

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON June 19, 2017 AT WILLISTON CITY HALL, 22 E. BROADWAY, WILLISTON, ND.

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

MEMBERS PRESENT: Eynon, Hansen, Bauer, Christensen, Long, Maristuen Aafedt

MEMBERS ABSENT: NONE

OTHERS PRESENT: Kent Jarcik, Planning Director; Rachel Laqua, Principal Planner; Josephine Ching, Staff Planner; Jeremy Miller, Staff Planner; Bob Hanson, City Engineer.

PUBLIC HEARINGS:

A. Proposed Ordinance 1065, and amendment to Ord. 1061 which regulates Temporary Use Permits, allowing an exemption for seasonal greenhouses- Staff

Chairman Aafedt introduced the first public hearing item (as above) and asked Laqua to present. Laqua said that Ordinance 1065 amends Ordinance 1061, which was an amendment to Ordinances 1048 and 999, which were amendments to Ordinance 613, the Zoning Ordinance of the City of Williston. Specifically, Ord. 1065 amends Section O: Temporary Uses and Structures, to clarify and establish further restrictions for such uses within the City Limits and the Extra Territorial Jurisdiction.

Laqua explained that it was brought to the attention of the City that there was no provision in the temporary use ordinance for seasonal greenhouses; the 42 day total time limit for a temporary use permit on a property does not allow enough time for a true seasonal greenhouse. In addition, true, year round, greenhouses are a significant investment.

The City met with an ad hoc committee to discuss the potential for the allowance of a seasonal greenhouse. Ordinance 1065 defines and allows seasonal greenhouses under certain conditions.

The definition of greenhouses was taken from a combination of Merriam-Webster and the UDC of Columbus, Georgia, and is stated: "Greenhouse: a structure enclosed (as by glass or plastic), and used for the cultivation or protection of tender plants; used in a retail setting as an establishment engaged in the sale of plants, trees, garden supplies, garden tools, and related items to the public."

In addition, the following conditions are set:

Seasonal greenhouses which are erected only during the period of time from May 1- August 31, providing the following conditions are met:

- i. The greenhouse is owned and operated by either the property or building lease holder or owner.
- ii. The greenhouse is located on an existing developed lot with an existing, current primary use.
- iii. The greenhouse may only be utilized as an accessory use.
- iv. A temporary structure permit is obtained.
- v. No required parking is utilized for the placement of the greenhouse or surrounding outdoor sales.
- vi. The greenhouse shall only be located on commercial (C-1, C-2, C-3), Highway Corridor Commercial (HCC), Light Industrial (M-1), Heavy Industrial (M-2), or Agricultural (A) zoned properties.

There were no comments from the June 5, 2017 ad hoc.

Laqua said that this ordinance has been discussed with the business that brought this to the City's attention. They have stated they were in favor of the ordinance and it would allow them to operate their planned greenhouse.

Laqua stated that this ordinance has also been discussed with the Chamber of Commerce and concluded her presentation. Aafedt asked if there were any questions from the Commission.

Commissioner Eynon stated his understanding that public comment had to be heard on this proposal but said that he had spoken to someone who has a significant year round investment in greenhouse. While Laqua has earlier stated that staff had public input and Chamber of Commerce input on this ordinance, the greenhouse owner that he spoke to knew nothing about this meeting. Eynon said he felt that this item should be tabled to allow time for wider public input by people who do have significant investment in this area.

Commissioner Aafedt asked Laqua if this ordinance was advertised. Laqua said it was advertised in the Williston Herald as a public hearing per Century Code requirements and usual practice.

Commissioner Maristuen asked if there would also be a public hearing at the City Commission level after a recommendation from Planning Commission; Laqua affirmed that is correct. Laqua added that this was brought about by an existing business just wanting to bring what they already sell outside for the season just as Walmart does.

Eynon asked if the green house would be able to be left up year round or even into the fall. Laqua said that would become a permanent structure which is not the intent. Eynon asked if these greenhouses would have water or electric and how that would be handled. The structure and any included utilities would be handled by the building department the way any other temporary structure is handled.

Aafedt opened the public hearing and asked for any comment. Leroy Sidel stood and suggested a start date earlier than May 1, a couple of weeks maybe a month because of the possibility of a freeze to allow growers the ability to protect their plants.

Jana Lutz, Chamber of Commerce, said that the Chamber's involvement is that a member approached her wondering what they could or could not do and she helped facilitate communications with Laqua.

Aafedt called twice more for public input and hearing none she closed the public hearing and called for discussion or a motion from the Commission.

Commissioner Bauer asked Eynon why he felt this needed to be tabled. Eynon said he felt that "we" should reach out in a broader scope to consider people that do have an investment in greenhouses. He stated that not everyone reads the Williston Herald; the people he spoke to do not and were not aware of this meeting or proposed ordinance. Eynon stated that he did tell them that the ordinance would have to go to the City Commission for hearing twice and they would have an opportunity to speak at the first reading which will be a public hearing.

