

Planning and Zoning Commission Minutes

January 11th, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:10 pm.

Members present: Doug Bolken, Paul Wisness, Doug Nordby, Barb Bauman, Vawnita Best, Les Haugen, Kris Mracheck, and Jeremy Olson

Absent: Aaron Gravos,

Staff Present: Planner Jennifer Sheldon; Administrative Assistant, Hillary Whitaker; Building and Planning Director, Jim Talbert; Planning Attorney, Ari Johnson; GIS Coordinator, Aaron Chisholm.

Others: See sign in sheet.

Minutes of December 14th, 2015 were presented. **Motion to APPROVE minutes: Olson, Second: Best: Voice Vote: All Ayes**

Unfinished Business:

Item 1: Amendment for an alternative to the 40 acre minimum lot size in the Ag District

Commissioner Haugen stated that he would prefer to keep it at the 40 acre minimum to protect the Agricultural Zone.

No action was taken upon discussion. 40 Acre minimum remains.

Item 2: Eagle Rock Timber, Inc. is requesting a Conditional Use Permit for a Gravel Mine at 1406 141st Avenue NW, Arnegard, ND in the Southwest ¼ of Section 22, Township 148, Range 101.

Applicant requested to be tabled prior to meeting until 2/8/16

No one represented Eagle Rock Timber.

Item 3: Three Forks Industrial Park is requesting the approval of a text amendment, change of zoning, and a Subdivision plat to create an 11 lot Industrial Park from 40 acres already divided into 4 – 10 acre lots. The property is located in the NE ¼ of the NE ¼ of Section 25, T150N, R100W; right to the SW of the intersection of 26th St NW and 132nd Ave NW.

Planning Director Talbert explained that the development agreement that was requested at the last meeting had been drafted, however the Attorneys' were not able to fully view it and sign off due to the holidays.

Jesse Hoff, representing Three Forks, requested that the board makes a motion to approve the Zone change and Comp Plan amendment contingent upon the Lawyers signing off on the Development Agreement that was written.

Motion to APPROVE contingent on County Commission approval to be able to move forward: Nordby, Second: Olson, Voice Vote: All Ayes.

Public Hearing Items:

Item 1: Oasis Midstream desires to expand a gas plant and crude oil handling facility to include a truck loading/unloading station, as well as add crude oil storage to the site. The applicant has offered to pave 31st street NW from Highway 1806 to their approach off 31st. The pavement will be done prior to the operation of the truck loading/unloading station. The location of this facility 12170 31st Street N.W. Watford City, ND 58854; legal description: NW ¼ Section 35, Township 151N, Range 98W

No representation.

No Audience Comments.

Motion to APPROVE: Olson, Second: Wisness, Voice Vote: All Ayes.

Item 2: Sacagawea Pipeline CO, LLC is seeking a Conditional use permit request for a 14 mile crude oil pipeline, known as the Johnson's Corner Connector. Pipeline will originate at Paradigm's Keene Delivery point Oil Storage Facility, in Section 13, Township 150N, Range 95W and terminate approximately 2 miles east of Johnson's corners, in Section 22, Township 151N, Range 96W.

Jason Stelzer represented Sacagawea Pipeline Co, LLC.

Commissioner Nordby questioned the companies plan if there was a break or leak in the pipeline.

Stelzer said there were lock valves at the middle of the line, they were regulated by the DOT, there is leak detection on the pipeline and would shut things down quickly, and they are partners with Philip 66 who would be monitoring these pipelines.

No Audience Comments.

Motion to APPROVE: Nordby, Second: Haugen, Voice Vote: All Ayes.

Item 3: Topper Harley Major Subdivision- Applicant requested to be tabled before meeting, to 2/8/16.

Item 4: Chas Ophus is requesting a variance to allow a home, shop, and future barn on a 25 acre parcel in the Agricultural zone which is located at 2546 Beaver Creek Road Watford City, ND.

Chas Ophus was present.

The Planning Staff informed the board that Mr. Ophus initiated buying this land before the rule changed to 40 acre minimum and got caught in the transition period. Staff report stated that there were comments opposing the variance, but that was an error that would be corrected, as there were no comments from the public.

No Audience comments.

Motion to APPROVE: Wisness, Second: Bolken, Voice Vote: All Ayes.

Item 5: Amendment for Wastewater Facility

Planning staff are requesting to amend the Zoning Ordinance to add wastewater treatment facility provisions. Wastewater Treatment Facilities would encourage the orderly development as well as improve the infrastructure within the County. The proposed amendment establishes uniform standards for wastewater treatment facilities. It also defines what a wastewater treatment facility is, and where it is allowed within the ordinance.

No audience comments.

Motion to APPROVE: Haugen, Second: Olson, Voice Vote: All Ayes.

Item 6: Review of Workforce Housing Sunset Clause

Planning Staff's recommendation is that the housing that is currently approved and in place be extended, giving it a new sunset date of December 31, 2016. All applicants who have not placed housing on site, or have not placed all of the approved housing on site will be required to obtain a new conditional use permit, if/when they decide to expand the site. All applicants that are not in compliance with all the conditions of approval will be required to submit, in writing, a timeline for when they will be in compliance. The planning staff will review this and decide whether this time line is sufficient or make the decision to have the conditional use permit go before the county commission for possible revocation.

The Commissioners went over each property and made a motion.

1. Aries Residential Suites – **Motion to APPROVE with the additional 18 units not currently on site, applicant will have one month submit, in writing, a timeline for compliance to all conditions to the planning staff for review, and the applicant will also need to submit an exit strategy to the planning staff as well: Nordby, Second: Olson, Voice Votes: All Ayes**

2. Delmer Rink – **Motion to allow CUP to expire due to no units being placed on the property: Olson, Second: Haugen, Voice Votes: All Ayes.**

3. Delta Constructors – **Motion to APPROVE with added conditions: One month to give Planning staff a timeline to get up to code/Units that haven't been place will be expired/Obtaining a bond: Olson, Second: Best, Voice Votes: Bolken: Nay, Wisness: Aye, Haugen: Aye, Best: Aye, Olson: Aye, Nordby: Aye, Bauman: Aye., Motion Passes.**

4. Duane Lobbestael – **Motion to allow CUP to expire: Haugen, Second: Bolken, Voice Vote: All Ayes.**

5. IHD – **Motion to Expire workforce housing due to proximity to the hazardous waste material: Bolken, Second: Best, Voice Votes: Bolken: Aye, Wisness: Aye, Haugen: Aye, Olson: Nay, Nordby: Aye, Bauman: Aye. Motion Passes.**
6. McKenzie Investments – **Motion to APPROVE: Olson, Second: Bolken, Voice Vote: All Ayes.**
7. Mohammed Neamah – **Motion to APPROVE with additional units not placed expiring: Olson, Second: Bolken, Voice Votes: All Ayes.**
8. Newfield Exploration Co. – **Motion to TABLE: Nordby, Second: Olson, Voice Votes: All Ayes.**
9. Robert Ward – **Motion to let CUP for housing expire: Olson, Second: Bolken, Voice Votes: All Ayes.**
10. True Oil – **Motion to let CUP for housing not already set expire: Nordby, Second: Olson, Voice Votes: All Ayes.**
11. Fertile Fields – **Motion to APPROVE with conditions that houses not set expire / Needs exit strategy: Bolken, Second: Nordby, Voice Votes: All Ayes.**
12. Mohave Engineering – **Motion to expire, as units have not been placed site: Olson, Second: Nordby, Voice Votes: All Ayes.**
13. Mountain Plains – **Motion to expire, as units have not been placed on site: Olson, Second: Nordby, Voice Votes: All Ayes.**

After the public hearing was closed, discussion was held on the following items:

- 1) Crow Fly High
- 2) Distance of homes from compressor stations
- 3) Revision of temporary line requirements list
- 4) Fire Code

No motions or action were taken on the discussion items.

Meeting Adjourned at 9:00 pm

Planning and Zoning Commission Minutes

February 8th, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:25 pm.

