

**REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON July 18, 2016 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.**

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

**MEMBERS PRESENT:** Boyeff, Maristuen, Bauer, Long, Aafedt

**MEMBERS ABSENT:** Christensen, Hansen

**OTHERS PRESENT:** Kent Jarcik, Planning Director; Rachel Laqua, Principal Planner; Josephine Ching, Staff Planner; Jordon Evert, Assist. City Attorney, Bob Hanson, City Engineer.

**DISPOSITION OF MINUTES:**

- Minutes were approved for June 20, 2016 regular meeting.

MOTION BY MARISTUEN, SECOND BY BOYEFF to approve minutes as presented.  
CARRIED ON VOICE CALL. (unanimous)

**COMMUNICATION:**

- A. Planning article of the month; no discussion.

**PUBLIC HEARINGS:**

- A. Zone change from Agriculture to C-2:General Commercial for Basin Trucking property at the northwest corner of Hwy 2/85 and 32nd Ave. W. This property was involved in the dedication of 32<sup>nd</sup> Ave West to the City of Williston - Robert A. Erickson Living Trust

Aafedt introduced Item A of Public Hearings (as above) and asked Laqua to introduce. Laqua explained this item is a request for a zone change from A:Agricultural to C-2:General Commercial for Lots 1 and 2, Block 1 and Lot 1, Block 3 of the Erickson Subdivision containing 40.94 acres. Surrounding zoning is C-2:General Commercial; R-4: Highrise Multifamily Residential; M-1: Light Industrial; A: Agricultural; and, R-3: Lowrise Multifamily and Townhouse Residential.

Laqua stated that a memorandum of understanding regarding the Sand Creek Town Centre Subdivision and improvements of 32<sup>nd</sup> Ave W, dated August 15, 2012 and November 9, 2012, had been signed by the Erickson's and the City of Williston.

Laqua said that item I.J. of the memorandum of understanding states "The City agrees to provide a zone change to Commercial for the Lot 10 and that portion of the property which will be created east of the proposed 32<sup>nd</sup> Ave West and to allow continued use of Lot 10 for Industrial storage consistent with its present use or provide for such continued use under a Conditional Use Permit or other permit or procedure."

The resulting plat created the Erickson Subdivision. Of that subdivision, Lots 1 and 2, Block 1, and Lot 1, Block 3, are the current lots that are referenced in the memorandum of understanding (Lot10). Sublot 11, which became Lot 3 of Block 1 and Lot 1 of Block 2, was previously rezoned to M-1: Light Industrial. Laqua said that the applicant does not intend to rezone this property to C-2: General Commercial at this

time, though he does understand that the Comprehensive Plan shows this area as a commercial land use.

Currently, Lots 1 and 2, Block 1, and Lot 1, Block 3 of the Erickson Subdivision are being used for Industrial storage. Laqua stated in past cases of annexation, where there is a use on the property that is not compatible with the proposed zone, the City has allowed a zone change with an SPU (special permitted use) to allow the use on the property to be considered a conforming use until such time as that use ends or leaves the property. However, the use would not be able to be expanded; any added or new uses must be compatible with the zone. Staff would recommend the same procedure be followed with this property.

At the ad hoc committee meeting held on July 5, 2016, there was discussion regarding access into the property. There is a curb cut into Lot 2, Block 1. Laqua said that would be maintained as access to the property. The only other access that would potentially be considered would need to be located directly across from an existing curb cut into Lot 1, Block 1, South Town Centre Subdivision.

There was discussion of the memorandum of understanding and previous cases where an existing use has been allowed to remain with an SPU.

Laqua concluded her presentation and Aafedt opened the public hearing.

Kent Reiersen, attorney with Crowley Fleck and representing the Erickson Living Trust addressed the Commission and explained that this project started about five years ago when his client approached the Planning and Zoning Department about a zone change to light industrial. Reiersen stated that this was about the time that the development was beginning to the north of this property and discussions about 32<sup>nd</sup> Street being put in. Erickson's decided to hold off on making any changes for a while to see what would take place; the Memorandum of Understanding resulted. Part of that was the agreement that the zoning would be changed to C-2 rather than industrial while allowing the more industrial storage to remain. Reiersen stated that his client is seeking to move his business out of town as more commercial uses have built up around him but this will allow the property to be developed as commercial in the future.

Commissioner Maristuen asked about the zoning for the current business and truck parking. Laqua stated that this area is what was known as Sublot 11 in the Memorandum of Understanding and is zoned M-1:Light Industrial.

