

**REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON May 16, 2016 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.**

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

**MEMBERS PRESENT:** Christensen, Hansen, Boyeff, Maristuen, Bauer, Long

**MEMBERS ABSENT:** Aafedt

**OTHERS PRESENT:** Kent Jarcik, Planning Director; Rachel Laqua, Principal Planner; Samantha Neill, Staff Planner; Josephine Ching, Staff Planner, Christine Edwards, P&Z Office Manager; David Tuan, Public Works Director; Jordon Evert, Assist. City Attorney, Howard Klug, President of City Commission.

**DISPOSITION OF MINUTES:**

- Minutes were approved for April 18, 2016 regular meeting.

MOTION BY CHRISTENSEN, SECOND BY HANSEN to approve minutes as presented.  
CARRIED ON VOICE CALL.

**COMMUNICATION:**

Maristuen addressed items 8A, Daycare SPU and item 8B, Animal Shelter SPU stating that staff would make a quick explanation of the reasoning for these removals later in the meeting.

**PUBLIC HEARINGS:**

- A. Ordinance 1046, an amendment to Ordinance 1026 to amend the removal and reclamation provisions for temporary workforce housing – City Attorney

Maristuen introduced Item A of Public Hearings (as above) and asked City Attorney Evert to introduce. Evert reminded the Commission that Ordinance 1042 is an amendment to Ordinance 1026 regarding temporary workforce housing. Evert stated that what Ordinance 1042 does is carries through the previous temporary workforce housing committee's recommendations as it relates to removal and reclamation of workforce housing facilities. This will not replace Ordinance 1026 but only amend portions of it: Subparts 5, 6 and 8.

Based upon an in-depth discussion, the Committee determined it would be in the City's best interest as well as the temporary workforce housing operators not to define decommission. First, through the Committee's discussion, decommission would inevitably require some form of terminating some or all utilities. The Committee determined this could create a public safety hazard if these structures did not have water access or the ability to have heat and electricity during the winter months. Further, the Committee determined it would also be in the temporary workforce housing operators' best interests to have utilities remain functioning in order to best protect their property. Evert stated that each of the permitted facilities has provided the City with a site reclamation plan which will be circulated throughout City Building, Engineering and Public Works to ensure that the plan is sufficient to reclaim each property.

Evert said that because the Committee is now recommending foregoing defining "decommission," it is now the Committee's recommendation, as outlined in proposed Ordinance 1046, the temporary workforce housing facilities' extension to remove their structures shall occur on or before May 1, 2018, so long as they comply with the Ordinance 1046, namely extending their reclamation bond to have an effective date to December 31, 2018. Additionally, proposed Ordinance 1046 requires temporary workforce housing facilities to reclaim the property in which the facilities lie to occur on or before August 1, 2018 (again as long as they comply with extending the effective date of their reclamation bond until December 31, 2018). Evert stated that this does not affect the vacation date of July 1, 2016 and the camps will still be expected to have their housing units vacated and closed on or before that date.

Evert told the Commission that there was one change in the proposed ordinance in front them that he would recommend as part of the approval of this ordinance. Subsection 6(5) as amended, "specifically including, providing the City an updated reclamation bond extended through 2018, on or before September 1, 2016...."

Commissioner Hansen addressed about Subpart 5(b) discussing that occupancy shall cease on or before July 1, 2016. Hansen stated that at one of the crew camp committee meetings there was discussion of removing the Certificate of Occupancy for the each of these facilities as of July 2, 2016, is that still going to happen? Evert stated he would work with the Building Department to facilitate that and make sure letters explaining such were sent to crew camp operators.

Commissioner Maristuen asked about the facilities providing reclamation plans. Evert stated that each of them already has a plan on file with their reclamation bonds. Each explains their plan to remove facilities, pull or cap utilities per City or utility company requirements, etc...

Bob Horab who has a Williams County conditional use permit (CUP) for workforce housing asked whether he would be required to provide a bond; he was not sure whether he had had to do the same for the County. His CUP runs through 2019. Evert said he would have to look at the CUP file but would continue to work with Horab throughout the time of his CUP to be sure everything is ok. Horab agreed.

After making three calls for public input none was heard. Martisuten closed the public hearing and asked for the wishes of the Commission.

