

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON May 21, 2018, AT WILLISTON CITY HALL, 22 E. BROADWAY, WILLISTON, ND.

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

MEMBERS PRESENT: Eynon, Hansen, Long, Giovig, Aafedt

MEMBERS ABSENT: Bauer, Christensen

OTHERS PRESENT: Kent Jarcik, Planning Director; Rachel Laqua, Principal Planner; Jeremy Miller, Staff Planner; Mark Schneider, Development Services Director; Bob Hanson, City Engineer; Jordon Evert, Assistant City Attorney; Christine Edwards, P&Z Office Manager.

COMMUNICATIONS:

A. Approval of minutes of the April 16, 2018, Planning Commission Meeting.

Commissioner Eynon requested the correction of the spelling of a name on page 11 from Rolfson to Wrolfson. **APPROVED WITH THE AFOREMENTIONED CHANGE AND CARRIED ON VOICE CALL**

PUBLIC HEARINGS:

A. Ordinance 1082 amending Ordinance No. 574 of the "Subdivision Regulations of the City of Williston", updating Sections 1 through 9, adding new subdivision definitions and clarifying the approval process for any subdivision - Staff

Chairman Aafedt introduced this item (as above) and asked Laqua to present. Laqua stated that this ordinance amends Ordinance 574, which is the subdivision ordinance for the City of Williston. Planning staff has been working on a comprehensive overhaul of the subdivision ordinance. At this time, staff feels it is appropriate to bring forward the first part of that overhaul, in order to allow for more flexibility and faster timelines as soon as possible.

The attached subdivision ordinance replaces the first sections of the old subdivision ordinance, modernizing language, format, and some definitions. It also modernizes the format and clarifies the review process and structure. Laqua quickly walked through the ordinance format and then pointed to the following:

The most substantial changes are changes to the types of subdivision which the City may use:

1. The definition of a "subdivision" has been changed to meet the NDCC definition, allowing the City more flexibility than what has been allowed in the past. Laqua added that the authorities will not change however. Sections 6, 7 and 8 are things that the City already does but this will codify the processes. Ad hoc meetings will be called "Development

Reviews". Section 11 will lay out application & submittal deadlines. Laqua said that the 65 days listed in the ordinance draft would be the longest time it would take to get a case to the Planning Commission if the application was turned in the day after a submission deadline.

2. A subdivision titled "Accessory Farm Lot Split" will allow a split on properties at least ¼ ¼ Section, or government lots, with the intention that this can be used for properties which wish to split off Agricultural land from a house or shop. This will require a public hearing at the Planning Commission and a review at the City Commission.
3. A subdivision titled "Administrative Review" which will allow staff and other reviewing departments to review and approve simple lot line adjustments and removals, without public hearings or reviews at Planning Commission and City Commission.
4. A subdivision titled "Short Plat" which will change from the current short plat – this will allow creation of lot lines, removal of lot lines, and adjustment of lot lines for an unlimited number of lots, but will not allow altering the character of a neighborhood or requiring major infrastructure improvements. This will require a public hearing at the Planning Commission and a review at the City Commission.
5. A subdivision titled "Major Subdivision Plat", which will follow the same process as the current full plat, with a public hearing of the preliminary plat and a review of the final plat at the Planning Commission, and reviews of the preliminary plat and final plat at the City Commission. This is intended for unplatted property with major infrastructure improvements, or with changes to the Comprehensive plan or zoning, etc.

Laqua said that everything else is to clarify and modify what Planning & Zoning staff and commission already does.

A committee to gather input from surveyors and engineers who utilize the subdivision ordinance often was invited to review this proposed ordinance at a meeting on May 2. Though more individuals were invited, Bill Glen, Bill Moonen with AE2S, Ed Rintamaki of 49th Latitude, Bob Horab of McCody Concrete/Williston Home Builders, and Rick Skumavc and Randy Conrad of Cardon Development, attended. Several comments were given to staff and appropriate changes have been made. Jordon Evert, Bob Hanson, Mark Schneider, Kent Jarcik, and Bob Eynon were also in attendance at that meeting.

At the ad hoc held on May 7, 2018, there were no comments from the ad hoc; discussion involved clarification of several items.

As noted, this draft was sent to all surveyors and engineers that work with the City on a regular basis. This draft is also on the website. Comments received during the meeting with the surveyors and engineers have been incorporated. Staff has received no other comments.

Laqua concluded her presentation. Commissioner Aafedt opened the public hearing, with no public comment she closed the public hearing and asked for the discussion or a motion from the Commission.

Commissioner Eynon directed his question to City Attorney Evert addressing page 14 of the ordinance, as presented, concerning the Development Review Committee. Eynon asked if the public would be allowed to attend the meetings but not comment. Evert replied that the ad hoc meetings have always been open meetings. There just has to be care taken to not have enough commissioners to make a quorum which would constitute the taking of meeting minutes.