MOTION BY EYNON, SECOND BY BAUER to table proposed Ordinance 1065, and amendment to Ord. 1061 which regulates Temporary Use Permits, allowing an exemption for seasonal greenhouses for further public input. AYES: Eynon, Bauer, Long. NAYS: Christensen, Hansen, Maristuen, Aafedt. ABSENT/NOT VOTING: None. ABSTAINED: None. **Motion Failed, City Attorney Evert stated that a new motion could be made with a recommendation to the City Commission or could go to City Commission with no recommendation.

MOTION BY MARISTUEN, SECOND BY CHIRSTENSEN to recommend to the City Commission approval of proposed Ordinance 1065, and amendment to Ord. 1061 which regulates Temporary Use Permits, allowing an exemption for seasonal greenhouses contingent on staff contacting permanent greenhouses to notice them of the City Commission public hearing. AYES: Long, Christensen, Hansen, Maristuen, Aafedt. NAYS: Eynon, Bauer. ABSENT/NOT VOTING: None. ABSTAINED: None. (5-2, approve)

B. Proposed temporary moratorium prohibiting the City of Williston from receiving and processing applications for beverage kiosks for a period of one year within the city limits of the City of Williston and its extra-territorial jurisdiction - Staff

Chairman Aafedt introduced the first public hearing item (as above) and asked Laqua to present. Laqua explained this ordinance has been put together by the City Attorney to prohibit the City from accepting new beverage kiosks applications for the next year.

Laqua said this moratorium would allow the City to examine some needed updates to the current ordinance, in addition to the general overall impact of beverage kiosks.

There has been some public comment regarding beverage kiosks which has brought this issue before the commission. It appears that there are many varied opinions on the role that beverage kiosks play in the community, as well as on the various regulations which are attached to them.

A moratorium will allow the City the chance to fully examine this issue and bring back an updated ordinance within a year.

Laqua explained that at the June 5, 2017 ad hoc meeting there were two Planning Commissioners who were in favor of the ordinance, and one opposed. All had different views of the nuances of what should be updated in the ordinance.

This ordinance has also been discussed with the Chamber of Commerce. Laqua stated that they understand the need to work toward an ordinance that promotes existing businesses while remaining open and friendly to new businesses. They are also willing to work to set up a committee with some of their members to discuss this issue, as there are many varying viewpoints on this issue.

Laqua concluded her presentation. Commissioner Bauer stated that he is opposed to the moratorium and asked Laqua how many kiosk applications are active right now; Laqua stated that there are no new applications at this time but she did have a pre-application meeting last month with someone considering a kiosk. Laqua said she had explained that there may be a moratorium on kiosks in the near future and that if she was serious she should turn in her application soon. No application has been submitted.

Chairman Aafedt opened the public hearing. Jana Lutz, Chamber of Commerce, agreed that the ordinance needs to be looked at and that the business community needs to be involved but stated that other than that the Chamber of Commerce was not taking a stance. She said however that she is concerned about a moratorium giving businesses the perception of the City being unfriendly to business.

Bob Horab spoke from the audience and said if there is no rush to do this then why do this and asked if re-working the ordinance without a moratorium would constitute 20 – 30 new kiosks or only 3 or 4. Horab stated that he feels the City should let business to dictate what builds and survives.

Jerry Fleck approached the Commission stating that in 2012 when he served on the Planning Commission temporary businesses were addressed but not coffee kiosks and now there are several in play. He said that the problem with the current ordinance allowing some temporary businesses is that it does not lay out how long a temporary business use can stay in place. Fleck stated he does not wish to put anyone out of business but that the City needs an ordinance that appropriately addresses them and suggested several issues such as length of operation, aesthetics (bright colors/questionable advertising) and general government of kiosks. Fleck said that kiosks have very little investment in the community and what happens in the community compared to the long term permanent businesses. He asked the Commission to

consider whether kiosks pay the same taxes; do they pay for permits; are they members of the Chamber of Commerce; what is the long term contribution to community vs. the costs to brick & mortar businesses?

Aafedt called twice more for public input; hearing none she closed the public hearing and asked for questions, discussion or a motion from the Commission.

Bauer again stated that while he agrees that discussion needs to take place he does not believe a moratorium is right and stated he feels that would be stepping on free enterprise. He said he feels that if the City does not place the moratorium it will incentivize staff to use community resources and conclude their review of the kiosk ordinance sooner than one year. Bauer suggested the City use the Chamber of Commerce, Builder's Association, Downtowners Association, Board of Realtors and other business owners to help answer this question.

Commissioner Hansen agreed with Bauer but also agreed with Jerry Fleck that there needed to be some conformity/requirements for aesthetics so they don't look temporary or offensive.

Jerry Fleck approached the Commission again and stated to Bauer that that he feels that a moratorium is good idea otherwise the City could end up with another unsightly kiosk with no way to control that.