**MOTION BY CHRISTENSEN, SECOND BY HANSEN, to recommend to the City Commission approval of Ordinance 1046 as presented and with the addition of proposed wording in Subsection 6 as presented. AYES: Christensen, Hansen, Bauer, Long, Boyeff, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt. ABSTAINED: None.**

- B. Zone change from County Residential to City A: Agriculture for 660' x 660' in Sublots 5 and 6, Section 30, and from County Commercial to City A: Agriculture for N 1596.48' of Sublot 5, Section 30, T154N, R101W within the extra-territorial jurisdiction of the City of Williston – Staff

Maristuen introduced Item B of Public Hearings (as above) and asked Ching to introduce. Ching reminded the Commission that these two properties are owned by Bill and Karen Novak and were included in the rezone of the City's one-mile extra-territorial jurisdiction (ETJ) in Williston Township but were tabled from zoning consideration at the April 18, 2016 Planning Commission meeting so staff could further evaluate the Novak property, history and use. Ching stated the property located north of 49th Road NW will be referred as "the farm" and it is zoned County Commercial. The other property

located at 141st Ave NW will be referred as the "ranch headquarter" and it is zoned County Residential.

During April's Planning and Zoning Meeting, Mr. Novak spoke and provided a short history of both of his properties. Mr. Novak explained that he bought the 29+ acres farm in 1996 where he uses it for additional pasture for registered cattle and quarter horses. Tractor & Equipment wanted to purchase the farm in 2012 and had a plan to rezone the property from agricultural to commercial. By the time it was on the County's agenda, Tractor & Equipment had changed their mind on the purchase. Mr. Novak noted there were contingencies on the rezone that if the property was not used as a commercial lot within 12 months, it would revert back to agricultural. Ching stated that Planning staff received validation from the County and the farm was rezoned from agricultural to commercial in September of 2012, but the County said there were no contingencies on rezoning the property.

Mr. Novak also explained the history of his 10 acres ranch headquarters. Mr. Novak bought the property in 1975 and he used it for his pasture. He also wintered the cattle before taking them to McKenzie County. The current use on his property is a farm and ranch headquarters with machinery, grain, and hay storage. Mr. Novak said that the Williston Township rezoned his property to residential while Mr. Novak was still operating agricultural uses on his property at the time. There is also a house on the property however no one lives in the house currently.

Ching said that Planning staff asked Mr. Novak to provide a letter stating the history of both of his properties and the current uses on his properties. Planning staff was also provided a letter from the Williston Township to verify the history of the rezone between the Williston Township Board and the County. Both of these letters were included in the Commission packet.

Based on the history the uses of the properties, Planning staff is in agreement with Mr. Novak and the Williston Township Board that zoning the property to A: Agricultural fits the needs of the property and the uses currently on the property.

Ching concluded her presentation stating this item would be expected to go in front of the City Commission on June 14, 2016.

Commissioner Boyeff asked for clarification of the legal descriptions as provided and asked if this zone change affected all or only parts of the Novak's properties. Laqua stated that the descriptions given are the legals of record and likely resulted from an initial split of larger properties to sell off smaller pieces; this proposed zone change is for whole parcels that are owned by Novaks.

Maristuen opened the public hearing and called for public input. After calling three times and hearing no public input he closed the public hearing and asked for the wishes of the Commission.

**MOTION BY LONG, SECOND BY HANSEN, to recommend to the City Commission approval of the re-zone of the N 1596.48' of Sublot 5, Section 30, T154N R101W, from County Commercial to City A: Agriculture. AYES: Christensen, Hansen, Bauer, Long, Boyeff, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt. ABSTAINED: None.**

**MOTION BY BOYEFF, SECOND BY HANSEN, to recommend to the City Commission approval of the re-zone of the property known as: 660' x 660' in Lot 5 and 6, Section 30, T154N R101W, from County Commercial to City A: Agriculture. AYES: Christensen, Hansen, Bauer, Long, Boyeff, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt. ABSTAINED: None.**

- C. Short Plat combining Sublot 14 and an unplatted parcel to create Sublot 16 in the SW1/4, Section 36, T155N, R101W, City of Williston – Mondak Humane Society/Redline Development Services

Maristuen introduced Item C of Public Hearings (as above) and asked Laqua to introduce. Laqua explained this item was a request for a short plat to combine the current Sublot 14 with a 2.5 acre parcel of Park District property in the SW1/4 of Section 36, T154N R101W.

