

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON MONDAY, APRIL 15, 2013, IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.

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

MEMBERS PRESENT: Glenn Boyeff, Deeann Long, Nick Haugen, Jerry Fleck, Chris Brostuen, Jon Maristuen.

MEMBERS ABSENT: Cynthia Aafedt.

OTHERS PRESENT: Kent Jarcik; City Planner, Elaine Sinness; Assistant Planner, Donald Kress; Principal Planner; Kelly Aberle; Building Department, Jordan Evert; City Attorney, Howard Klug; City Commission.

DISPOSITION OF MINUTES: Minutes were approved for the March 18, 2013 meeting, as presented. MOTION BY FLECK, SECOND BY HAUGEN. MOTION CARRIED ON VOICE VOTE.

COMMUNICATION: Boyeff indicated he was considering attending the NDPA conference on April 24-25 but will not be able to attend. He asked the commission if anyone would be able to attend to let the planning office know soon.

PUBLIC HEARING:

1. Proposed Preliminary Plat for Rearrangement of Lot 3, Block 4, Bakken Industrial Park Subdivision – Ilkay

Boyeff opened the public hearing and asked Kress to present. Kress said the applicant 's representative, Craig Madson from Montana has asked to be present via phone. He went on to say the application is for the rearrangement of approximately 11 acres located within Lot 3, Block 4, Bakken Industrial Park, City of Williston which is on the corner of Well Street and Oil Avenue. The plat will provide for two (2) 3.05 acre lots and two (2) 2.50 acre lots zoned M-2. The site has access to public sewer and water, a metal building is being proposed to be built on each lot. Kress indicated an adhoc met and recommended approval of the preliminary plat (11.1 acres) contingent on staff comments being addressed, a standard development agreement and non-protest agreement for future street improvements. Any recommendation would be forwarded to the City Commission. He said Mr. Madson may have comments. Boyeff called three times for public comment, hearing none, closed the public meeting and asked for board action.

MOTION BY HAUGEN, SECOND BY BROSTUEN, to recommend to the City Commission approval of the Preliminary Plat for the Rearrangement of Lot 3, Block 4, (Lots 1R-4R) Bakken Industrial Park Subdivision contingent on staff comments being addressed, a standard development and non-protest for future street improvement agreement(s). AYES: Maristuen, Long, Brostuen, Fleck, Haugen, Boyeff. NAYS: None. ABSTAIN: None. ABSENT NOT VOTING: Aafedt. MOTION CARRIED ON ROLL CALL VOTE.

2. Proposed Zone Change from A: Agricultural to R-5: Mobile Home Court of unplatted property in the SW1/4NW1/4, Section 2, Williston Township, City of Williston. (2 acres) – Ponderosa Investments

Boyeff opened the public hearing and asked Kress to present. Kress said the applicant's representative, Mike Cebulla, from Minnesota will be joining the meeting via phone. Kress pointed out the proposed site plan and referenced the adjoining mobile home court north of the property which will be dealt with later in the agenda.

Kress said this request is a zone change from Agricultural to Mobile Home Court (R-5) for a two (2) acre parcel which is surrounded by R-5 zoning to the north and agricultural to the south (Williston Park Subdivision). The property happens to adjoin the existing mobile home court. The site plan shows twelve (12) future mobile homes. The site will be required to install appropriate buffering and landscaping as dictated by the landscape ordinance. Kress went on to say the planning staff is in support of this zone change due to the compatibility of the surrounding area; provide a site plan as outlined in Section 15 of the ordinance, a plat to dedicate 50th Street right of way to provide access to the property and that the street be paved before development takes place.

Kress indicated an ad hoc met and discussed the need for water, sewer, fire hydrants and right of way. He said the recommendation to the City Commission would be to approve the zone change from Agricultural to R-5 for the two (2) acre parcel contingent on the alignment of 50th Street, installation of water, sewer and hydrants and a mobile home court site plan and proper platting to provide for road dedication.

Boyeff called three times for public comment, hearing none, closed the hearing and asked for board action. Fleck asked if 50th street would need to be paved or just aligned before beginning the project. Kress said the paving needs to be completed in order to provided access. Haugen asked about off street parking being 30ft. which is not shown on the site plan. Kress said that will be corrected from 18ft. to 32ft. at the time of a final site plan review.