Members present: Doug Nordby, Vawnita Best, Kris Mracheck, Jeremy Olson, and Aaron Gravos

Absent: Paul Wisness, Les Haugen, Doug Bolken

Staff Present: Planner Jennifer Shelden, Planner Jennifer Peglau;; Administrative Assistant, Hillary Whitaker and Brittany Cook; Building and Planning Director, Jim Talbert; Planning Attorney, Ari Johnson; GIS Coordinator, Aaron Chisholm, Code Compliance Officer; Jeremy Chetwynd.

Others: See sign in sheet.

Minutes of January 11th, 2016 were presented. **Motion to APPROVE minutes: Best Second: Olsen, Voice Vote: All Ayes**

Unfinished Business:

Item 1: Eagle Rock Timber, Inc. is requesting a Conditional Use Permit for a Gravel Mine at 1406 141st Avenue NW, Arnegard, ND in the Southwest ¼ of section 22, Township 148, Range 101.

Item was withdrawn before the meeting by the applicant.

Item 2: Topper Harley Major Subdivision – The applicant has request for the approval of a subdivision plat located within a light industrial zoned district on the north side of 25th M Street NW, approximately 700 feet east of its intersection with 133rd Avenue NW.

Planning Director Talbert explained that in April the applicant turned in an application for a subdivision change. In September the applicant requested a zone change. As soon as the subdivision change is approved you then have 90 days to record the zone change. According to Talbert the applicant was not able to get the zone change recorded within the time limit.

Matt Hinders, representing Topper Harley, stated they weren't able to record the zone change because inside the office employees were changing and leaving. Hinders stated they were ok with paving the 660 feet in front of their property. The applicant wanted to wait to pave the interior roads until they started selling lots because the pavement would deteriorate as a result of going from scoria to pavement.

No audience comments.

Motion to approve with the conditions to obtain a bond for the front paving of 660 feet in front of the Topper Harley Property and all interior roads to be paved before the first building permit can be issued: Olsen, Second: Nordby, Voice Vote: Nordby: Aye, Olsen: Aye, Gravos: Aye, Best: Nay, Mracheck: Aye.

Public Hearing Items:

Item 1: Matthew Strong - The applicant is requesting a variance to allow a home on a 10 acre parcel he purchased prior to the 40 acre minimum amendment in the agricultural district, at 14325 22nd Street NW Alexander, ND 58831 on the Se ¼ SW ¼ SE ¼ Section 7 Township 149N, Range 101W.

Item was tabled before the meeting by request of the applicant.

Item 2: Hiland Crude, LLC – The applicant desires to subdivide a 10 acre parcel in the agricultural zone to build a crude oil offloading facility, which will allow oil to be trucked to the site, offloaded into a storage tank and then transferred into an existing pipeline on the location of this facility 14462 39th Street NW Alexander, ND 58831; legal description: NE ¼ NE ¼ NW ¼ Section 24, Township 152N, Range 102W.

Miles Fisher, representing Hiland Crude, stated they desired these 3 requirements being numbers 11, 17, and 18 to be reconsidered. Number 11 being Water and Foam on site, Fisher believed because OSHA didn't require this and that the county shouldn't either. Number 17 being Bonding, the applicant believes in the near future their property will be in the NDIC Jurisdiction, therefore the county would not have jurisdictional authority. Number 18 being Screening and Buffering, applicant has talked to numerous people that don't agree with this requirement. One of the people the applicant stated that doesn't agree with this is the Rural Fire Chief. Another problem with this requirement stated by the applicant is that the trees will attract wildlife and it could be harmful to the electrical components.

The commissioners stated that these requirements are in the ordinance and are asked by everyone.

No Audience Comments.

Motion to APPROVE: Nordby, Second: Olsen, Voice Vote: All Ayes.

Item 3: Dakota Access, LLC – Crude Oil Pipeline Conditional Use Permit- The applicant desires to build a crude pipeline approximately 1,169 miles long, of which 60miles will be located within McKenzie County, with the goal to improve the transmission of petroleum extracted in the region. Some of the pipeline will be 24" in diameter and the other portion will be 30" in diameter. Pipeline will originate under the Little Missouri River in section 29/30 Township 152N, R 104W and will exit into Dunn County in Section 33, Township 149N, Range 95W.

Chuck Frye, representing Dakota Access, stated that they have 133 tracks closed; they still need 5 surface mineral agreements before they can start the building process.

Lynn Hovde, audience comment, states that they will be paying property tax on their lines.

Laurens Vender mentions that they will be rerouting their pipeline and will not be going under a cemetery.

Motion to APPROVE: Nordby, Second: Olsen, Voice Vote: All Ayes.

Item 4: Pinky's Aggregates -The applicant desires to develop an approximately 40 acre aggregate pit in order to mine, produce, and sell gravel from this location, 1702 139th Avenue NW Arnegard, ND 58853 on the S ½ SW ¼ SW ¼ & SW ¼ SE ¼ SW ¼ Section 1, Township 148N, Range 101W.

Planning Director Talbert suggested denial.

Randy Smith, representing Pinky's Aggregates, stated their first offer of 5000 tons of gravel because they will not be doing all the damage to the road due to other travelers.

Dale Honsey, Owner of Pinky's Aggregates, stated that they will donate 10,000 tons of gravel from the developed pit.

No Audience comments.

Motion to APPROVE: Nordby, Second: Olsen, Voice Vote: All Ayes.

Item 5: Kirkland Inc., Applicant requested for the approval of a Comprehensive Plan land use amendment, change of zoning, and a subdivision plat to allow a residential subdivision. The property is located to the east of 130th Ave (County Road 30) on the north side of 21st ST. Approximately 18 acres in the S ½ of the SW ¼ of Section 16, T149N, R99W. On the date of this report Parcel #65-000-9680

Darrell and Leigh Ann, owners of Kirkland Inc., stated that they desire not to be held responsible for paving the road because they do take care of the road all the way up the highway.

Lynn Hovde, Audience comment, asks if the subdivision paves their part of the gravel road if they will pave their part.

Motion to APPROVE Comp Change, Ag to Residential with the restrictions of having to file for a variance application within a month therefore the applicant will not have to pave: Nordby, Second: Olsen, Voice Vote: All Ayes.

Motion to APPROVE Zone Change, from Ag to R-2: Nordby, Second Olsen, Voice Vote: All Ayes.

Motion to APPROVE Major Subdivision: Olsen, Second: Nordby, Voice Vote: All Ayes.

Item 6: Fire Code Resolution to Article 5.11 of the zoning ordinance

This was a first reading. A second reading will happen at the next planning and zoning meeting on March 14th, 2016 as well as a vote.

Item 7: Oil and Gas Drilling and Production to article 1.4 of the zoning ordinance

Motion to TABLE: Olsen, Second: Gravos, Voice Vote: All Yeas.

After the public hearing was closed, discussion was held on the following items:

- 1) Waste Management – Slurry Injection Project
- 2) **Meeting Adjourned at 8:02 pm**

Planning and Zoning Commission Minutes

March 14th, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:03 pm.

Members present: Doug Nordby, Vawnita Best, Kris Mrachek, Paul Wisness, Les Haugen, and Aaron Gravos, Jeremy Olson (Left at 6:13)

Absent: Doug Bolken

Staff Present: Planner Jennifer Peglau; Administrative Assistant, Hillary Whitaker and Brittany Cook; Building and Planning Director, Jim Talbert; Planning Attorney, Ari Johnson; GIS Coordinator, Aaron Chisholm, Code Compliance Officer; Jeremy Chetwynd.

Others: See sign in sheet.

Minutes of February 8th, 2016 were presented. **Motion to APPROVE minutes: Nordby Second: Olson, Voice Vote: All Ayes**

Unfinished Business:

Item 1: Matthew Strong is requesting a variance to allow a home on a 10 acre parcel he purchased prior to the 40 acre minimum amendment in the agricultural district. Anything in the Agricultural zone requires 40 acres to build

Item was tabled before the meeting by the applicant. Director Talbert is meeting Mr. Strong on site to review compliance issues.

Public Hearing Items:

Item 1: West Dakota Water- The applicant desires to legitimize this project that was begun and completed half way prior to making CUP application. Applicant desires to add 19 miles on to existing fresh water pipeline that is buried approximately 7 ½ feet.