Laqua stated that this property is intended for use by the MonDak Humane Society. This short plat will combine the current (Humane Society) Sublot 14 and the 2.5 acre parcel together into the proposed Sublot 16. After this plat has been recorded, the Park District intends to use a quit claim deed to donate its interest in Sublot 16 to the MonDak Humane Society.

Sublot 16 will be a 4.99 acre parcel. There is access to water, but the property will use a septic system, which is allowable because the parcel is over 1 acre. The property will need to work with the Upper Missouri District Health Unit for this. The property owners and City looked into providing a sewer connection to the Holiday Gas Station site currently under construction south of 58<sup>th</sup> Street, but the cost was prohibitive.

The property will take access of off 2<sup>nd</sup> Ave West.

Laqua added that Sublot 14 had previously requested and been granted a special use permit for an animal shelter on Park zoned property. Because the property will be expanding and the new building will be making use of the expanded property, the City Attorney directed that the special use permit be reexamined and affirmed. However Laqua stated that notice of the SPU change was not done prior to this meeting so the SPU (8B) will not be heard at this meeting but brought back to the Commission at the regular June 20, 2016 Planning and Zoning Commission meeting. Current SPU will remain in place during this time.

At the ad hoc meeting held on May 2, 2016, the committee discussed concerns about the special use permit being expanded. It was agreed that the items in the current SPU findings probably covered the needs of this property but that it should be reaffirmed by the Commission.

Laqua said the committee also discussed the septic system and needs of the shelter. It was discussed that the Upper Missouri District Health unit would ensure that the septic system met the unique needs of the shelter.

The fact that there would be outdoor runs for use during the day was discussed, as were the fact that interior concrete block walls would be used as noise control. Also discussed was the funding mechanism of the facility. The representative, Jeff Miller of Redline Services, said that the facility was being built with donated funds, but that there are many donations made throughout the year. Jeff also noted that in the future, the City pound will be located there, and they are looking into the potential of a boarding facility as well.

Maristuen closed the public hearing and asked for any public input. Bob Horab asked about what deems it cost prohibitive to for the Humane Society tie into City sewer; he asks because he has property up the road from the proposed Humane Society. Dave Tuan, Public Works Director, stated that the design to provide sewer to the Holiday Station south of this project did not include a tie in for the Humane Society; design changes would have cost more than originally thought making it too cost prohibitive at this time for the Humane Society to tie in. Jeff Miller, Redline Development Services, added that the original cost estimate was somewhere around \$30,000 and ended up being over

\$200,000 therefore making it cost prohibitive. Miller stated that City Engineer Hanson agreed that is was prohibitive and was ok with the Humane Society not tying into the City service at this time.

City Attorney Evert said that the ordinance says if you are within so many feet (unknown off hand) you must tie in but it is their option to use septic at this point and right now the cost to stay on septic is best for this project. Horab questioned his options, Evert stated that a conversation with Horab about the options on this property could be had a later time if he would like.

Maristuen called twice more for public input and hearing none closed the public hearing asked for discussion of wishes of the Commission.

Commissioner Bauer asked about what the distance was that would require that the Humane Society tie into City sewer; Dave Tuan stated he did not know off hand but they could get it. Mayor Klug stated that the variable it weather the sewer has fronted the property or not and that even then they may continue to use the septic until it fails at which time they would have to tie into the City service or they could tie in at any other time they chose.

MOTION BY LONG, SECOND BY BOYEFF, to approve the short plat combining Sublot 14 and an unplatted parcel to create Sublot 16 in the SW1/4, Section 36, T155N, R101W, City of Williston, contingent on addressing all staff and ad hoc comments. AYES: Christensen, Hansen, Bauer, Long, Boyeff, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt. ABSTAINED: None.