MOTION BY LONG, SECOND BY HANSEN to recommend that Ordinance 1082 be approved as presented. **AYES:** Eynon, Gjovig, Hansen, Long, Aafedt. **NAYS:** None **ABSENT/NOT VOTING:** Christensen, Bauer. **ABSTAINED:** None.

B. Zone Change from R-1: Single Family Residential to C-2: General Commercial, Lots 1 & 2, Block 2, Harmon Park Addition, 101 14th St. West – Scott Arnson

Chairman Aafedt introduced item B as above and asked Laqua to present. Laqua stated that this application is to change the property from R-1: Single Family Residential to C-2: General Commercial.

This property, behind the pet store on 2nd Ave. W, was permitted to be built as a hotel in R-1 in 1956. The building permits are on file with the Building Department. In the mid 2000's, there were conversations regarding changing the zoning as part of a siding application, but this was never completed.

The properties to the west of this property are commercial in nature. The alleyway between 2nd Ave W and 1st Ave W in this area has been the dividing line between commercial and residential zoning and uses.

The properties to the north, south and east of this property are all zoned R-1: Single Family Residential.

Laqua said that Planning staff would not be able to recommend a zone change to C-2: General Commercial due to the wide variety of potential uses allowed in C-2. This property is surrounded on 3 sides by R-1 Residential homes. The hotel has operated without incident, but there is concern that if the property were sold as a C-2 zone it could be removed or transitioned to another use.

C-2 uses which would not be desirable on this location include taverns, machine service shops, liquor stores, amusement places, bowling alleys, lumber yards, automobile and mobile home sales, auto service and repair shops, tire repair shops, gas station, plumbing and sheet metal shops, mini storage, and wholesale establishments. Uses also include things like restaurants, which could be an item that would heavily impact neighbors during nighttime hours.

Planning would recommend a Special Use Permit (SPU) to allow the hotel in the R-1 zone. Laqua said this would remove the concern about conformity and would protect the current use. It would also maintain the neighborhood without allowing the wide variety of C-2 uses which would not be appropriate in this area. Laqua said that the property owner however is concerned about the non-conforming status.

At the ad hoc held on May 10, 2018, the applicant noted that he would prefer to change the zoning on the property. His contention is that the property has been seen as a commercial property and has been taxed as a commercial property for many years. He also noted that at

the moment, he has a title issue since the land is not used as it is zoned for. Laqua noted that the County Assessor taxes on the use of the property not on the zoning this should not be an issue.

The ad hoc committee gave no recommendation but had a strong preference toward the option of issuing a Special Use Permit for a hotel in R-1. However, they did want to hear from neighbors.

Laqua said that the Planning Department received only two public inquiries prior to this meeting. Ed Ennis called on behalf of Madonna Ennis, neighboring property owner, looking for information about the proposal. Melanie Carreras visited the Planning department for information, and noted her objection to the proposal. Laqua explained that Carreras provided staff with a letter of opposition after speaking with her neighbors in the area. A copy of the letter was provided to each Commissioner.

Laqua concluded her presentation. Aafedt opened the public hearing and asked for comment from the public. Melanie Carreras approached the Commission and stated that she lives on the opposite corner and that her concerns were stated in her letter and that she was available for further question if there were any.

Ed Ennis approached the Commission on behalf of Madonna Ennis. He stated that the commercial and residential area is divided by the alley. In years past that hotel had a contract as a homeless shelter, used for oil field company use and has been fairly empty for several years. He stated that they are strongly opposed to this requested zone change.

With no other public input, Aafedt closed the public hearing and asked for discussion or a motion from the Commission.

Commissioner Long asked Mr. Arnson what the primary use of the building/property has been. Arnson said it has been a hotel/short-term rental. He said this is coming because of it being a non-conforming use clouding his title. Arnson conveyed his understanding of the history of the property back to 1954. He added that the majority of that block is commercial use and taxed as such.

Arnson said that he has no intention to change anything about the hotel, the property, the use. He said he did not believe the SPU is appropriate and instead would be duct tape and in a couple of years he would be up against the same problem.

Attorney Evert explained that the SPU runs with the land until three years past the end of the use. The SPU will clear the title for financing purposes to continue as the current business. Evert stated that as things stand now, if the business were to burn down or be destroyed it would not be allowed to rebuild and the land could only be used as an R-1: Single-family Residential use. The SPU would make it a conforming use and would allow the hotel to be rebuilt.

Commissioner Eynon lives in the area of the old Trinity Clinic, now AE2S, and they had a similar situation. AE2S currently operates in that building with an SPU and is working out quite well.

Mr. Arnson said that he did not believe that anyone would want to build a residence on that lot if the hotel were removed. Commissioner Eynon stated that the SPU protects the neighbors.