Jim Talbert summarized history with West Dakota Water concerning past CUP's. West Dakota Water admittedly failed to apply for this CUP prior to commencing work on this 19 mile pipeline and had completed 6 miles of the pipeline prior to the violation being identified and Stop Work Order being issued. West Dakota Water had used the partially built pipeline to acquire a Temporary (Layflat) Pipeline Permit from the Dept. and supplied water for an XTO frac.

Jim Talbert read in the ten (10) landowner support letters as Dakota Water requested.

Commissioner Vawnita Best stated how frustrating this hearing item was because West Dakota Water was here last summer asking for forgiveness for the same issue. At that meeting they were told that it was necessary to receive a CUP for every fresh water pipeline before construction.

Commissioner Nordby also expressed frustration that West Dakota Water was before them again with a repeat violation of failing to get a CUP prior to commencing construction.

Deb Halvorson, representing West Dakota Water stated that they want to be in compliance with the county and they did not do this on purpose. Deb stated that they had plenty of time to receive a CUP before constructing the pipeline. She informed us that they did receive CUPs for all other pipelines. They had shown previous email from Feb. 19, 2016, from former staff planner Jill stating they do not need a CUP for fresh water pipelines. They said they were confused thinking that CUP was no longer needed. Deb said that when they requested a CUP for a water depot that it was discovered that they didn't have a CUP for the pipeline that was feeding the Depot. They requested and received approval at that time to legitimize the pipeline they put in the ground without the proper CUP in place.

Commissioner Nordby stated that he has seen WDW in front of this board already for this. CUP's have been required it is your job to know you needed to follow the ordinance.

Deb Halvorson, representing West Dakota Water stated they receive all landowner's approvals before constructing the pipeline.

Drew Poeckes, representing West Dakota Water stated that it was his fault that they didn't get a CUP because they switched engineering firms and he did not inform them of receiving a CUP before construction.

Kyle Hartel, representing Elkan Water, he stated the he and his family had taken all the correct steps and did everything by the rules and lost the bid when West Dakota Water did the Frac for XTO and supplied water through an illegal pipeline. Mr. Harel stated he would have made the same decision again to follow the rules even if he knew they know they wouldn't get the Frac. Elkan Water is committed to follow the rules even though it cost his family money.

Jason Lund, audience comment, He stated that he did not feel it was right that Kyle Hartel lost the job because he followed the rules and WDW got the job and they didn't follow the rules.

Motion to DENY legitimization for this project required to go back to Jim and apply for a CUP with a bond and easement: Nordby, Second: Wisness, Voice Vote: All Ayes.

Item 2: Oneok Bakken Pipeline LLC, NGL Pump Station "Spring Creek", Conditional use permit request to add natural gas pump station facility, by adding a natural gas pump station facility can pump up to 25,000 barrels per day.

Chairman Kris Mrachek asked if they could use a different dust control rather than mag chloride.

Suhail, County Engineer, stated that is if it met the counties expectations than he would be willing to allow another type of dust control.

Miles Fisher, audience comment, closing on a property might stretch longer than the 30 days and that the requirement to have the bond to the County within 30 days from County Commission approval could be a problem.

Commissioner Les Haugen and if there would be a flare on site and stated that he would not be okay with this if there was a flare pit on site.

Josh Emerson, Representing Oneok, stated that he does not believe that there will be a flare on site, as it is just a pump station.

Commissioners Les Haugen and Paul Wisness were curious about if it the facility posed a threat of explosion similar to recent explosions that have happened in Keene at a compressor station.

Josh Emerson, Representing Oneok, stated that this is a pump station for liquid natural gas and is different from the types of facilities that had explosions

Motion to APPROVE: Haugen Second: Best, Voice Vote: All Ayes

Item 3: Fire Code: Second Reading

Item was tabled for further information.

Motion to TABLE: Best, Second: Gravos, Voice Vote: All Yeas.

Discussion was held on the following items:

1: City of Arnegard (Lagoon Site) City Auditor asked if a new CUP would be required since the site that was approved was changed. Director Talbert stated that he felt a new CUP should be required since it was a very close split decision originally.

2: Director Talbert asked for direction from the Board on how they would like him to proceed with Fresh Water Pipeline violations and when they would like him to issue the Stop Work Orders. Currently when pipelines are discovered that don't have CUP's a search of records and files is completed by staff and Director Talbert talks to the individuals/companies about the violation. At that time if it is determined a violation exists the Stop Work Order can be placed on the company. Recently Caliber and North Star Water were found to have extensive pipelines in the ground with no CUP's. The question was posed if the Stop Work Order needed to imposed immediately or if there could be a grace period if those that in in violation applied for a CUP without delay that the Stop Work Order could be delayed until the P&Z Board and County Commissioners had made their vote.

Commissioners Nordby and Gravos express that they felt that violators should be shut down immediately until such time as they come into compliance. It was expressed that the County has put up with non-compliance long enough. There was some discussion about holding a special meeting in April where those companies that are in violation apply immediately and the Board could decide on whether to grant the CUP for existing lines. If was decided that a special meeting would not be feasible and they will be heard on the regularly scheduled April 11th meeting.

The Planning Dept. will accept CUP applications until March 22nd and those that have complete submittals will be heard on April 11th for P&Z and April 19th for County Commission. All require the violation bond that is in the Zoning Ordinance 5.9.5.

1) **Meeting Adjourned at 7:42 pm**

Planning and Zoning Commission Minutes

April 11th, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:02pm.

Members present:, Kris Mrachek, Paul Wisness arrived at 6:53, Vawnita Best, Jeremy Olson left at 8:05, Les Haugen, Butch Fleck

Absent: Doug Bolken, Aaron Gravos, Doug Nordby

Staff Present: Planning and Building Consultant, Scott Harmstead; Planner and Code Enforcement Officer, Jeremy Chetwynd; Administrative Assistant, Brittany Cook; Building and Planning Director, Jim Talbert; GIS Coordinator, Aaron Chisholm; Planning Attorney, Ari Johnson.

Others: See sign in sheet.

Minutes of March 14th, 2016 were presented. **Motion to APPROVE minutes: Olson, Second: Best: Voice Vote: All Ayes**

Unfinished Business:

Item 1: Matthew Strong- The applicant is requesting a variance to allow a home on a 10 acre parcel he purchased prior to the 40 acre minimum amendment in the agricultural district.

Jim Talbert, our planning director, explained that Matthew Strong was requesting a variance to build a home on a 10 acre parcel. He mentioned that the Antelope Creek Township recommended denial a few months ago for the commercial use in agricultural zoned land because they have had many complaints from neighbors about the commercial use being out there, they also had told him numerous times to clean up the land. Jim Talbert also said that he had visited the site about a week ago and Matthew Strong had cleaned up some the property removing some commercial items, there was still one R.V and one large dumpster. Jim's understanding of the townships thoughts on the variance now is that the township recommends approval because Strong has cleaned up the property.

Commissioner Olson stated that Matthew Strong was told by the township for months and months to clean up the parcel and Strong failed to do so.

Jim Talbert stated that since the letter sent from the township Matthew Strong has cleaned up his property.

Kris Mrachek, chairman, asked if the shed was there on the property.

Matthew Strong stated that they did buy it with the shed already on the property.

Matthew Strong stated that when they bought the property they told the township that they would have trucks out there. He then was told to apply for a CUP. While trying to get all the required documents for the CUP the fire marshal told strong that they will no longer do CUP for that purpose. He stated that he has been working with the county since day one and in September 2015 they changed the zoning ordinance to where you had to own 40 acres to build a house on Agriculture land.

Commissioner Les Haugen stated that he had pretty big dirt piles on the property and he asked what those were for and where it comes from.

Strong stated that the dirt came from powerlines and it was to make the property look nicer.

Jim Talbert stated that you are allowed to grade without a permit.

Commissioner Haugen asked if the equipment will come back if he was granted the recommendation of approval for his variance.

Strong answered Commissioner Haugen's question by stating that the equipment will not come back but there is some equipment on the property now to do yard work. He also stated that he drives a semi as normal transportation therefore there will be a semi on the property as well.