D. Short Plat to split Lot 1R, Block 1 of the Sundance Rearrangement into two lots (1007 24<sup>th</sup> Street West) – Dave Skalsky/Kirby Engineering

Maristuen introduced Item D of Public Hearings (as above) and asked Neill to introduce. Neill said this item requests a Short Plat for the rearrangement of Lot 1R, Block 1 of the Sundance Rearrangement. This lot is zoned C-3: Restricted Commercial. There are an existing office building and a car wash on this property. There is a SPU for a car wash that was granted in 2012. The SPU for the car wash will be carried over to Lot 4R (car wash lot) only. Staff will rerecord the SPU for the car wash with the new legal description if this short plat is approved by the Commission.

Neill stated that the approval of this short plat would create two lots; one being 0.52 acres and the other being 0.34 acres. There is no minimum lot size in C-3 zones.

Lot 4R (existing car wash) would take access from 24<sup>th</sup> St. W and Lot 3R (existing office building) would take access from 11 Ave W. The applicant would record a reciprocal access easement with the plat as well as add a plat note regarding the reciprocal access easement.

Water and sewer is provided individually to each building and will be fully contained in each lot. Required parking for each business will need to be fully provided on its own lot.

At the ad hoc committee meeting held on May 2nd, 2016, discussion at ad hoc included:

SPU: The SPU that was granted for the car wash will carry over onto the car wash lot (Lot 4R) only.

Access Easement Agreement: A separate access easement agreement will have to be drafted by the applicant. There will also be a note on the plat referencing the separate access agreement document.

Neill concluded her presentation. Maristuen opened the public hearing and asked for any public input. After calling three times for public input and hearing none he closed the public hearing and asked for the wishes of the Commission.

Commissioner Boyeff asked how the access easement would be recorded. Neill stated there would be a separate access easement agreement executed and recorded in conjunction with the plat and staff would ask that a plat note be added to the plat to indicate there was such an agreement.

Commissioner Hansen asked for clarification that the parking on the office building lot was not for use by the car wash customers. Eric Kirby, Kirby Engineering, representing the applicant answered "no" the parking was not for car wash customers. Hansen added she knew there was a lot of trouble with car wash customers using the office building parking spaces to dry off vehicles and such; parking signage on the office building was discussed as a possibility.

**MOTION BY BOYEFF, SECOND BY LONG,** to approve the short plat for the rearrangement of Lot 1R, Block 1 of the Sundance Rearrangement contingent on addressing all staff and ad hoc comments. **AYES:** Christensen, Hansen, Bauer, Long, Boyeff, Maristuen. **NAYS:** None **ABSENT/NOT VOTING:** Aafedt. **ABSTAINED:** None.

**COMMITTEE REPORT:**

- NONE

**UNFINISHED BUSINESS:**

1. 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

Laqua asked that this item continued stating that it is the belief of the City Engineer and the applicant that this matter will be ready to present to the Commission in the next month or two.

**MOTION BY CHRISTENSEN, SECOND BY LONG,** to table this item for a future Planning Commission Meeting. **CARRIED ON VOICE CALL**

2. Zone change for Northern States Improvements properties in Williston Township that lay within the City's extra-territorial jurisdiction.

Laqua stated that staff has been in contact with Northern States and gathering information from Williams County so this matter should be ready to bring back to the Commission in June 2016; requested that it be tabled again.

**MOTION BY LONG, SECOND BY CHRISTENSEN,** to table this item until the June 2016 Planning Commission meeting. **CARRIED ON VOICE CALL**

**NEW BUSINESS:**

- A. Special Permitted Use request for a daycare in the R2:Single and Two Family Residential, 614 11th Street East, City of Williston – Krista Hagen

Maristuen introduced Item A of New Business (as above) and asked Neill to introduce. As stated at the beginning of the meeting this item will not be presented this month. Neill stated that there was an issue with the surrounding owner notifications; this will be corrected and brought forward next month.

MOTION BY BAUER, SECOND BY HANSEN, to approve the special permitted uses (SPUs) in Missouri Ridge Township as presented, contingent on the City Commission approval of the corresponding zone changes. AYES: Christensen, Hansen, Bauer, Long, Boyeff, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt. ABSTAINED: None.

- B. Expansion of Special Permitted Use from Sublot 14 to the proposed Sublot 16 for an animal shelter in a P: Parks District, Section 36, T154N, R101W

Maristuen introduced Item B of New Business (as above) and asked Laqua to introduce. Laqua stated that surrounding owner notifications were not mailed for this item therefore this will brought forward next month. Laqua reminded that there is an existing SPU for the animal shelter on this property that will remain in effect.