MOTION BY HANSEN, SECOND BY LONG, to recommend denial of the zone change of Lots 1 and 2, Block 3, Harmon Park Addition from R-1: Single Family Residential to C-2: General Commercial as presented but to allow the applicant to apply for an SPU and waive the fee if it is done within 30 days. . **AYES:** Eynon, Gjovig, Hansen, Long, Aafedt. **NAYS:** None **ABSENT/NOT VOTING:** Christensen, Bauer. **ABSTAINED:** None.

UNFINISHED BUSINESS:

A. Ordinance no. 1080, amending the C-3 and C-2 zoning districts to allow for dwelling units to be located above a ground floor permitted use – Staff

Chairman Aafedt introduced this item (as above) and asked Jarcik to address the Commission. Jarcik stated that this item was not quite ready to be presented and requested that this item be removed from the agenda until staff is ready to bring it back in the next couple of months. Jarcik stated that there is additional stake holder input, direction to come. This item will be re-advertised for public hearing when this is ready to come back.

MOTION BY GIOVIG, SECOND BY HANSEN, to remove this item from the agenda at this time. **CARRIED ON VOICE CALL.**

NEW BUSINESS:

A. Special Permitted Use request for the storage of explosives, maximum 50 lbs., in an industrial zone district, 517 Well St., Creek Stone Corners Subdivision (within the Bakken Industrial Subdivision – Hunting Titan

Chairman Aafedt introduced this item of New Business (as above) and asked Miller to present. Miller said the applicant, Hunting Titan Inc., requests a special permitted use (SPU) to store up to 50 pounds of explosives in an existing warehouse located on Lot 3 of the Creekstone Corners Subdivision.

The storage of industrial explosives of up to 50 pounds in the M-2 zone is allowed as a special permitted use (SPU) pursuant to section 23(C)(2)(e) of the City of Williston Zoning Ordinance.

The applicant has submitted a copy of their ATF issued Federal Explosives License. This license is for the storage of up to 50 pounds of explosives in the warehouse at 517 Well Street E. The applicant's site plan and permit have been sent to the ATF for confirmation the proposal meets their requirements. The Commission will be notified of any comments we receive from the ATF, at the Planning and Zoning Commission meeting.

At ad hoc, Mark Schneider had stated that he was not sure if the building needed to meet specific codes, to allow for the storage of up to 50 pounds of explosives indoors. The building department will need to ensure that the building meets all codes required to allow for the storage of 50 pounds of explosives indoors.

This proposed SPU is compatible with the adjacent properties as the surrounding properties are zoned industrial-2: Heavy Industrial.

This property uses both city water and sewer services.

The Fire Chief has reviewed this application. The applicant will need to follow all ATF regulations for the storage of explosives.

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.* This property takes access from Well Street E.
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 other than the required parking for the building and will not create any noise, glare, or odor on adjoining properties.
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.* This property does use the city sewer and water services that run along Well Street. This SPU will not increase the use of these services.
5. *Screening and buffering with reference to type, dimensions, and character.* The proposed magazine will be located inside a building. No screening or buffering will be required.
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 is zoned M-2: Heavy Industrial and used as industrial.
9. *Use shall not impose a hazard to health or safety.* The applicant will need to be up to date on all licenses and are in good standing with the ATF.

This was discussed at May 7, 2018, ad hoc. One member of the public, Jada Leo, with the building at 513 Energy Street, called for information regarding the proposal.

Miller stated the SPU would require the following:

1. Recordation of Findings as attached
2. Compliance with ATF requirements and approval by ATF.
3. The building must meet all building codes required in order to allow for the indoor storage of up to 50 pounds of explosives.

Miller concluded his presentation and stated that the applicant for this and the next item, Joe Murphy. Aafedt called for the wishes of the Commission.

MOTION BY LONG, SECOND BY HANSEN Special Permitted Use request for the storage of explosives, maximum 50 lbs., in an industrial zone district, 517 Well St., Creek Stone Corners Subdivision, City of Williston, contingent upon completion of the aforementioned recordation requirements. **AYES:** Eynon, Gjovig, Aafedt, Long, Hansen. **NAYS:** None
ABSENT/NOT VOTING: Christensen, Bauer. **ABSTAINED:** None.

B. Special Permitted Use request for the storage of explosives, Maximum 6,000 lbs., on agriculturally zoned land in SW, Sec. 22, T155N, R101W – Hunting Titan

Chairman Aafedt introduced this item of New Business (as above) and asked Miller to present. Miller said the applicant, Hunting Titan Inc., requests a special permitted use (SPU) to store up to 6,000 lbs of explosives in 5 magazines, each with a capacity of 1,200lbs, on the SW ¼, Section 22, T155N, R101W. The property is located at 5626 138th Ave. NW, east of Lukenbill Estates and zoned Agricultural.