Arthur Weber, a resident of Antelope Creek Township, stated that the township had no problem with recommended approval because Strong has brought the site into compliance. The township does not want a potential of it coming back and was curious if the count was going to enforce the zoning ordinance if things strong were to bring back commercial items to the site.

Jim stated that we will be enforcing the code.

Commissioner Best asked if we were able to put stimulations on a building permit with a variance.

Ari stated that we can make a variance with different rules.

Matthew Strong stated that there are two campers on site at the moment that is what he is living in.

Commissioner Olson asked if he was planning on moving the campers if he built the house?

Strong stated that he will not be able to move the campers with the zoning ordinances.

Kris Mrachek, Chairman, asked why Strong was running his business without a permit.

Strong stated that he applied for one and once again the ordinance changed.

Commissioner Haugen asked if Strong brought the semis back how we will enforce that as a county.

Jim Talbert stated that any violations will not be tolerated.

Commissioner Olson stated that it has been tolerated before.

Jim Talbert stated that with Jeremy Chetwynd on board things has been being better taken care of.

Kris Mrachek, Chairman, stated that there is no reason to have the 40 acre code if we don't stick to what it says.

Commissioner Olson stated that he agrees with the Chairman but Strong has had the property for about 2 years and the ordinance just changed.

Motion to APPROVE a single family home with no commercial or industrial use of the land, approved because the application was put in prior to the ordinance change: Olson, Second: Best, Voice Vote: All Aye.

Motion to APPROVE for future variance application applicant will have to prove to had owned the land before the ordinance change: Olson, Second: Haugen, Voice Vote: All Aye.

Public Hearings:

Item 1: McKenzie Electric DAPL- The applicant has requested a Conditional use permit to add transmission lines to existing lines and into Dakota Access Pipe Line (DAPL) substation at Johnson's Corner. Location is in Section 23 Township 150N Range 96W.

Commissioner Olson asked if they received all the landowners' approval.

John Carns, representing McKenzie Electric, stated that they were nowhere near a section line, and they have all landowners' permission.

No audience comments.

Motion to APPROVE: Olson, Second: Fleck, Voice Vote: All Ayes

Item 2: McKenzie Electric BEPC- The applicant has requested a conditional use permit to add new transmission lines to connect the Basin Electric Power Cooperative (BEPC). Location is in Section 27 Township 151N, Range 100W for .20 mile, also location in Section 23, Township 150N, Range 96W for .1 mile.

No board comments.

No audience comments.

Motion to APPROVE: Olson, Second: Best, Voice Vote: All Ayes

Item 3: Mark Campbell- The applicant is requesting a Comprehensive Plan Change/Zone Change for the property located in Section 25, Township 150N, and Range 100W. The applicant wants to rezone this property to Light Industrial to support the construction of a pole barn (not heated nor cooled) for equipment storage.

Jim Talbert stated he has started construction on the pole barn.

No audience Comments.

Motion to approve: Best, Second: Haugen, Voice Vote: All Ayes

Item 4: Mark and Lisa Iverson- The applicant is requesting a variance to allow construction of a modular home and garage on 33.82 acre parcel in the Agriculture zone.

Jim Talbert explained that they originally had 40 acres and they now have 33.82 acres. They subdivided the land before the zoning ordinance had changed.

Commissioner Olson had asked if the zoning ordinance said 40 acres for one home or two.

Jim stated that the ordinance stated you had to own 40 acres to build a house on.

Commissioner Best stated that Lisa Iverson had emailed her asking about this situation. Best also stated that subdivided out 5 acres started before we changed the zoning ordinance.

Commissioner Olson had asked if Lisa and Mark Iverson had any violations.

Jim stated that they do not have any violations.

Best stated that the Iverson's use their land for ag use.

Lisa Iverson stated that they have owned the land for 10 years.

Motion to APPROVE variance with the exception that the land never to split up again: Haugen, Second: Best, Voice Vote: All aye.

Item 5: Caliber Midstream Conditional Use Permit request to legitimize the construction of existing fresh water pipeline for industrial use.

Jim explains that anyone that comes forth with a fresh water pipeline that has not yet received a CUP for that line staff is to shut them down and review any CUP they have at that time. All 3 companies that will come forth today have worked with the staff and have come up with everything staff has asked for.

Commissioner Olson asked if there are any more outstanding pipelines.

Jim responded that at this time there are no others that we are aware of. This was their chance to get squared away with the county.

Commissioner Haugen asked if they have state approved permits.

Jeff Skaare, representing Caliber, stated that they have not provided anything that will need a state permit.

Commissioner Best stated that she received a phone call from the state water commission about water taps needing a state permit.

The board wanted to know if Caliber has thought about giving access to their water lines for the landowners.

Jeff Skaare, Representing Caliber, stated that they have thought about it before but they were not sure about the liabilities it would cause.

Jim Talbert asked Jeff Skaare if they run chemicals through their line and if they were to provide water for the cows or livestock could it possible hurt the livestock.

Jeff Skaare stated that they do shock their line with chlorine.

Motion to APPROVE: Olson, Second: Best, Voice Vote: All Ayes

Item 6: North Star Water- The applicant is requesting a conditional Use Permit to legitimize the construction of a storage pond also existing fresh water pipeline for industrial use.

Jim Talbert stated the previous planner director Walter said it was okay for North Star Water to have a pond.

Duane Sands, representing North Star Water, stated that they want to be in compliance. He wanted to give the landowners what they wanted and as a company they wanted nothing more than to make the landowners happy. He stated that Walter the previous planning director told them that as long as they put a chain-link fence around the pond that it was acceptable. The township chairman of Tri B.J Lindvig did not ask the company if they had a CUP therefore they didn't think they would need one. Sands also stated they would not have a 8 million dollars in worry for a 200 dollar permit fee if they would have known.

Jim stated that the pond was brought to our attention by Mrs. Lindvig.

Commissioner Best stated asked if they had their permits from the state or if they were in violation.

Duane Sands stated they should delay this until they are in compliance with the state.

Codi Austrein, audience comment, it took about 3 years for us to get our permits from the state.

Motion to APPROVE CUP but until proof from the state they will have to lockout any violation with the state: Olson, Second: Best, Voice Vote: All Ayes.

Item 7: West Dakota Water- Conditional Use Permit request to expand an existing fresh water pipeline 19 miles.

Jim stated that Commissioner Doug Nordby came to his office that day to let him know his thoughts on this item. Nordby stated that he told them when they were here last summer to not let this happen again. He supports a denial of this line; he also supports a denial of the line in the ground to continue but nothing further after this.

Deb Halvorson, representing West Dakota Water, stated that they are trying to be in compliance. They had plenty of time before construction to receive a CUP. Their company benefits the county, putting money back and keeping trucks off the road.

JR Ewing, audience comment, stated that they knew the rule and choose not to follow the rules. He suggested the item be tabled and the commissioners take another hard look at what they are voting on. He also stated that the money does not stay in North Dakota.

Commissioner Best stated that they have messed up once before and was told not to come back in front of this board asking for forgiveness. Best also stated that if the stop work order was not put into place that West Dakota Water would still be under construction.

Deb Halvorson, representing WDW, asked for forgiveness stating they made a mistake.

Motion to DENY the CUP for the pipeline: Best, No Second

Motion to APPROVE CUP for the pipeline: Olson, No second

Further discussion between the board members. Commissioner Best stated that her original motion referred to only the pipeline that goes from Hwy 1806 to south on Johnson Corner and was not a motion to deny all of West Dakota Water's other approved lines.

Motion to DENY CUP for the pipeline: Best Second: Haugen Voice Vote:

Paul Wisness: Aye

Les Haugen: Aye

Vawnita Best: Aye

Jeremy Olson: Nay

Butch Fleck: Nay

Item 8: Comprehensive Plan- Request to approve the new Comprehensive Plan Land Use Element.

Scott Harmstead, presenting the Comp Plan, stated that this comp plan is a land use element that is supposed to be long term. The Comp plan is to help drive zoning projects placed for certain areas. They looked at all the possible areas for growth, close to paved road, main highway, and water lines, all in the next 5-10 years. They directed growth near cities and major roads. While making this plan they tried to protect natural resources. He talked about more lake and public river access. Scott also projected houses are built for second homes or vacation homes along the lakes and rivers. Scott then presented the presentation.