MOTION BY BROSTUEN, SECOND BY HAUGEN, to recommend to the City Commission approval of the proposed Zone Change from A: Agricultural to R-5: Mobile Home Court for the two (2) acre parcel in the SW1/4NW1/4, Section 2, T154N,R101W, contingent on alignment & paving of 50th Street, installation of water, sewer and fire hydrants, the mobile home court site plan review and proper platting. AYES: Maristuen, Long, Brostuen, Fleck, Haugen, Boyeff. NAYS: None. ABSTAIN: None. ABSENT NOT VOTING: Aafedt. MOTION CARRIED ON ROLL CALL VOTE.

3. Proposed Zone Change from A: Agricultural to C-2: General Commercial of unplatted property in the W1/2W1/2NW1/4, Section 15, Williston Township, City of Williston. (10- acres) -Statoil

Boyeff opened the public hearing and asked Kress to present. Kress indicated that the applicant's representative, Josh Skluzacek, is in the audience and would like to present an updated plat drawing. He went on to say the location of the property is south of 26th street and the oil well site, containing ten (10) acres. The project site will take access from 32nd Avenue West. No commercial development can take place on the site until 32nd is paved and connects with 26th Street (north) or Highway 2&85 (south). The adhoc committee recommended to the City Commission to approve the zone change contingent upon staff comments being addressed, non-protest of future street improvements and annexation and that the property must be platted at the time of its development and no development permitted until 32nd Avenue West is paved.

Boyeff asked Mr. Skluzacek if the flare at the well site has been taken care of. He said that should all be in place. Kress concurred. Boyeff called three times for public comment, hearing none, closed the public hearing and asked for board comments.

MOTION BY LONG, SECOND BY BROSTUEN, to recommend to the City Commission approval of the proposed zone change for ten acres of the total 22.9 acres from A: Agricultural to C-2: General Commercial of unplatted property in the W1/2W1/2NW1/4, Section 15, contingent on staff comments being addressed, non-protest of future street improvements and annexation and that the applicant understands the property must be platted at the time of its development and no development permitted until 32nd Avenue West is paved.

Discussion took place as a result of Mr. Skluzacek asking about the tax base increasing by 10% as a result of the zone change and if anything can be worked out regarding that increase, should annexation take place. Kress indicated surrounding property owners are considering being annexed which is being reviewed by the annexation committee but that planning does not deal with taxation. Boyeff said the non-protest annexation would be required with this action. He said this board does not make recommendations regarding taxes being increased and/or annexation, the City Commission will have a hearing where questions can be asked at that time.

Fleck asked why only ten acres is being re-zoned. Mr. Skluzacek explained the remainder (12.9) of the property has a special permitted use permit relating to the oil well site which needs to remain agricultural. Kress said oil well sites are not allowed in C-2 and that there is buffering in place that goes around the well site and that the new ordinance will be required to be met at the time of any future development.

AYES: Maristuen, Long, Brostuen, Fleck, Haugen, Boyeff. NAYS: None. ABSTAIN: None. ABSENT NOT VOTING: Aafedt. MOTION CARRIED ON ROLL CALL VOTE.

UNFINISHED BUSINESS:

1. Proposed Zone Change from M-1: Light Industrial to C-2: General Commercial for two(2) unplatted properties located in the SW1/41/4 Section 1, T154N, R100W, and Block 1&2, Sawvell Subdivision (containing 2+acres)- Christianson/ Bradley

Jarcik indicated there has been no further information made available at this time. MOTION BY BROSTUEN, SECOND BY MARISTUEN, to table the proposed zone change the request. MOTION CARRIED ON VOICE VOTE.

2. Modification to Final Plat for Lazy E Subdivision – Ellis/Olson

Boyeff asked Sinness to present. Sinness stated the Planning Commission reviewed the final plat for Lazy E Subdivision in November and recommended approval to the City Commission subject to a number of conditions which never were finalized; therefore, the final plat was never submitted for final approval. She indicated staff has been working with Attorney Evert regarding the documents relating to the a hold harmless agreement concerning the landfill , truck route usage and road agreement for Grandview Drive.