Storage of explosives and blasting agents, subject to locally adopted Fire Code, provided it is located in the ETJ and outside the city limits, in an A: Agriculture zone is allowed as a special permitted use (SPU) pursuant to section 8(E)(16) of the City of Williston Zoning Ordinance.

The applicant has submitted a copy of their ATF issued Federal Explosives License. This license is for the storage of up to 6,000 pounds of explosives in five separate magazines, each with a capacity of 1,200 pounds. The applicant's site plan and permit was sent to the ATF for confirmation that the proposal submitted meets the ATF requirements. The ATF has confirmed that this proposal does meet their requirements.

Williams County granted a CUP to Go Wireline in August of 2011, to store explosives on this property. There are currently four existing magazines located in the south west corner of the property. Two of these magazines are owned by Go Wireline and the other two are owned by Pioneer.

At ad hoc, Bob Hanson explained that there appears to be a pipeline which runs through the 416' x 416' leased area where Hunting Titan is proposing to locate their five magazines. Bob Hanson also stated that there should be enough space for the magazines to be placed at this location, without being located on the existing pipeline. Staff followed up with the applicant, who has noted that there are marked pipelines run by Statoil in the area for oil, freshwater, and saltwater, but that they are not near the current magazines or the leased area.

Commissioner Aafedt asked how many feet from the pipeline the explosives will be stored. Joe Murphy from Hunting Titan stated that the pipeline runs parallel to 138th Ave. NW and would be at least 1000 ft. from the proposed storage. A second pipeline in the area is on the south side of the highway from this property.

There was also discussion about access to the proposed five magazines. The applicant explained that they would use the same locked gate that Go Wireline and Pioneer use to access their existing magazines, which is located along 56th Street NW.

This proposed SPU is compatible with the adjacent properties. The surrounding properties are either undeveloped or used as an oil well and currently, on this property, there are four existing magazines used for the storage of explosives. Miller said this property does not use any city or rural sewer or water services.

The Fire Chief has reviewed the proposal and has noted that the applicant will need to follow all ATF regulations for the storage of explosives.

The Rural Fire Chief has been notified of this proposal and has not provided any comments.

Missouri Ridge Township has been notified of this SPU. Planning staff will provide any comments from the township at the Planning and Zoning meeting.

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.* This property takes access from both 138th Ave NW and 56th 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 and will not create any noise, glare, or odor on adjoining properties.

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.* This property does not use either rural or city water or sewer services. There is a rural water line that does run along 56th Street NW to the south of the property.

5. *Screening and buffering with reference to type, dimensions, and character.* No screening or buffering is required for this use.

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 to the north, east, and south are zoned A: Agriculture and the property to the west is in the County and zoned Agriculture. The properties located to the north, east, and south are vacant and the property to the west has an oil well on it.

9. *Use shall not impose a hazard to health or safety.* The applicant will need to be up to date on all licenses and are in good standing with the ATF.

Miller stated the SPU would require the following:

1. Recordation of Findings as attached
2. Compliance with ATF requirements and approval by ATF

When Miller concluded his presentation, Commissioner Eynon asked of Joe Murphy if the surrounding land owners were notified of the proposal to have explosive next to their properties. Eynon further asked if there were a 24 hour contact # posted for the public to call if they suspected a problem. Joe Murphy stated ATF does not support or allow for advertisement that explosives are in a certain area, for safety reasons. Further he added that there will be warehouse located one-mile away from the explosives storage and that there will be someone there 24 hours a day. Murphy explained to the Commission that product will come into the 517 Well St. location then taken to the Hughes location for storage only. When product is sold it will be delivered to the buyer. No use of the explosives will happen on either property.

MOTION BY GIOVIG, SECOND BY HANSEN, to approve the Special Permitted Use request for the storage of explosives, Maximum 6,000 lbs., on agriculturally zoned land in SW, Sec. 22, T155N, R101W, City of Williston, contingent upon completion of the aforementioned recordation requirements. **AYES:** Eynon, Giovig, Aafedt, Hansen. **NAYS:** None **ABSENT/NOT VOTING:** Christensen, Bauer. **ABSTAINED:** None.

COMMITTEE REPORT:

A. NONE

DATE OF NEXT REGULAR MEETING: Monday, June 18, 2018.

MEETING ADJOURNED.



Kent Jarcik, Williston Planning Director

APPENDIX

To the May 21, 2018 Planning & Zoning Commission Meeting

- A.** Special Permitted Use request for the storage of explosives, maximum 50 lbs., in an industrial zone district, 517 Well St., Creek Stone Corners Subdivision (within the Bakken Industrial Subdivision) – Hunting Titan

- B.** Special Permitted Use request for the storage of explosives, Maximum 6,000 lbs., on agriculturally zoned land in SW, Sec. 22, T155N, R101W, 5626 138th Ave. NW – Hunting Titan