Commissioner Christensen said he feels that if this moratorium is not put into place now after this has been brought to the public attention there will be a rush of kiosks before any new ordinance can be put into place. Bauer agreed that was a good point.

Assistant City Attorney Evert reminded the Commission that the ordinance as drafted makes kiosks an accessory use meaning there must be an existing commercial business on the lot. Further he stated that at the time of the Temporary Use ordinance kiosks were accepted because they already existed in the City therefore there is very little control of them other than being in an appropriate zone.

Commissioner Eynon asked Evert if he foresaw a discussion limiting the number of kiosks. Evert stated it was one point brought up on previous discussions along with permits, bonds, sewer and water, foundations and uniformity.

Jarcik stated that without a moratorium there is no way for Planning and Zoning staff to get ahead of their work load. Staff needs time to do appropriate research, form committees, have discussions. A moratorium simply allows that time.

Maristuen asked Laqua what kind of time staff is thinking it would take to be ready to address this issue. Laqua said originally the thought was six months but that taking an ordinance through Planning Commission and City Commission with appropriate notice and advertising would take two months alone and there was concern about that leaving enough time to have all

suggested committee meetings. The City is asking for one-year with a goal of being ready in six months.

Aafedt stated that she feels there has to be a change to the current ordinance because as it is written now there is simply not enough information to fully answer questions that the public may have.

Bauer asked Jana Lutz if the Chamber of Commerce could have their group(s) ready to discuss this matter in just a couple of months; Lutz said yes. Bauer posed the same question to Bob Horab about the Builder's Association and Horab agreed as well.

Hansen said that during the course of whatever happens that the brick and mortar businesses like Meg-A-Latte and Daily Addiction should be involved as well since they are the ones most affected.

MOTION BY BAUER, SECOND BY HANSEN to recommend to the City Commission approval of Proposed temporary moratorium prohibiting the City of Williston from receiving and processing applications for beverage kiosks for a period of six-months, with a review at that time, within the city limits of the City of Williston and its extra-territorial jurisdiction. AYES: Hansen, Bauer, Christensen, Long, Aafedt. NAYS: Eynon, Maristuen. ABSENT/NOT VOTING: None. ABSTAINED: None. (approve, 5-2 vote)

C. Short Plat to rearrange lot lines, Lot 6 and Lot 7, Block 2, Willow Wood Country Estates (704 and 712 35th St. E), City of Williston – Redland LLC

Chairman Aafedt introduced the first public hearing item (as above) and asked Laqua to present. Laqua stated that this application is for a short plat to move the lot line between Lots 6 & 7, Block 2, Willow Wood Country Estates, in order to address a non-conforming setback. The house on Lot 7 does not meet setback requirements for the R-1A zoning district. This lot line adjustment will correct that concern and will create a conforming setback.

This property was developed and subdivided while in the ETJ. This lot line adjustment will not affect the water service into the properties and both lots are on septic systems. There is no trespass of the systems between the two properties, and the lot line adjustment will not affect this.

At the June 5 ad hoc, the City Engineer noted that in 1995, the roadway to the south of Lots 6 and 7 was abandoned. Therefore, each lot is an additional 33 feet deep. This should eliminate the need for the flag lot. The applicant has updated the plat since that meeting. When the roadway was originally abandoned, a 33' utility easement on the south and east sides of the subdivision was retained. This utility easement remains on this plat.

COMPLETION/RECORDATION REQUIREMENTS

- 1. Plat redlines must be addressed.

Laqua concluded her presentation. City Engineer Hanson asked if the plat revision would remove the flag lot; Laqua said yes. Hanson then asked if a drainage easement was needed would there be one; Laqua said that would be created by a separate document and not by the plat.

Aafedt opened the public hearing and asked for any comment. Mike Johnson of JMAC, representing the applicant, said this rearrangement would just solve a problem that was created in the County. He added that they are preparing to sell three lots in the Willow Wood Estates soon and needed this cleaned up. After calling for public comments two more times and hearing none Aafedt closed the public hearing and asked for the wishes of the Commission.

MOTION BY MARISTUEN, SECOND BY HANSEN to approve the short plat for Lots 6 & 7, Block 2, Willow Wood Country Estates, City of Williston, contingent on addressing all staff comments and recordation of a drainage easement if the City Engineer deems necessary. **AYES:** Hansen, Eynon, Bauer, Christensen, Long, Maristuen, Aafedt. **NAYS:** None. **ABSENT/NOT VOTING:** None. **ABSTAINED:** None.

D. Short Plat to rearrange lot lines, Lot 9 and Lot 10, Block 2, Willow Wood Country Estates (804 and 812 35th St. E), City of Williston – Redland LLC

Chairman Aafedt introduced the first public hearing item (as above) and asked Laqua to present. Laqua stated that just as with the previous plat this application is for a short plat to move the lot line between Lots 9 & 10, Block 2, Willow Wood Country Estates, in order to address a non-conforming setback. The house on Lot 10 does not meet setback requirements for the R-1A zoning district. This lot line adjustment will correct that concern and will create a conforming setback.