Commissioner Butch Fleck did not like the idea of Grassy Butte area changing to commercial and industrial use because he owned land down there that is currently zoned agricultural.

Scott then explained that the land will not be changed unless he wants to change his land. This plan is just so people aren't allowed to just build anything anywhere.

Commissioner Fleck then stated that if he wasn't locked into the area being zoned that then he would feel comfortable with that.

Motion to APPROVE: Haugen, Second: Wisness, Voice Vote: All Aye.

Adjourned at 8:48PM

Planning and Zoning Commission Minutes

May 9th, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:03pm.

Members present:, , Paul Wisness, Vawnita Best, Jeremy Olson, Butch Fleck, Aaron Gravos, Doug Nordby

Absent: Doug Bolken, Kris Mracheck, Les Haugen

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Administrative Assistant, Brittany Cook; Building and Planning Director, Jim Talbert; GIS Coordinator, Aaron Chisholm; Planning Attorney, Ari Johnson.

Others: See sign in sheet.

Minutes of April 11th, 2016 were presented. **Motion to APPROVE minutes: Best, Second: Nordby: Voice Vote: All Ayes**

Unfinished Business:

Public Hearings:

Item 1: McKenzie Electric Oasis Wild Basin- The applicant has requested a Conditional use permit request to add a 115kV double circuit overhead transmission line with 24.9 kv distribution under build.

No board comments.

No audience comments.

Motion to APPROVE: Gravos, Second: Nordby, Voice Vote: All Ayes

Item 2: JHCK Enterprises LLC- The applicant is requesting a Comprehensive Plan Change/Zone Change for the property located in Section 25, Township 150N, Range 100W. The applicant wants to rezone this property from Agriculture to Light Industrial to support the sale of the property so that the allowed use is defined.

Jim Talbert, planning director, stated that before the meeting Aaron Gravos asked if all the water is coming together at one point when this is fully developed will they be able to push water onto adjacent properties. Jim stated that they will not be allowed to do that. To do further building or construction they will have to come before this board again.

Commissioner Olson stated that the comp plan us encouraged to change to light industrial.

Howard Detraglia, Owner of JHCK Enterprises LLC, said he took careful notes about the property before purchasing it. In the future their plan is to put a retention area on the property.

Commissioner Best asked Detraglia if they will subdivide the land in the future for the retention area.

Detraglia, owner of JHCK Enterprises LLC, stated they would not subdivide the land.

Motion to APPROVE: Gravos, Second: Nordby, Voice Vote: All Ayes

Item 3: Marilyn Noonan- The applicant is requesting a Comprehensive Plan Change/Zone Change for the property located in Section 25, Township 150N, Range 100W. The applicant wants to rezone this property from Agriculture to Light Industrial to establish allowed uses.

Jim Talbert stated that housing is not allowed and the applicant understands this.

Marilyn Noonan stated there was no building started on either parcel.

Commissioner Fleck asked what the minimum amount of acreage needed for this.

Commissioner Olson answered that question stating it was only 2.

Jim, planning director, stated that both of the parcels are nearly 5 acres a piece.

Motion to APPROVE parcel number 030010196: Wisness, Second: Gravos, Voice Vote: All Ayes

Item 4: Marilyn Noonan- The applicant is requesting a Comprehensive Plan Change/Zone Change for the property located in Section 25, Township 150N, Range 100W. The applicant wants to rezone this property from Agriculture to Light Industrial to establish allowed uses.

No board comments.

No audience comments.

Motion to APPROVE parcel number 030010195: Best, Second: Fleck, Voice Vote: All aye.

Item 5: Kraemer Mining and Materials Inc.- The applicant has requested a Conditional use permit request for sand and gravel pit property located Section 26, T151N, R103W

Jim Talbert, planning director, explains that are a few conditions for the CUP and to my knowledge the applicant has no issue with them. Jim also mentioned that they have always wanted applicants to use Dust control but most fail to do so therefore they have put dates on the condition. The dates help us keep up with when they are supposed to be putting dust control down and the applicant has to provide a receipt for our records.

Commissioner Best asked the applicant if he had any problems with the conditions.

Kris Anderson, representing Kraemer Mining and Materials Inc, stated they have no problems with any of the conditions.

Motion to APPROVE: Best, Second: Gravos, Voice Vote: All Ayes

Item 6: City of Arnegard- Wastewater Lagoon- The applicant is requesting a Conditional use permit request to construct wastewater lagoon.

Jim Talbert, planning director, stated that they recommend approval the only difference in the lagoons is it will be moved closer to town.

Commissioner Olson stated that the township of Arnegard did approve this.

Commissioner Best asked if they have already started construction on the lagoon.

Cory Ravnaas, representing the City of Arnegard, stated that the city does own the land and the farmer has started to do some work around the future lagoon.

Commissioner Best stated that she felt it was a better place or it overall because it was at the bottom of a hill.

Cory Ravnaas, representing the City of Arnegard, stated that is one reason why they are moving it to that location.

Jim Talbert, planning director, asked Ravnaas if the old lagoon will be transferred over to the new lagoon.

Cory Ravnaas, representing the City of Arnegard, stated that when they switch to the new lagoon they will let the old one dry out.

Motion to APPROVE: Nordby, Second: Wisness, Voice Vote: All Ayes.

Item 7: West Dakota Water- The applicant is requesting a Conditional Use Permit request to expand an existing fresh water pipeline.

Jim Talbert, planning director, stated that these are just little lines that are going to services Oasis pads.

Drew Poeckes, representing West Dakota Water, stated that they are 500 feet a piece.

Commissioner Nordby asked if these pipelines have anything to do with the pipelines we just recently had issues with.

Jim Talbert stated that this has nothing to do with that line. They are not selling this water; it is just going into the Oasis pad.

Motion to APPROVE: Best, Second: Gravos, Voice Vote: All Aye

Discussion Items:

Item 1: Odor Ordinance

Jim stated that most of the odor complaints mostly come from H₂S or sulfur. H₂S is very hazardous to people and cattle. The drive from Johnson's corners to Keene has a very bad sulfur smell. I have heard that Cattle have died from H₂S. It is very hard to measure the odor accurately because of numerous things, one being wind change.

Commissioner Fleck asked if the state enforces this.

Jim stated that their enforcement is a little less than his.

Commissioner Wisness stated that is very hard to tell what cattle have died from.

Commissioner Olson stated to even try to enforce this we would have to hire someone to go out and measure the odor and they would have to be dedicated to this. We would also have to buy the equipment to measure the odor and can we as a county even do this.

Commissioner Best asked if this was a widespread concern.

Commissioner Olson stated that they have fixed monitors on sight to let them know if H2S gets over 10 parts per million. You can smell it around 3-5 parts per million. Each sight should have a sign either stating that there is a possibility there is H2S or that there is H2S.

Ari asked what the health department is doing about it.

Jim stated that this is a serious issue but the state is more equipped to do this type of job. We need a commitment from the state that they are actually going to do this though.

Ron Ritzke, audience comment, the state health department came out to our house and said that the odor was in compliance but the odor was at 45 parts per million. He stated that he read it wasn't supposed to go over 7 parts per million off location. The state of Texas and the state of California has odor control ordinances. He also stated they have been living with this since the 70's.

Commissioner Best asked what department and what division it is was that came out and took the measurements.

Ron Ritzke, audience comment, stated that is what Russell Wilson in the Department of Health.

Commissioner Best stated that per her and Jims conversation that no other county in North Dakota has these ordinances.

Item 2: Noise Ordinance

Jim Talbert, planning director, stated that most of the noise comes from flare pits. The state of North Dakota does not state any noise ordinance besides around nursing homes and about Jake breaks. The decibels should be less during the night rather than the day. Residential areas should be less than commercial or industrial areas. Measuring the sound is the key factor in this discussion. We have excluded this ordinance from ag zoned areas.

Commissioner Nordby suggested we have some measurements and then discuss it.

Adjourned at 6:19

Planning and Zoning Commission Minutes

June 13th, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:03pm.