Sinness said since that time, a request from Scott Ellis has asked that changes be made to the plat which would remove seven (7) lots located in Block 1 along with 28th Street NE. The change would reduce the plat from three (3) blocks to two (2). She said after consulting with the city attorney, staff felt the modification(s) would need to be reviewed by this commission and forward a second final plat recommendation to the City Commission.

An adhoc met and discussed the issue regarding road maintenance of an island (23rd Street entry) in the right of way, the remainder 20ft shown as pasture, and hold harmless agreements. Sinness indicated the adhoc did recommend approval contingent on removal of island, identify 20 acre remainder ('horse pasture'), hold harmless agreement relating to the landfill and any truck route usage or improvements; individual water well & septic; non-protest future annexation; park fee at time of building permit; final plat review and corrections. She said the attorney may want to speak regarding discussions in adhoc and that Scott Ellis is in the audience who may have comments.

Attorney Evert spoke regarding the city's liability as it relates to the bypass/truck route and/ or the landfill. He said after checking with Engineer Meiers he suggested that instead of trying to prepare suitable language for a hold harmless document it would be better to require a non-protest agreement that would be recorded at the time of the final plat. Evert said that way any future landowners would be notified and made aware that they would not be able to protest the City's usage of the adjoining landfill and /or County Road 9 as a truck route/bypass.

Scott Ellis said with the removal of the 20 acres (Block 1), the Olsons would no longer be involved with the plat. He was surprised that the island is be removed when it has been there since the first preliminary plat and never a concern until now. He said there will be restrictive covenants and a homeowner's association to cover road maintenance & snow removal. Evert commented that at the time of adhoc, Engineer Meiers was concerned about city/county needing to care for roads, so would be best to remove the island but if the association plans to handle the care of roads, then removal may not be necessary. Ellis said the Grandview & Bar Nothing Subdivisions in the area are not currently being maintained by city/county/township nor does he expect they will in the future. He said a number of the lots will be family owned and is well aware of the fact road maintenance & snow removal will be the property owner's responsibility. He would like to see the island remain.

Boyeff said the issue of maintenance was the main concern at adhoc which at that time was not aware of there being a homeowner's association. Boyeff said the other issue was the pasture shown to the west to the Corps land. Ellis said the grade was the many reason for not identifying that remainder portion as a lot but does not have a problem it being given a lot number. Kress felt it could be identified as its own block number. Contact with the surveyor will be made by staff. Boyeff said it appears the modifications will be acceptable subject to identifying the pasture as a lot, to keep the island provided a homeowner's association is in place among other staff issues.

MOTION BY FLECK, SECOND BY HAUGEN, to recommend to the City Commission approval of the modification(s) to the final Lazy E Subdivision, subject to a non-protest agreement(s) relating to the location or usage of the landfill and County Road 9/134th Avenue NW and future annexation, provide individual water & sewer, a home owners association agreement relating to road maintenance and snow removal, identification of the horse pasture as Block 3, coal mines disclaimer, park dedication to be paid at time of the building permit and any necessary corrections to plat. AYES: Maristuen, Long, Brostuen, Fleck, Haugen, Boyeff. NAYS: None. ABSTAIN: None. ABSENT NOT VOTING: Aafedt. MOTION CARRIED ON ROLL CALL VOTE.

NEW BUSINESS:

1. Special Permitted Use for Group Daycare at 1826 33rd Street West - Wood

Boyeff asked Sinness to present. Sinness pointed out the location of the expansion of the existing daycare within the SandCreek Mobile Home Court. The applicant Darlene Wood would like to expand her family license from seven (7) to ten (10). The home is double-wide home which is rented from WeDak,LLC.

Sinness said the manager of the court has signed a letter of concurrence. Sinness explained that three (3) off-street parking would be required and that only two are available. Ms. Wood has asked the management if they could expand the parking to accommodate for one additional space but was denied but has written approval to use the office parking which is directly across the street (1829 33rd Street) for the owner's vehicles. The property has fencing which will need to be better secured once weather permits.