Again this property was developed and subdivided while in the ETJ. This lot line adjustment will not affect the water service into the properties. Both lots are on septic systems. There is no trespass of the systems between the two properties, and the lot line adjustment will not affect this.

Laqua concluded her presentation and Aafedt opened the public hearing and asked for any comment. After calling three times for comment and hearing none she closed the public hearing and asked for the wishes of the Commission.

MOTION BY BAUER, SECOND BY MARISTUEN to approve the short plat for Lots 9 & 10, Block 2, Willow Wood Country Estates, City of Williston, contingent on addressing all staff comments and recordation of a drainage easement if the City Engineer deems necessary.

AYES: Hansen, Eynon, Bauer, Christensen, Long, Maristuen, Aafedt. NAYS: None.
ABSENT/NOT VOTING: None. ABSTAINED: None.

COMMITTEE REPORT:

A. NONE

UNFINISHED BUSINESS:

A. Zone Change to M-1: Light Industrial for property in the NWNE, Sec. 28, T154N, R101W, in the City's extra-territorial zone – Staff

Chairman Aafedt introduced the first unfinished business item (as above) and asked Jarcik to present. Jarcik reminded the Commission that this property was part of the West Corridor Re-zone and that it was tabled at the May 15, 2017, Planning & Zoning Commission meeting for further discussion with the property owner regarding zoning. Although property this was initially part of the City initiated re-zone to HCC: Highway Corridor Commercial the owner asks to rezone the property to M-1: Light Industrial to be consistent with past use and adjacent developments.

Jarcik said that this property has been leased to Pacific Steel while still under the County jurisdiction. The property is undeveloped and was primarily leased to maintain access to their property to the south and west. With a future Special Permitted Use (SPU) application and approval this zoning would allow Pacific Steel to use this property for their steel/salvage yard/recycling operations in conjunction with their adjacent properties and nearby facilities. An additional SPU would be required. M-1: Light Industrial zoning would be consistent with the surrounding zoned properties.

Jarcik stated this lot would be a good transition edge from the Industrial zoned lots to the east to the proposed Highway Corridor Commercial zoning to the west. The specifics of this lot with the topography adjacent to the west and north, and with the M-1 zoned property to the east and south for a cattle sales lot and oil well, this property would be compatible with the plan. In addition the M-1 zoning district has screening and buffering requirements that would be required at time for any development for this undeveloped lot. Lastly, the more intensive uses of the zoning district require an SPU that would allow further consideration by the Planning and Zoning Commission for development standards based on the type of development proposed.

This property would have access to rural water but there is no City sewer service to this property. Access to this lot would have access from the frontage road and storm water would be considered at the time of a development proposal.

Jarcik concluded his presentation. Aafedt called three times for public input and hearing none she called for the wishes of the Commission.

MOTION BY MARISTUEN, SECOND BY LONG to recommend to the City Commission approval of a zone change to M-1: Light Industrial for property in the NWNE, Sec. 28, T154N, R101W, in the City's extra-territorial zone. AYES: Hansen, Eynon, Bauer, Christensen, Long, Maristuen, Aafedt. NAYS: None. ABSENT/NOT VOTING: None. ABSTAINED: None.

B. Special Permitted Use request for storage of hazardous material in the proposed Highway Commercial Corridor (HCC) Zoning District, on a Tract in the NW1/4 NWNW, Sec. 29, T154N, R101W, in the City's extra-territorial jurisdiction – Staff

Chairman Aafedt introduced the first public hearing item (as above) and asked Jarcik to present. Jarcik explained that these two parcels were held from the rezone of the west corridor at the regular May 15th Planning and Zoning Commission meeting. After discussion with the property owner, additional information was needed for clarification of the existing uses and applicable permitting and notification needed. The properties are leased to Creedence Energy Services. The land use is oilfield contractor with the storage of chemical products used in the oilfield.

These properties were developed in the corridor that had a previous County industrial zoning designation. Oilfield service contractor would be a permitted use in the Highway Corridor Commercial (HCC) zoning district. The storage of chemicals would be considered with a Special Permitted use (SPU) in the HCC. The material safety data sheets (MSDS) have previously been reviewed and approved by the fire department. As long as the requirements of the MSDS approval continue to be met this use would be consistent with the adjacent uses.

The property takes access from the frontage road adjacent to Highway 2.

COMPLETION/RECORDATION REQUIREMENTS

1. In compliance with the MSDS approval

Aafedt asked if the Commission had any questions of Jarcik.

Maristuen asked if there had been any response by neighbors; Jarcik said no. Eynon asked if this storage had previously existed; Jarcik said yes. It was asked what kind of chemicals would be stored there. Jarcik stated it would be the same as listed in the Commission packet under New Business Item B as it is the same applicant but for a different property. He restated that the MSDS sheets and storage information has been reviewed and approved by the City Fire Chief.