Members present:, , Paul Wisness (5:28), Vawnita Best, Butch Fleck, Aaron Gravos, Doug Nordby, Les Haugen, Kris Mracheck

Absent: Doug Bolken, Jeremy Olson

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Planner, Shari Buck; Administrative Assistant, Brittany Cook; Building and Planning Director, Jim Talbert; GIS Coordinator, Aaron Chisholm; Planning Attorney, Ari Johnson.

Others: See sign in sheet.

Minutes of May 9th, 2016 were presented. **Motion to APPROVE minutes: Gravos, Second: Best: Voice Vote: All Ayes**

Unfinished Business:

Item 1: West Dakota Water- The applicant is requesting a Conditional Use Permit request to expand an existing fresh water pipeline 19 miles.

Jim Talbert, Planning Director, gave the board some information including that the county commissioners referred West Dakota Water back to this board. They were ordered a cease and desist in January of 2016 and they stopped worked immediately. Jim mentioned that they have been working with Kyle Hartel. Jim explained that the applicant desires to legitimize this project that was begun and completed half way prior to making CUP application. Applicant desires add on to existing fresh water pipeline that is buried approximately 7 ½ feet.

Trevor Hunter, representing West Dakota Water, stated that there are no findings of public safety issues or any concerns with the pipeline being put in the ground. He feels that by bringing water by pipe rather than truck helps with the destruction of our county roads. Trevor stated that emails with a previous planner Jill Edson had said that the county was no longer requiring CUP for water lines that are being used for Ag land.

Commissioner Nordby stated that if that was true it would have to go through the board and the ordinance would have had to change. He stated that it never changed and they were informed of the process from previous CUP for their waterlines.

Trevor Hunter, representing West Dakota Water, stated that they were told one thing by Jill and they followed what she said then they were told another thing when they received the stop work order and they did what they were told again. He stated that they came in and has been very complaint.

JD Demorrett, works for Oasis, he stated that himself and WDW have had a working relationship for about 3 years now. He also stated that they have never had any complaints about WDW and he agrees with pushing water through pipes is a better way and it keeps trucks off the roads.

James Hamilton, Engineer on the WDW project, mentioned that it did slip through the cracks. He stated that Williams County does not require CUP for waterlines after the first one.

Ken Rorse, representing Barlett & West , stated JMAC has always done the right thing but sometimes there is a mistake. He stated that they are an employee owned company and that they put their own retirement money into projects with hopes they don't fail.

Drew Poeckes, representing WDW, stated that he is responsible for things like this to be done in projects and he takes full responsibility for the mistake. He stated that he knew they needed a CUP when the switched engineering firms and it slipped through cracks in the transition. He mentioned since he has made the mistake they have brought more people into the business to help eliminate mistakes like this from happening again. He also stated that he believes that pushing water through pipes is a safer way to move water.

Deb Halvorson, representing WDW, stated that they want to be in compliance, and that they were at fault in this error. She admitted it was an administrative error. She also mentioned they have been working with the Hartels.

Commissioner Nordby asked Deb if they approve this CUP what will happen with the Hartels.

Deb Halvorson stated that they don't tie the results of this meeting with what they are doing with the Hartels.

Commissioner Best stated that this is about the process the county has in place.

Commissioner Haugen asked if the landowner's easements have been paid for.

Deb answered commissioner Haugen stating that their easements have been paid all the way through.

Commissioner Gravos asked if they had their bond in place along with everything else.

Jim Talbert, planning director, stated the bond for the violation was in place and that WDW has done an incredible job since the stopped work order was placed.

Commissioner Gravos asked what the staff's recommendation was.

Jim Talbert stated that the staff's recommendation was approval.

Motion to move to agenda APPROVE: Gravos, Second: Nordby, Voice Vote: All Ayes

Motion to APPROVE: Gravos, Second: Haugen, Voice Vote: All Ayes

Public Hearings:

Item 1: Nicholas Boomer-The applicant is requesting a variance to allow a home on an 18.89 acre parcel, with the understanding of the 40 acre minimum in the agricultural district. The owner does not wish to sell the full 40 acres.

Commissioner Fleck asked if you can you run cattle on it.

Jim stated that the land surrounding the 18.89 acre parcel is very rough. He also stated that he believes out of all the variances he thinks this one fits true intent of a variance the best.

Jim Moberg, owner of the land, stated that the area used to be grazed in the fall but with it being so close to the road and all the oilfield traffic it cannot be grazed any longer.

Commissioner Haugen stated that we put the 40 acres into the ordinance for a reason. One being so houses weren't being built in the middle of nowhere. He asked the board where do we draw the line with these variances.

Commissioner Gravos asked Jim Talbert what his idea of being a good applicant for a variance.

Jim Talbert, answered commissioner Gravos question stating that this variance has about 20 acres of buildable land. The surrounding area is not buildable. With the site conditions he believes this is a variance we should approve.

Commissioner Best stated that this is the fastest growing county for the last 5 years and this county was routed in Agriculture land and we want to make sure agriculture has a future here. She asked if there was 40 acers available for Nicholas Boomer.

Jim Moberg stated they had the land surveyed out because that was land he wasn't using. He stated that the land is no real use to him, and it cannot be grazed.

Commissioner Best stated that if there is 40 acres available then she believes he can comply with the ordinance.

Motion to DENY: Fleck, Second: Nordby, Voice Vote: Paul Wisness, NAY; Les Haugen, AYE; Vawnita Best, AYE; Doug Nordby, AYE; Aaron Gravos, NAY; Butch Fleck, AYE;

Item 2: Kirk and Anita Johnson- The applicant is requesting a variance to allow an additional doublewide trailer on an 18.84 acre parcel, where a home and shop currently are constructed.

Jim Talbert, planning director stated that the Sioux Township was in favor of this variance.

Kirk Johnson stated that they would like to move their kids and grandkids closer. They would like to sell it to their kids but it will remain theirs until the investment is paid for.

Commissioner Fleck asked the board and staff if we had anything in our ordinance for farming families with kids.

Jim Talbert stated we have to be careful giving one part of society a break on certain ordinances.

Anita Johnson stated that the land was given to their daughter 3 years ago they just haven't been financially able to build the house.

Commissioner Best stated that would a subdivision work best in this situation.

Jim Talbert stated that this has a total of 18 acres and he doesn't think we should change to residential to go around the variance.

Anita Johnson stated that they bought this property 21 years ago with almost 19 acres on it.

Commissioner Haugen asked the staff if Williams County has something in their ordinance about farming families.

Jim Talbert stated he does not believe so.

Commissioner Best has asked if they were close to Cartwright.

Chairman Mracheck stated that they are less a mile from the highway and they are adjacent with a paved road.

Commissioner Best asked if they want a total of 3 houses on the 18 acres.

Anita Johnson stated that that is the plan eventually.

It was decided that rather than a variance that the Johnson's should request a zone change to residential and subdivide the land in 3-4 lots.

Motion to DENY: Nordby, Second: Fleck, Voice Vote: All Ayes

Item 3: Keen Kuts-The applicant is requesting a variance to allow an addition to an existing business to bring building into ADA compliance and expand the business. Plumbing and electrical will also be updated.

No board comments.

No audience comments.

Motion to APPROVE: Nordby, Second: Best, Voice Vote: All Ayes

Item 4: Caliber Midstream- The applicant is requesting a Zone Change from Agricultural to Light Industrial. This is in compliance with the new Comprehensive Plan.

Commissioner Haugen asked if they have already gone through Arnegard.

Jim Talbert stated that they have and the staff recommends approval.

Commissioner Best asked where their road approach was.

Jeff Skarre, representing Caliber Midstream, stated that there is a preapproved approach and that this zone change is a part of the comp plan.

Commissioner Best asked if there will be an upgrade to this road.

Jim Talbert stated that that is the intent And the County is talking with Oneok, Youngquist, Caliber and others to see if 138th Ave. can be paved through a cooperative effort between the County and these land owners..

Motion to APPROVE: Nordby, Second: Gravos, Voice Vote: All aye.

Item 5:NST Express- The applicant is requesting a Conditional use permit to change storage tank sizes from (3) 50,000 barrels to 80,000 barrels.