Sinness reviewed the staff and social services comments and that adhoc met and recommends approval provided the alternative parking is adhered to and the safety concerns relating to the exterior steps, handrail/guardrail and secure fencing are completed. Sinness indicated that since that time the steps have been corrected as requested by the Building Official. She said the findings are attached to the fact sheet and Darlene Wood is available to answer questions. Boyeff asked if the management agreed to the parking. Ms. Wood said yes.

MOTION BY BROSTUEN, SECOND BY HAUGEN, to approve the Special Permitted Use for the expansion of the daycare from seven to ten children for Lot 10, Block 8, Sand Creek Estates at 1826 33rd Street West, provided the outside safety measures have been corrected and the parking space has been approved to provide for a third parking space. AYES: Maristuen, Long, Brostuen, Fleck, Haugen, Boyeff. NAYS: None. ABSTAIN: None. ABSENT NOT VOTING: Aafedt. MOTION CARRIED ON ROLL CALL VOTE.

2. Special Permitted Use for Office Building - City

Boyeff asked Jarcik to present. Jarcik said the application is a request for a professional office building in the M-1 District. The City's office space is becoming overloaded with new staff. He said professional offices are allowed in this zone by special permit. The project is to be located on a vacant lot west of the existing public works office on 8th Street. The plan is for a joint building to include the city planning, building and engineering offices in one facility. The final site plans are being worked on. The city is proposing to set up a temporary office for the Building Department on the north side of the same lot until a permanent building is built, which would not necessarily require a SPU.

Jarcik then reviewed staff comments and indicated the adhoc has recommended approval of a proposed professional office building and temporary office on the same lot until the new building is constructed for Lot 6, Block 1, Jim Bridger Subdivision. Findings are included in the fact sheet. Fleck asked if the property would remain M-1 after construction. Jarcik said that will be the intent.

MOTION BY HAUGEN, SECOND BY LONG, to approve the Special Permitted Use for a professional office building for the City of Williston to be located in the Northwest corner of 8th Avenue East and 5th Street East on Lot 6, Block 1, Jim Bridger Subdivision; subject to following all staff recommendations. AYES: Haugen, Long, Brostuen, Maristuen, Fleck, Boyeff. NAYS: None. ABSTAIN: None. ABSENT NOT VOTING: Aafedt. MOTION CARRIED ON ROLL CALL VOTE.

3. Review Expansion of Mobile Home Court (Springbrook Meadows – 16th Avenue) – Joint Venture, LLC

Boyeff asked Kress to present. Kress said the applicant's representative Dax Simek and owner, Scott Johnson would like to join the meeting by phone. Kress indicated this type of review is not very common but the ordinance (Section 15) does require that a site plan for any mobile home parks be reviewed by the Planning Commission and to forwarded action to the City Commission. The existing mobile home court located along 16th Avenue West was approved in 2010. Prior to expansion (31 spaces) the original development agreement must be met, as well as the requirements for street signage and numbering as prescribed by the fire chief. He said that no land is being added. The 43.38 acre mobile home court was recently annexed

The request is to expand the park by 31 spaces. Those additional spaces are being created by filling in of the sewage lagoons and the removal of storage facilities. The expanded court will provide for a total of 183 spaces. The site currently takes access from 16th Avenue West. The expansion will also allow access from the future 9th Avenue West. All streets are private but the city is planning to reconstruct 16th Avenue West to an urban section street. Part of the project could include easing of the curves that are in the northwest corner and along the north side of the park. The easing of these curves could require acquisition of right of way but is not in the proposed expansion and is not part of board action. The city engineer is in contact with the owner regarding the possible acquisition of the right of way. Kress indicated the adhoc recommended approval to the Planning Commission for the expansion of the existing mobile home court (43.38 acres), contingent upon staff comments being addressed, a non-protest agreement for future improvements of 9th Avenue West and compliance with all existing requirements of the development agreement and any outstanding fees prior to any expansion. He said negotiations regarding future road improvement would be handled with the city engineer regarding the reconstruction of 16th Avenue West.