MOTION BY CHRISTENSEN, SECOND BY HANSEN to approve the special permitted use request for storage of hazardous material in the proposed Highway Commercial Corridor (HCC) Zoning District, on a Tract in the NW1/4 NWNW, Sec. 29, T154N, R101W, in the City's extra-territorial jurisdiction, contingent on maintaining compliance with Fire Code. AYES: Hansen, Eynon, Bauer, Christensen, Long, Maristuen, Aafedt. NAYS: None. ABSENT/NOT VOTING: None. ABSTAINED: None.

** It was determined after conclusion of the meeting that this SPU would be for short term use on this property as this is the same storage that Creedence would be moving to a property owned by them in the Highway 7 Industrial Park. A Special Permitted Use request for said property is presented and approved as New Business Item B later in this meeting.

C. Amendment to the Sign Master Plan for Iron Point Subdivision – Iron Point West, LLC

Chairman Aafedt introduced the first public hearing item (as above) and asked Ching to present. Ching stated that the applicant has requested to table this item for one more month as a new salesperson has been assigned to this development and needs extra time to understand the proposals and locations of easements and utilities.

MOTION BY LONG, SECOND BY BAUER to table the amendment to the Sign Master Plan for Iron Point Subdivision as requested by the applicant. AYES: Hansen, Eynon, Bauer, Christensen, Long, Maristuen, Aafedt. NAYS: None. ABSENT/NOT VOTING: None. ABSTAINED: None.

NEW BUSINESS:

A. Special Permitted Use request to run a right of way restoration business with 8 employees and maintain a residence on Agricultural zoned property located in the W1/2, SWSE, Sec. 20, T154N, R100W (218 37th Ave. SE), City of Williston – Tod Ammerman

Aafedt introduced New Business Item 8A (as above) and asked Ching to present. Ching explained that the applicant, Tod Ammerman, requests a special permitted use (SPU) to operate a contactor yard and to maintain a residence in A: Agricultural zone on Tract in W2SWSE, Section 29 of T154N R100W. A contractor yard is allowed as an SPU in the A: Agricultural zone.

The applicant will be operating a right-of-way/environmental restoration business on the property and will have eight employees. The applicant is currently living in the house that is on the lot.

It was discussed at the June 5, 2017, ad hoc meeting that this SPU would apply to the entire property but will limit the contractor business to the current yard. Ching said that the applicant will have to buffer and screen the use of the contractor yard. The applicant will need to plant two rows of pine and deciduous trees on the east side of the property. Deciduous trees will need to be planted 35 feet apart on the south side along the public right-of-way and pine trees will have to be planted on the west side of the contractor yard. In addition, a 6 feet high chain link fence will need to be installed on the east and south side of the use of the contractor yard. No slatting will be required because of the proposed trees buffering. Trees will have to be installed by July 31st, 2018 instead of July 31st, 2017 due to the proximity of this application to the deadline.

The property owner has, in the past, requested to rezone this property to industrial due to this property being in violation of the zoning ordinance by having a truck contractor yard in an agriculture zoned property. However, planning staff did not recommend rezoning his property to industrial as the surrounding land uses around this property are agricultural and large lot rural residential.

SPECIAL USE PERMIT CONSIDERATIONS

As part of the review for a special use permit, the following items are required to be considered:

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 takes existing access from 133^d Street and a public road to the south.*
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. *This SPU requires no additional parking.*
3. Refuse and service areas, with particular reference to the items in "1" and "2" above. *No additional refuse containers will be required.*
4. Utilities, with reference to locations, availability, and compatibility. *Project is served by existing rural water and sewer.*
5. Screening and buffering with reference to type, dimensions, and character. *The applicant will need to plant two rows of pine and deciduous trees on the east side of the property. Deciduous trees will need to be planted 35 feet apart on the south side along the public right-of-way and pine trees will have to be planted on the west side of the contractor yard. In addition, a 6 feet high chain link fence will need to be installed on the east and south side of the use of the contractor yard. No slatting will be required because of the tree buffering. Trees must be installed by July 31st, 2018.*
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 additional signs are proposed.*
7. Required yards and other open spaces. *No additional space for yards or open space is required.*
8. General compatibility with adjacent properties and other property in the district. *Adjacent land uses to the north, east, south is Agricultural and Heavy Industrial to the west.*
9. Use shall not impose a hazard to health or safety. *The use should not impose a hazard to health or safety, if appropriately screened and fenced.*

Ching said this property is served by rural water and septic system

Buffering and Fencing: The applicant will need to screen and buffer for the use of the contractor yard. Activity since the ad hoc meeting: Planning staff met the applicant on-site to discuss required screening and buffering.

Stony Creek Township has been notified of this SPU. Planning staff did not receive any comments from that board.

COMPLETION/RECORDATION REQUIREMENTS

1. Recordation of Findings as attached
2. Screening and buffering as noted above

Aafedt asked if there were any questions from the Commission or if there was a motion.