**MOTION BY MARISTUEN, SECOND BY BOYEFF, to approve the Zone Change from A: Agricultural and C-2: General Commercial for Lots 1 and 2, Block 1, and Lot 1, Block 3, Erickson Subdivision City of Williston, contingent upon the specified conditions (above) relating to access and an SPU to allow the industrial use on the property to be considered a conforming use until such time as that use ends or leaves the property. AYES: Bauer, Long, Boyeff, Maristuen, Aafedt. NAYS: None. ABSENT/NOT VOTING: Christensen, Hansen. ABSTAINED: None.**

**COMMITTEE REPORT:**

- NONE

**UNFINISHED BUSINESS:**

- A. Short plat for rearrangement of an 11.91 acre parcel in the SW1/4NW1/4 of Section 22,

T154N, R101W, into two sublots, north of Hwy 2/85 and east of 27th Ave W and a zone change for the entire property from A: Agricultural to C-2: General Commercial - Martin Reiger/Jeff Ames

No updated information or resolutions have been made to this item; it will remain tabled.

**NEW BUSINESS:**

- A.** Special Permitted Use request to allow a daycare/preschool in an R-2:Single and Two-family Residential zone, 623 1<sup>st</sup> Ave. E., City of Williston – Chelsea Wilson

Aafedt introduced Item B of New Business (as above) and asked Ching to introduce. Ching stated this applicant requests an SPU (special permitted use) for a group child care center in an existing residence located in the R-2: Single and Two Family Residential zone, pursuant to Section 12(E)(4) of the zoning ordinance. The applicant previously applied for and was granted an SPU for a daycare in a residential zone at 707 3<sup>rd</sup> Ave East but is moving to 623 1st Ave E.

The daycare will have a similar schedule as the previously location. The daycare will operate twice a week, Tuesday and Thursday, 8:15am to 11:15am and 11:45am to 2:45pm. The facility will be able to accommodate up to 19 children based on Williams County Social Services approval but the applicant plans to have only 10 kids in each session.

The day care will be in the applicant's residence and will be the only teacher/employee.

Ching stated that the property has been inspected by Fire and Building Inspectors and the applicant has received a list of items to complete before final inspection. The property also was inspected by Social Services. Before Social Services can sign off on the daycare the applicant will need to receive the SPU.

The applicant's property is fully fenced. Access for parking and drop-off will be from the driveway on 7<sup>th</sup> Street East. The applicant has created a staggered pick-up and drop-off plan for the parents so the street will not get congested during peak drop-off and pick-up hours.

Ching explained that there are four total parking spaces on the property. There are two parking spaces in the garage and two on the driveway. Two parking spaces are required for this property: one for the teacher, and one for every 10 students.

At the July 5, 2016, ad hoc committee meeting discussion included:

Drop-off Plan: The applicant explained the drop-off and pick-up area will be on 7<sup>th</sup> Street East. The parents will park and drop-off the children in the driveway since there is a separate entrance to the daycare located in the rear of the house.

Entry Point: Planning staff noted that 1st Ave. E. could be a feasible second entry to the property since the front yard is fully fenced. Entry from street parking would be allowed because the volume of traffic on 1<sup>st</sup> Ave. E. and 7<sup>th</sup> St. E. is minimal.

Snow Removal and Sanitations Services: City Engineer noted that Public Works does not provide alley snow removal services and the proposed day care center may generate trash volumes that require

additional sanitation services. Any additional sanitation services provided will be charged at commercial rates.

**STAFF COMMENTS:**

**CITY PLANNING:**

1. The applicant is allowed one identification sign provided that the sign does not exceed two square feet in area.
2. Social services visited the home on July 6<sup>th</sup> and concluded the residence could accommodate up to 19 children.

Ching concluded her presentation. City Attorney Evert asked if this was a transfer of the previously approved SPU or if this was a new SPU stating that without some formal procedure to recind the previous SPU at its current location then the SPU would remain on that property for another three years. Aafedt asked if it could be transferred. Evert stated it could be handled in one of two ways: the Commission could state a transfer of the previous approval from the current address to the new; or, the Commission could approve a new SPU with the condition of relinquishment of the previous SPU from the existing property location. Evert suggested the latter suggestion would be best.

**MOTION BY LONG, SECOND BY BOYEFF**, to approve the Special Permitted Use request to allow a daycare/preschool in an R-2:Single and Two-family Residential zone, 623 1<sup>st</sup>. Ave. E., City of Williston, contingent upon meeting all staff comments, inspections, and approvals and the that the applicant terminate, in writing, her previous SPU at 707 3<sup>rd</sup> Ave. E. **AYES:** Bauer, Long, Boyeff, Maristuen, Aafedt. **NAYS:** None. **ABSENT/NOT VOTING:** Christensen, Hansen. **ABSTAINED:** None.