Haugen asked about signage. Kress said a locator sign will need to be placed at the park's entrance as required by the fire chief. Kress said that will be completed. Boyeff referred to staff comments made by the building department regarding the soils report, he asked if that has been completed. Mr. Simek said they are still in the process of providing back fill for the lagoons but are waiting on engineers to get all the testing to make sure all is feasible. Boyeff asked the commission to review staff comments as noted in the fact sheet.

Brostuen asked Kress if state approval is needed. Kress said that would be required. Mr. Siemek said the only state contact has been relating to the backfilling aspect, the water and sewer extensions were taken care of previously. Boyeff asked whether water/sewer has been hooked to the city. Mr. Siemek indicated that has been completed. Boyeff said it appears there still needs additional requirements being met as required by staff and to check with the state. Kress indicated staff will continue working with the applicant. Boyeff asked for board action.

MOTION BY FLECK, SECOND BY MARISTUEN, to recommend approval to the City Commission for the expansion of the existing 43.38 acre mobile home court (Springbrook Meadows) located in the S1/2NW1/4, Section 2, T154N,R101W, City of Williston; contingent on staff comments being addressed , a non-protest agreement for future improvements of 9th Avenue West and compliance with all existing requirements of the development agreement and meet any state requirements for the expansion. AYES: Brostuen, Long, Maristuen, Fleck, Haugen, Boyeff. NAYS: None. ABSTAIN: None. ABSENT NOT VOTING: Aafedt. MOTION CARRIED ON ROLL CALL VOTE

Meeting adjourned.

Kent Jarcik, Williston Planning Director

APPENDIX

to the

APRIL 15, 2013 Minutes

SPU FINDINGS FOR THE FOLLOWING:

- (1) **Special Permitted Use for Group Daycare on Lot 10, Block 8, Sand Creek Estates (1826 33rd Street West) – Darlene Wood**
- (2) **Special Permitted Use for Office Building on Lot 6, Block 1, Jim Bridger Subdivision – City of Williston**

**FINDINGS OF THE PLANNING AND ZONING COMMISSION
SPECIAL PERMITTED USE (SPU)
FOR
GROUP CHILD CARE FACILITY LOCATED ON BLOCK 8 PLUS ADJACENT VACATED STREET,
LOT 10, SAND CREEK ESTATES (1826 33rd STREET WEST)**

Section 15: R-5: Mobile Home Court District of Ordinance 613 of the City of Williston, otherwise known as the zoning ordinance, states that Group Child Care Homes are allowed by Special Permitted Use.

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. Acceptable.*
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. Use is acceptable in an R-5 zone. Surrounding properties are also zoned the same. Parking agreement with trailer park management was provided to allow additional parking spot(s) for homeowner's vehicle which are located directly across street (1829 33rd Street West) from residence.*
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. Utilities are compatible with use. Acceptable.*
5. *Screening and buffering with reference to type, dimensions, and character. Yard for children has fencing.*
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 signage necessary.*
7. *Required yards and other open spaces. Acceptable.*
8. *General compatibility with adjacent properties and other property in the district. Acceptable*
9. *Use shall not impose a hazard to health or safety. Exterior steps will be required to meet safety requirements and secured fencing required.*

ADDITIONAL FINDINGS: Number of Children allowed will be ten (10) with no additional Employee's required.

By _____
Kent Jarcik, Williston Planning Director

FINDINGS OF THE PLANNING AND ZONING COMMISSION
SPECIAL PERMITTED USE (SPU)
FOR

PROFESSIONAL OFFICE BUILDING ON LOT 6, BLOCK 1, JIM BRIDGER SUBDIVISION Section 22:
M-1: Light Industrial District of Ordinance 613 of the City of Williston, AKA the Zoning Ordinance, states that Office and Office Buildings are allowed by Special Permitted Use.

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 8th Avenue East.
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.* Parking calculations for proposed concepts are being based on ordinance standards for professional office and assembly space requirements.
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.* The apartments provided fencing and trees when the apartments were built. In addition, the building footprint is proposed to have a larger setback away from the property line of the apartment buildings. Landscaping will also be provided per the ordinance.
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 should serve as a more compatible buffer than additional industrial uses. To the East will be the existing City Public Works complex.
9. *Use shall not impose a hazard to health or property.* The office building does not create any hazards to health or property.

By _____
Kent Jarcik, Williston Planning Director