Bauer said that at ad hoc there was discussion about possibly requiring a chain-link between the shop and the house and asked if that was going to be required or not. Laqua said no but there would be fence on the south side and the east side and trees on the west.

Eynon asked about the tree existing tree row on the south side of the right of way and the trees being suggested on the south of the applicant's property. Laqua stated that standard street tree standards will be applied; one deciduous trees every 35 ft. on the south side of the applicants property. Eynon says he would be concerned about that tree row in conjunction with the tree row on the other side of the roadway creating a snow fence and causing issues blocking the road. City Engineer Hanson suggested not adding trees to the south property line stating the tree row on the south side of the roadway provides enough screening. Hanson said that he believes it would create a snow trap and said that the question of who takes care of that road.

Laqua explained that there would be a chain link fence and row of trees, one every 35 ft., in accordance with the City's landscaping ordinance on the south side of the property. A double row of pine and deciduous trees on the east side and the existing tree row on the north side is sufficient screening. The issue however is that the road may at some point lead north along the east side of this property to a development that is being proposed for that area.

Commissioner Christensen and City Engineer Hanson worried about the chain-link fence creating even more issue with drifting snow than the trees.

The applicant Tod Ammerman spoke and said there is already an issue with drifting. He takes care of the road.

City Engineer Hanson said individual trees every 35 ft. is ok on the south side of the property but he is more concerned about putting a tree row on the east side if a road is put through running north into future development. He suggested leaving the east tree row out and allowing future development deal with screening.

Rich Vestal stated that the oil well east of this site has chain link all the way around it and already causes a lot of drifting snow and adding chain link on the applicant's property will only create bigger issues. Vestal said he and Ammerman work together to care for the road and another tree row would make a nightmare for them out there.

Bob Horab addressed the Commission and said that putting fences and trees in the ETJ using the same standards as for the City doesn't work; there are different weather issues. Jarcik replied that the City has had a lot of request from neighbors insistent on tree and/or fence screening in similar situations so this is nonetheless something that has to be dealt with.

Commissioner Maristuen asked if there is no buffering at the oil well. Laqua said there is only a fence and it would be up to the developer behind the oil well to buffer the well. Maristuen asked if the oil well is not buffered then why are we asking for buffering with this SPU. Laqua stated that the oil well was granted a CUP by the County and now Ammerman is asking the City for an entitlement so are subject to standard regulations.

MOTION BY MARISTUEN, SECOND BY CHRISTENSEN to approve the Special Permitted Use request for to run a business with eight (8) employees and maintain a residence on Agricultural zoned property located in the W1/2, SWSE, Sec. 20, T154N, R100W (218 27th Ave. SE), City of Williston, exempting the tree row on the east side of the property. **AYES:** Hansen, Bauer, Christensen, Long, Maristuen. **NAYS:** Eynon, Aafedt. **ABSENT/NOT VOTING:** None. **ABSTAINED:** None. (approve, 5-2)

B. Special Permitted Use request for storage of hazardous materials in M-2: Heavy Industrial Zoned property, future Lot 3R, Highway 7 Industrial Park, SWSW, Sec. 35, T155N, R101W, City of Williston – Creedence Properties

Aafedt introduced New Business Item 8B (as above) and asked Ching to present. Ching explained the applicant, Creedence Properties LLC, requests a special permitted use (SPU) to store hazardous materials in Lot 3R, Highway 7 Industrial Park, a rearrangement of Lot 1, Block 1.

Storage of hazardous materials, subject to locally adopted Fire Code and State Building Code Regulation is allowed by a special permitted use (SPU) pursuant to section 23(C)(2)(M) of the Williston Zoning Ordinance.

The applicant is proposing to store hazardous materials outside the proposed building. Berm #1 will be located east of the proposed building and Berm #2 will be located at the northeast corner of the property. Both of the berms will have a cement foundation and walls.

The applicant has provided a containment plan. Berm #1 is intended to store tanks with a 4 inch high berm and Berm #2 is intended to store totes with a 4 inch high berm.

Bob Kiser from the Fire Department commented that the Fire Department is OK with the SPU as long as Berm #1 meets the requirement of NFPA 30 and 30A.

Ching said the Highway 7 Industrial Park Subdivision went through a short plat process to create 3 lots from 1 lot at the April Planning and Zoning Meeting. This subdivision is currently in the process of being recorded. This SPU should be contingent on the plat being recorded and the applicant purchasing the property.

There are city water and sewer lines available along 16th Avenue W.