Chairman Mracheck asked if there are similar sites around this area.

Jim Talbert stated that this near the Enbridge site and so there are similar sites around the area.

Paul Forsting, representing NST Express, stated that the diameter will be staying the same they will just be making the tanks taller.

Chairman Mracheck asked if they will be fencing off the area that is being used.

Paul Forsting, representing NST Express, stated that they will be fencing off just the area they are using for the tanks the rest of the area will continue to be farmed.

Commissioner Best asked if they were okay with all the conditions.

Paul Forsting stated that to his knowledge they were.

Motion to APPROVE: Nordby, Second: Best, Voice Vote: All Ayes

Item 6: NST Express- The applicant is requesting a Conditional use permit to install an approximately 3.6 mile oil pipeline to transport oil to and from two approved facilities.

Commissioner Fleck asked if the line was connecting with another line.

Paul Forsting, representing NST Express, said it was connecting to a Tesoro line.

Motion to APPROVE: Wisness, Second: Gravos, Voice Vote: All Ayes.

Item 7: McKenzie Electric, Table Butte-Berg- The applicant is requesting a Conditional use permit request to add a 115kV double circuit overhead transmission line with 24.9 kV distribution under build.

Commissioner Best asked why we don't recommend the same conditions as a pipeline for a transmission line.

Jim Talbert, planning director, stated that there is no real reason and he can move condition 13 "If any easements are obtained through eminent domain, the applicant shall appear before the planning and zoning board, and County Commission for re-approval of those easements obtained through eminent domain."

Motion to APPROVE with condition number 13: Nordby, Second: Best, Voice Vote: All Aye

Item 8: McKenzie Electric, Cherry Creek to DAPL- The applicant is requesting a Conditional use permit to add a 115kV double circuit overhead transmission line with 24.9 kV distribution under build.

Commissioner Best asked if we will include condition number 13 again.

Jim Talbert, planning director, stated from now on for transmission lines we will include condition number 13 "If any easements are obtained through eminent domain, the applicant shall appear before the planning and zoning board, and County Commission for re-approval of those easements obtained through eminent domain."

No Audience Comments.

Move to APPROVE with the condition number 13: Fleck, Second: Wisness, Voice Vote: All Aye.

Item 9: ND72 LLC- The applicant is requesting a Conditional use permit to allow workforce housing that was previously approved and Zone Change to establish land use.

Jim Talbert stated that of the original Conditional Use Permit the landowner has stated that they have not followed all the conditions, including a fence that has been damaged and the weed control. If we approve this zone change for light industrial we will be giving up rights to put conditions on it. Also they cannot use this for workforce housing.

Alan Crockett, representing ND72 LLC, stated that they are aware of the workforce housing not allowed and they are okay with it. He stated they have annual maintenance on the weeds. He also stated that they have brought in a lot of scoria.

Carole Freed, a neighbor to the site, stated she has no objection to changing the zoning of the property. She stated that the fence and the weeds have been an ongoing problem for about 2 years now. They have made attempts to try and fix the issues but have only made it worse. She stated that the fence needs to be rebuilt. She mentioned she would like to see a chain-link fence or something that withstand the wind and snow we receive.

Commissioner Haugen asked if it was on a section line and if it is does it not have to be 30 feet away from the section line.

Carole Freed and Alan Crockett both stated that there are two different pipelines going through the section line.

Commissioner Haugen suggested that they could move the fence up the hill.

Alan Crockett stated that moving the fence up the hill would only move the problem.

Commissioner Best stated that the roads going into these buildings are inadequate and she would not like to rezone the property with no conditions.

Alan Crockett stated that they have been working with Carole with these issues.

Commissioner Nordby asked if a chain-link fence is required on sites like this so their debris stays on their own property. He also mentioned planting grass on the slope.

Carole Freed stated she would like to see that and some erosion control.

Jim Talbert suggested tabling this until they work out the issues.

Motion to TABLE: Nordby, Second: Wisness, Voice Vote: All Aye.

Item 10: Navigator Energy Services LLC- The applicant is requesting a Conditional use permit and Zone Change to construct a crude oil storage facility, Lease Automatic Custody Transfer Units (LACT) and equipment; 0.75 mile pipeline.

Jim Talbert stated that they are requiring them to pave the road from highway 73 south the length of their property.

Jeff Towner, representing Navigator Energy Services LLC, stated that they are aware of this and they are perfectly fine with it.

Commissioner Best asked if the road has to meet county standards.

Jim stated that all paved roads have to meet county standards.

Commissioner Best asked if they have any objections to the conditions.

Jeff Towner stated that he does not believe they have any objections to the conditions that have been placed.

Commissioner Nordby asked if they are using approved roads.

Jim Talbert stated that they have shared access with McKenzie Electric.

Commissioner Fleck asked if their site was close to the school.

Jim Talbert stated that they are not adjacent with the school.

Chairman Mracheck asked if there was a reason why it was in this area.

Jim Talbert stated that they are plenty of areas similar to this along Highway 73. He also stated that the zone change complies with the comp plan.

Chairman Mracheck asked if this would cause a lot of noise.

Jeff Towner stated that the most noise will come from the vehicles. In the future that will not be an issue because they are bringing in pipeline.

Chairman Mracheck stated he would rather see a pipeline right away rather than trucks being so close to the school.

Jim Talbert stated that the site is a half mile from the school.

Chairman Mracheck asked how many trucks they expect to be coming through there a day.

Jeff Towner said 2-3 trucks per hour.

Move to APPROVE: Nordby, Second: Gravos, Voice Vote: All Aye.

Item 11: West Dakota Water- The applicant is requesting a Conditional Use Permit to connect to an already constructed and approved freshwater pipeline.

Jim Talbert mentioned that he wasn't sure if condition number 5 "To control dust and tracking during construction and operation on site, the applicant shall provide Mag Chloride treatments monthly at all access points off of State and County Roads and/or staging areas. Documentation of treatment shall be provided to the County Planning Department" needed to be applied here.

Commissioner Best stated that we don't want mag chloride in a field. She also asked WDW if they had any issues with the other conditions.

Drew Poeckes, representing WDW, stated they don't have a problem with any of the other conditions.

Move to APPROVE with removing condition number 5: Gravos, Second: Haugen, Voice Vote: All Aye.

Item 12: Melgarrd- The applicant is requesting a Conditional use permit to construct gravel pit for industrial use.

Jim Talbert said he would like this one to be tabled to gather some more information on it.

Move to TABLE: Nordby, Second: Wisness, Voice Vote: All Aye.

Item 13: Border States Paving- The applicant is requesting Conditional use permit to set up a temporary asphalt plant.

Jim Talbert, planning director, mentioned that Border States Paving is helping the county with the construction of County Road 12.

Deb Hagen, neighbor of the site, stated she is opposed to this CUP because there are 6 families within a half mile of the site. She mentioned that batch plants are known to blow up. She also mentioned that she had a friend that lived 6 miles from one and they had horrible breathing problems when they walked outside their house along with their eyes burning. She said there are many small children around the area and she also has nonsmoking lung cancer and this can only make it worse.

Commissioner Haugen asked if there was a more remote area they could put the batch plant.

Deb Hagen mentioned there was 12 miles they could look at that aren't around families.

Jason Wettels, representing Border States Paving, mentioned that they will be bringing in 20000 tons of asphalt a week. He also mentioned that this site is temporary and it will only be used for 2-3 months but the site will not be cleaned up until next spring.

Commissioner Best asked how they came up with that location.

Jason Wettles stated that Delmer Rink owns the land and they have worked together in the past and he picked the site.

Commissioner Best asked if there was any other reason why this site was picked.

Jason Wettles stated that other reasons why they picked the site were because this site would be closer to where our trucks are coming from so it would be less trucking on the county roads.

Commissioner Haugen stated that the health of the people come before the county roads.

Jason Wettles mentioned that there would be water trucks there all hours of the day to spray the site down.

Ralph Coleman, a neighbor of the site, stated that he is opposed to this CUP. He also stated that further east there is areas that are not heavy populated like this site its.

Larry Nelson, a neighbor of the site, stated that Rink Construction and Border States Paving have buddied up through this process. There are miles and miles east with no people.

