with reference to type, dimensions, and character.* Screening and fencing is not necessary, though landscaping requirements need to be met.
6. *Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.* No non- standard signs are proposed.
7. *Required yards and other open spaces.* No yard or open spaces are required; however, grass open space and landscaping will be included.
8. *General compatibility with adjacent properties and other property in the district.* The proposal will be adjacent to an existing apartment complex and a public school. There is a street between the facility and the storage yard to the east.
9. *Use shall not impose a hazard to health or property.* The Head Start building does not create any hazards to health or property.

This special use is acceptable at this location.

By 

**FINDINGS OF THE PLANNING AND ZONING COMMISSION  
In DENYING an OVERSIZE SIGN PERMIT  
for  
MOBILE MOTEL, LOT 4, BLOCK 1 OF THE BAKKEN INDUSTRIAL PARK**

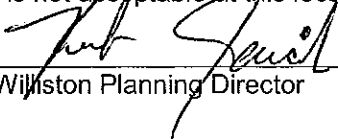
Section 20: C-2: General Commercial District, of Ordinance 613 of the City of Williston, otherwise known as the zoning ordinance, states that freestanding signs may be no larger than 45 feet in height or 100 feet in height as a Special Permitted Use, and that the sign face shall not exceed three square feet per one-foot of store frontage where the sign is to be placed, up to a maximum of 125 square feet.

The Planning and Zoning Commission has made the following findings:

1. *Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.* Not applicable
2. *Off-street parking and loading areas where required, with particular attention to the items in "1" above and the economic, noise, glare, or odor effects of the special permitted use on adjoining properties and properties generally in the district.* Not applicable.
3. *Refuse and service areas, with particular reference to the items in "1" and "2" above.* Not applicable.
4. *Utilities, with reference to locations, availability, and compatibility.* City water and sewer are available.
5. *Screening and buffering with reference to type, dimensions, and character.* Not Applicable.
6. *Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.* The sign exceeds the sign area allowed by the C-2: General Commercial zone. The Planning and Zoning Commission determined that there were no special conditions or circumstances peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district that warranted an oversize sign.
7. *Required yards and other open spaces.* Not applicable
8. *General compatibility with adjacent properties and other property in the district.* No business in this area will be allowed an oversize sign permit without demonstration of special circumstances.
9. *Use shall not impose a hazard to health or property.* No.

This oversize sign is not acceptable at this location. The permit request is denied.

By: \_\_\_\_\_

  
Kent Jarcik, Williston Planning Director