As part of the review for a special use permit, the following items are required to be considered:

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 from 16th Avenue W.*
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. *This SPU requires no additional parking.*
3. Refuse and service areas, with particular reference to the items in "1" and "2" above. *This use will not affect the current refuse and service areas.*
4. Utilities, with reference to locations, availability, and compatibility. *There are city water and sewer lines available along 16th Avenue W.*
5. Screening and buffering with reference to type, dimensions, and character. *Buffering is not required between industrial lots.*
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 additional signs are proposed.*
7. Required yards and other open spaces. *No yards or open spaces are required by Zoning Ordinance.*
8. General compatibility with adjacent properties and other property in the district. *Adjacent land uses to the north, east, west are heavy industrial and agricultural to the south.*
9. Use shall not impose a hazard to health or safety. *The storage of the hazardous materials noted in the application within the proposed berm has been approved by the Fire Marshall. The applicant will install a cement foundation for both berms. Berm #1 will have to meet the requirements of NFPA 30 and 30A in accordance with the Fire Marshall comment.*

The June 5, 2017, ad hoc committee had a question regarding the house located at the corner of the subdivision and asked if the house would be in danger if the containment plan fails.

Planning staff noted that the house is located on Lot 1R and is located on a separate lot. The City Engineer commented that the house will not be in any danger if the containment plan fails.

COMPLETION/RECORDATION REQUIREMENTS

1. Recordation of Findings as attached
2. Contingent on the Highway 7 Subdivision plat being recorded and the applicant being the owner of the property
3. Installation of the berm, as proposed in the Containment Plan
4. Berm #1 will have to meet the requirement of NFPA 30 and 30A

Ching added that the Planning Department did receive a letter of concern from a neighboring property. Staff responded via email and mail including the MSDS for this application. (a copy of the response letter was provided to the Commissioners at the beginning of this meeting)

Aafedt asked about a 4 inch berm and how that will be maintained with wind and erosion. Laqua stated that the containment pad and berm will be concrete not just a dirt berm.

Wyatt Black of Creedence Properties addressed the Commission. He stated the largest berm holds 100% of the largest tote and the smaller berm holds 100% of the largest tote (130 gal.) or 10% of the total in the containment area.

Leroy Sidel spoke and said his property sits above his and storm runoff will run into his land. If run off or storms fill those containment areas and with short berms he is concerned that run off will contain chemical. He stated from previous experience with oil field chemicals he believes that no matter the containment they are not good.

City Engineer Hanson stated that the site will be graded to level and the berms will prevent run off from infiltrating the berms and keeping spills within.

Eynon asked if the chemicals to be stored at this site are the same as currently being stored at West Acres Rentals. Wyatt Black confirmed that they are and stated that once the new site is ready and the move complete then there will no longer be anything at the West Acres site.

Christensen said there is a family and cattle well 25 ft. from the property line of this site and asked Black if he was comfortable with those chemicals there; Black said he was comfortable. Black said there are two well pads located within two-miles either way of this site that would be treated with the same chemicals he will store. Black added that the neighboring property had just been fracked for oil wells. All in similar proximity to family and cattle wells in question.

Commissioner Hansen asked if the storage was product to be used at a later date and not used material. Black stated that to be true. Hansen then asked what if there is a good rain, what happens with that 4 inch berm? City Engineer Hanson said that over flowing that berm would

be a 100 year rain. Aafedt added that Black had previously stated he could agree to make this a 6 inch berm.

Eynon said that the letter from Creedence accompanying the application indicates new chemical and chemical waste contradicting the answer to the question that was just given to Commissioner Hansen. Black said that they do QAQC mixes and if they are not happy with one mix it would be stored in a 55 gal. drum and disposed of; there would be no more than 55 gallons of waste in storage.

MOTION BY CHRISTENSEN, SECOND BY HANSEN to approve the Special Permitted Use request for storage of hazardous materials in M-2: Heavy Industrial Zoned property, future Lot 3R, Highway 7 Industrial Park, SWSW, Sec. 35, T155N, R101W, City of Williston contingent on making the 4 inch berm to 6 inches. **DISCUSSION: Maristuen stated that if the proposed containment and berms have been approved by the experts, NFPA and Fire Marshal, why should this Commission question those decisions. After Commission discussion on this, Christensen amended his motion to remove the requirement that the berm be raised to 6 inches. Hansen agreed and seconded the amended motion. AYES: Hansen, Bauer, Christensen, Long, Maristuen, Aafedt. NAYS: Eynon ABSENT/NOT VOTING: None. ABSTAINED: None. (approve, 6-1)

C. Special Permitted Use request for storage of Industrial Explosives on Lot 9, Block 5, Missouri Ridge Commercial Park (13505 58th St. NW), City of Williston – KLX Energy Services LLC

Appearing by phone for KLX are Jonathan Mann and Richard Borgus. In attendance at the meeting, Scott Mathews of KLX and Ryan Geltel, attorney representing KLX.

Aafedt introduced New Business Item 8C (as above) and asked Ching to present. Ching explained that the applicant, KLX Energy Services LLC, is requesting a special permitted use (SPU) to store up to 50lbs of explosives on Lot 9, Block 5 of Missouri Ridge Commercial Park Subdivision.