- B.** Special Permitted Use request to allow expansion of existing commercial/industrial uses to include construction of 80' x 160' building for storage and preparation of steel and other metal products – Pacific Hide & Fur Depot d/b/a Pacific Steel & Recycling

Aafedt introduced Item B of New Business (as above) and asked Ching to introduce. Ching stated this item was a request for a special permitted use (SPU) to expand the existing permitted use for a building that will be used for storage and preparation of steel. The current use (junkyard) is considered a permitted use because the use was there prior to annexation. The SPU would apply to the building only and does not apply the entire property.

One of the SPU requirements for a junkyard requires the property to be completely fenced. The property is not currently fenced on the south side nor is it currently screened from the right of way to the north of the property. Ching said that the south side of the property borders the BNSF rail line and the property north of Pacific Steel is a concrete plant. That plant, if it were to be redeveloped, is proposed as a commercial property within the comprehensive plan.

Ching said that after planning staff reviewed the property, the requirements of SPU, the comprehensive plan, and the requirements of Ordinance 1007, which is the landscape ordinance, staff has determined that it would be appropriate for the applicant to screen the property from the northern right of way by adding slats to the chain link fence and installing landscaping along W Front Street since this SPU is for the expansion of the building. The east, west, and south sides of the property would remain as is due to the fact that the property is an existing permitted use.

The property takes access on W. Front Street. The easternmost access may be moved to the west. The applicant will work with City Engineering on that project. The property is served by rural water and septic.

At the ad hoc committee meeting held on July 5, 2016, discussion included:

Whether the applicant will need to do a short plat because the proposed building is to be built over a lot line and it was determined this would not be needed.

The City Engineer asked the applicant if they have any plans to reactivate the railroad spur. The applicant responded that the railroad spur is no longer there so they have no plans to reactivate it but they would use the rail spur if it were to be reinstated. The City Engineer also talked about the drainage improvement project in this area. The applicants are aware that a drainage ditch easement may run along the southern edge of the property.

Ching said that there was also discussion on the landscaping along W. Front Street. Planning staff noted that there should be sufficient amount of space for trees to be installed in the boulevard. The applicant will need to install landscaping along W. Front Street in order to screen the outdoor storage as per the landscaping ordinance.

The applicant noted that there is a possibility of moving the eastern access point to the west. The applicant would have to work with the Engineering Department on any relocation of the east access point. The new location of the access would need to be paved. All required parking for the new building as well as any access to it would need to be paved.

**CONDITIONS REQUIRED FOR APPROVAL:**

1. The applicant will need to do site improvements to the property. These are:
  - a. slatting the chain link fence along W. Front St to provide appropriate screening and
  - b. installing landscaping to screen the outdoor storage along W Front Street as per landscaping ordinance.
2. All required parking spaces will need to be paved and striped. The applicant will need to pave the access and parking for the new building with concrete or hot-mix asphalt.
3. The applicant will work with Engineering Department on the possible relocation of the east access point. The new location of the access will need to be paved and approved by the City Engineer.

Boyeff asked for clarification of whether the entire perimeter of the property had to be screened including the office building. It was discussed that the screening was meant to screen the junkyard and scrap storage from the right-of-way and that the office and parking area, that was acknowledged now to look very nice, would be too difficult to separate from the ordinance requirements as it is all on one lot. Further discussion was had that there is no way to say that any new tenant would keep the area as nice as it is now and the screening would then be very important.

MOTION BY BAUER, SECOND BY MARISTUEN, to approve the Special Permitted Use request Special Use Permit to expand the existing permitted use at 13812 W Front Street as presented, contingent upon meeting all required conditions as outlined (above). AYES: Bauer, Long, Boyeff, Maristuen, Aafedt. NAYS: None. ABSENT/NOT VOTING: Christensen, Hansen. ABSTAINED: None.

**DATE OF NEXT REGULAR MEETING:** August 15, 2016

**MEETING ADJOURNED.**

  
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Kent Jarcik, Williston Planning Director

APENDIX TO THE  
CITY OF WILLISTON PLANNING & ZONING COMMISSION MEETING  
JULY 18, 2016

- A. Special Permitted Use request to allow a daycare/preschool in an R-2:Single and Two-family Residential zone, 623 1<sup>st</sup> Ave. E., City of Williston – Chelsea Wilson
  
- B. Special Permitted Use request to allow expansion of existing commercial/industrial uses to include construction of 80' x 160' building for storage and preparation of steel and other metal products – Pacific Hide & Fur Depot d/b/a Pacific Steel & Recycling