MOTION BY BAUER, SECOND BY HANSEN, to approve the special permitted uses (SPUs) in Missouri Ridge Township as presented, contingent on the City Commission approval of the corresponding zone changes. AYES: Christensen, Hansen, Bauer, Long, Boyeff, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt. ABSTAINED: None.

- C. Final plat for Lots 1 – 22, Block 8, Hawkeye Village Subdivision, City of Williston – Hawkeye Village LLC

Maristuen introduced Item C of Public Hearings (as above) and asked Ching to introduce. Ching stated reminded the Commission that they had previously approved the preliminary plat of a rearrangement of Lots 1 to 22, Block 8 of the Hawkeye Village Subdivision. The approval of this rearrangement creates 20 lots, increasing each current lot size by about 1,000 square feet.

All lots are zoned R-2: Single Family, Twinhome, and Duplex Residential and meet the minimum lot requirement for R-2: Single Family, Twinhome, and Duplex Residential zone.

Ching said that Lots 12 to 19 would take access on 19<sup>th</sup> St W and Lots 2 to 9 would take access on Buford Circle. Lot 1 and 20 would take access on 37<sup>th</sup> Ave W and Lot 10 and 11 would take access on 39<sup>th</sup> Ave W. City water and sewer are available from surrounding streets.

As this is a rearrangement of the Hawkeye Village Subdivision, all the requirements of that subdivision including the development agreement, general performance lien, and applicable plat notes shall carry through.

At the March 21, 2016 Planning Commission meeting, the Commission heard the project as presented by Planning staff.

The project applicant stated to the Commission that, regarding the location of easements for the electrical utility, MDU has recommended that those easements be at the rear of the lots instead of at the front of the lots. The applicant stated that he had not yet heard from the telecommunications provider regarding their preferred location of easements.

Planning staff stated that an easement just for utilities at the rear of the lots would be considerably narrower than the 25-foot wide "construction easement" proposed on the lots by the preliminary plat.

Planning staff advised the Commission that they would confer with the City Engineer and Public Works Director regarding location of these easements.

At the April 12th, 2016 City Commission meeting, the Commission heard the project as presented by Planning staff.

Commission has concern that the utility easement will be located along the alley and wanted to ensure the City will have no liability for future maintenances. Planning staff replied that it will be solved before the final approval. Planning staff and developers will continue to work together on the CC&R's and Development Agreement.

**Activity since April 12<sup>th</sup>, 2016 City Commission Meeting:**

Planning staff met with developers on April 26<sup>th</sup>, 2016 to discuss the utility easement. Planning staff and the developers both agreed that the 25' temporary construction easement will not be necessary and will not be depicted on the final plat. There will be a 20' utility easement (10' from each side) along the back of the properties line. Planning staff will create a Development Agreement to note that the fence will be located along the rear of the property line. The developer shall submit conditions, covenants, and restrictions (CC&R's) for the City to review and the approved CC&R's shall be recorded with the final plat. The CC&R's will have to state that the owners are aware that the utility easement is located at the rear of their lots and utility companies have the right to access to their lots for maintenance purposes.

Ching stated that this final plat would be presented to the City Commission at the May 24, 2016 meeting and concluded her presentation.

**MOTION BY BOYEFF, SECOND BY HANSEN**, to recommend that the City Commission approve the final plat for Lots 1-22, Block 8 of Hawkeye Village Subdivision, City of Williston, contingent on:

1. An agreement that the 25' temporary construction easement is not necessary and will not be depicted on the final plat;
2. A 20' utility easement (10' on either side of the center lot line) will be placed along the back of the property lines;
3. A Development Agreement that will not that the fence will be located along the rear of the property line, in addition to noting all previously approved items in the original Hawkeye Subdivision Development Agreement; and
4. The developer submitting conditions, covenants and restrictions (CC&R's) for the City to review and the approved CC&R's shall be recorded with the final plat. The CC&R's will have to state that the owners are aware that the utility easement is located at the rear of their lots and utility companies have the right to access their lots for maintenance purposes.

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

**DATE OF NEXT REGULAR MEETING:** June 20, 2016

**MEETING ADJOURNED.**

  
Kent Jarcik, Williston Planning Director