Storage of industrial explosives up to 50 pounds in the M-1 zone is allowed by special permitted use (SPU) pursuant to section 22(E)(3) of the Williston Zoning Ordinance.

The applicant requested to store two indoor storage magazine of up to 50 pounds total between the two and one outdoor storage magazine of up to 200 pounds. It was discussed at the ad hoc meeting that the zoning ordinance only allows explosive storage up to 50 pounds and what the applicant is proposing would exceed what is allowed by the ordinance. Planning staff explained that an outdoor magazine may be allowed in the M-2: Heavy Industrial zone but has never been permitted in the M-1 zone. It was determined at the end of the ad hoc meeting that the outdoor storage would require further discussions and will not be included with the SPU. The applicant is now only requesting an SPU for the two indoor magazines.

This proposed SPU is compatible with the adjacent properties as the surrounding properties are zoned industrial. This property is served by rural water and septic system.

As part of the review for a special use permit, the following items are required to be considered:

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 takes existing access from 58th Street NW.*
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. *This SPU requires no additional parking.*
3. Refuse and service areas, with particular reference to the items in "1" and "2" above. *No additional refuse containers will be required.*
4. Utilities, with reference to locations, availability, and compatibility. *Project is served by rural water and septic system.*
5. Screening and buffering with reference to type, dimensions, and character. *No screening is required since the explosive storage magazines are inside of the building.*
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 additional signs are proposed.*
7. Required yards and other open spaces. *No additional space for yards or open space is required.*
8. General compatibility with adjacent properties and other property in the district. *Adjacent land uses to the north and west is M-1: Light Industrial, County Agricultural to the east, and agricultural to the south.*
9. Use shall not impose a hazard to health or safety. *The applicant will need to be up to date to all licenses and are in good standing with the ATF.*
10. *The approval of the two indoor magazines of up to 50 lbs. in one building in the M-1: Light Industrial zone is contingent on BATFE's approval of the magazines.*

Missouri Ridge Township has been notified of this SPU. Planning did not receive any comments from that board.

Applicant to provide copy of BATFE approval of these explosive storage containers; otherwise, this SPU, if approved by the Planning Commission, will not become effective until such approval is received from the BATFE.

COMPLETION/RECORDATION REQUIREMENTS
--

1. Recordation of Findings as attached
2. Applicant to provide copy of BATFE approval of these explosive storage containers; otherwise, this SPU, if approved by the Planning Commission, will not become effective until such approval is received from the BATFE.

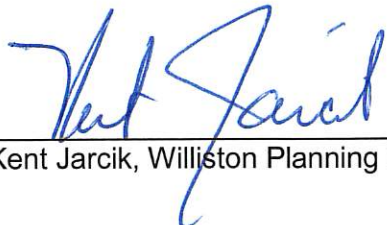
Ryan Geltel, Attorney, and Scott Mathews of KLX spoke to the requirement that the City be provided a copy of the BATFE approval saying that they will not get any actual approval paperwork because once "you" already have a permit with the ATF you are basically giving them notice of your storage rather than asking for permission. Jarcik stated while that is understandable that staff would just ask for something from ATF showing that KLX is in good standing with the ATF. Geltel said that information was in the application submission packet and has been given, in person, to the Fire Chief by Scott Mathews.

Aafedt asked if there were any questions from the Commission or if there was a motion.

MOTION BY LONG, SECOND BY CHRISTENSEN to approve the Special Permitted Use request for storage of Industrial Explosives on Lot 9, Block 5, Missouri Ridge Commercial Park (13505 58th St. NW) City of Williston, contingent on proof of ATF permit. AYES: Hansen, Bauer, Eynon, Christensen, Long, Maristuen, Aafedt. NAYS: None ABSENT/NOT VOTING: None. ABSTAINED: None.

DATE OF NEXT REGULAR MEETING: July 17, 2017

MEETING ADJOURNED.



Kent Jarcik, Williston Planning Director

APPENDIX

TO THE JUNE 19, 2017 PLANNING AND ZONING COMMISSION MEETING

1. Special Permitted Use request for storage of hazardous material in the proposed Highway Commercial Corridor (HCC) Zoning District, on a Tract in the NW1/4 NWNW, Sec. 29, T154N, R101W, in the City's extra-territorial jurisdiction – Staff
2. Special Permitted Use request to run a right of way restoration business with 8 employees and maintain a residence on Agricultural zoned property located in the W1/2, SWSE, Sec. 20, T154N, R100W (218 37th Ave. SE), City of Williston – Tod Ammerman
3. Special Permitted Use request for storage of hazardous materials in M-2: Heavy Industrial Zoned property, future Lot 3R, Highway 7 Industrial Park, SWSW, Sec. 35, T155N, R101W, City of Williston – Creedence Properties
4. Special Permitted Use request for storage of Industrial Explosives on Lot 9, Block 5, Missouri Ridge Commercial Park (13505 58th St. NW), City of Williston – KLX Energy Services LLC