Jim Talbert asked Border States Paving if they have an issue with moving.

Jason Wettles stated that the timing of the next meeting and we don't have another site.

Commissioner Haugen asked why they haven't looked at another site.

Jason Wettles said because they have never had opposing residence before so they didn't think to look for another site.

Commissioner Wisness stated that they should have had a backup plan.

Motion to TABLE: Nordby, Second: Haugen, Voice Vote: All Aye.

Item 14: Kent Lilyerd- The applicant is requesting a Conditional use permit to operate a mobile Food Unit(restaurant).

Commissioner Nordby stated that the reason we have the planning and zoning board is to make the county look better.

No Audience Comments.

Motion to DENY: Nordby, Second: Best, Voice Vote: All Aye.

Item 15: Comp Plan 2025

Jim Talbert stated that they looked at the Johnson Corner area a lot.

Scott Harmstead, representing the comp plan, stated that the appendix is online.

Commissioner Fleck stated that there were a lot of people that didn't know about this.

Jim Talbert stated that it was published in the paper, radio and on our county website.

Scott Harmstead stated that they also had 4 public meetings, two in Watford and two in Alexander. He also mentioned that in the survey they did they received 318 responses. We also worked with applicants in many different ways.

Larry Nelson, an audience comment, asked if this would change the way they get taxed.

Jim Talbert stated that taxes have nothing to do with the way it is zoned; taxes are based on the land use.

Motion to APPROVE: Nordby, Second: Gravos, Voice Vote: All Aye.

Discussion Items:

Item 1: International Fire Code

Item 2: Administrative authority to allow underground lateral waterlines that are off an approved mainline as long as the lateral line is less than 1 mile.

Adjourned at 9:50

Planning and Zoning Commission Minutes

July 11th, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:06pm.

Members present: Paul Wisness, Vawnta Best, Butch Fleck, Aaron Gravo, Doug Nordby, Les Haugen, Kris Mracheck, Jeremy Olson, Bethany Devlin

Absent:

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Planner, Shari Buck; Administrative Assistant, Brittany Cook; Building and Planning Director, Jim Talbert;

Others: See sign in sheet.

Minutes of June 13th, 2016 were presented. **Motion to APPROVE minutes: Olson, Second: Fleck: Voice Vote: All Ayes**

Code Enforcement:

Item 1: Violations.

Three Forks RV Park

Jennifer Peglau, Planning and Zoning code enforcement, stated that the owner and she have been in contact. They had a meeting here in the office to talk about the violations that were present and how to become compliant by applying for a CUP. He was given a 30 day stop work order to remove all the trash and add-ons to the RVs. The 30 days were up on July 8th when Evan the owner asked for the weekend to finish the project. She stated that on July 11th after the weekend he then asked for another week. She asked the board for their suggestion on turning their power off.

Commissioner Olson asked if all the tenants of the park knew the power was going to be shut off.

Jennifer stated only the tenants with the add-ons know there is a possibility of the power being shut off.

Commissioner Nordby stated that we only have a short window where turning off the power is an option because of winter.

Commissioner Best stated that she agrees with Commissioner Nordby. She feels this is a good way to let people know we are serious.

Chairman Mracheck excused himself from voting for having contact with the land owner.

Motion to APPROVE: Olson, Second: Best, Voice Vote: All Ayes

All Clear

Jennifer Peglau, Planning and Zoning code enforcement, showed the board a picture of an abandoned oil cleaning facility. She stated that there is oil coming up through the boards and seeping up out of the ground. She mentioned that she had gone out there with Karolin Jappe and turned it over to her. She stated that she was looking for a good direction to go with this site.

Rick Hyce, audience comment, stated he believes there is a rotten liner because they couldn't have received a license without a liner.

Commissioner Best asked if we had any information about this site.

Jennifer, planning and zoning code enforcement, stated that we don't because it is controlled by NDIC.

Commissioner Nordby stated that Karolin and Jerry should deal with stuff like this.

Commissioner Best stated we should still ask for inspections that have been done on this place.

Unfinished Business

Item 1: ND27 LLC- The applicant is requesting a Zone Change from Agriculture to Light Industrial to establish land use. The Conditional Use permit application is tabled until County zoning land use definitions are revised.

Shari Buck , Planner, stated that she had spoken with Carole Freed and Carole had given her permission to state her comments in tonight's meeting. Carole Freed stated to Shari that she is in favor of the Zone Change. Carole and ND27 have worked out their differences and they have come to an agreement.

Alan Crockett, representing ND27 LLC, stated that ND27 has resolved the conflict with Carole Freed. He stated that he had asked Jim Talbert what kind of things they could do to make the project more compliant with things the board and county would like to see. Since then they have worked on the road in the project, they have taken care of the weed problem. They also have removed some of the slope.

Commissioner Best stated that if they hard zoned it then they will have no control over what you do with the land. She stated that she is not comfortable turning it over in the position it is in.

Alan Crockett stated that after it gets hard zoned they will continue to work with the county.

Jim Talbert, Planning Director, suggested that we go with a PUD. A PUD allows us to still zone it to Light Industrial and put conditions on the property. A PUD is to work with existing developments.

Commissioner Gravos asked if erosion control and road requirements come with a road permit.

Jim stated that in the subdivision ordinance we address the roads. In a PUD we can put that as a condition and it is zoned correctly. The only thing that we don't do is review it annually.

Commissioner Best asked if there could be a bond in place because of the erosion control. The falling debris comes down onto the neighbor.

Jim suggested we do a PUD with standards and have a bond in place.

Commissioner Nordby asked what a PUD stands for.

Jim stated a PUD stands for Planned Unit Development.

Commissioner Olson asked if he were to sell this property in the future how could he advertise it.

Jim stated he would advertise it as a PUD with a light industrial use. He also stated that a PUD is more common than just straight hard zoning.

Andrea Lundberg, audience comment, asked when you drive into the lots can you see the erosion.

Commissioner Best said that you can see the erosion and it can be a problem.

Andrea stated that the problem isn't on their property.

Commissioner Best stated that there is not erosion control.

Andrea asked Commissioner Best if she knows where the road is.

Commissioner Best stated that she was out there today and it has nothing to do with the roads it has to do with the lots.

Andrea stated that she doesn't understand how they can hold his permit when it is the middle lot that has a problem with erosion not his property.

Commissioner Best stated that they are dealing with this application.

Motion to DENY and move it back to staff for the PUD application; Nordby, Second: Olson Voice Vote: All Aye.

Public Hearings:

Item 1: Targa Badlands LLC- The applicant is requesting a Zone Change from Agricultural to Industrial, and a revision to the Comprehensive plan. No plans submitted at this time for development. This is in compliance with the new Comprehensive Plan.

Shari Buck, Planner, stated that one resident, Ms. Rosalie Veeder who lives 4200 feet away wants this application denied.

Melissa Kilde, Representing Targa, stated that they are just buying this for future development.

Commissioner Olson asked if this property was already bought for this type of production.

Melissa answered Commissioner Olson's question stating yes.

Commissioner Haugen asked if they have no plans for construction then why are we zone changing it.

Commissioner Olson stated that the Comp Plan shows this type of zoning and in the future when they want to develop something it will already be zoned correctly.

Jim Talbert stated that after talking to residents, we changed the North of this land to Light Industrial and the South to Heavy Industrial.

Commissioner Best asked Melissa if they have talked to Ms. Veeder about her concerns.

Melissa stated that they have had an ongoing working relationship with Ms. Veeder but she has not come to them with any conflicts.

Commissioner Wisness asked how can we say no if the Comp Plan shows what they are asking for.

Motion to APPROVE: Gravos, Second: Haugen, Voice Vote: All Aye.

Item 2: North Star Water- The Applicant is requesting a Conditional use permit to construct a 2500 foot underground freshwater pipeline. This will extend and existing freshwater pipeline to connect to oil pad onsite facilities.

Commissioner Gravos asked if this is an existing pipeline.

Jim Talbert stated that it is. He also stated that the board will see on the 25th about their concerns.

No Audience Comments.

Motion to Approve: Gravos, Second: Olson, Voice Vote: All Ayes

Item 3: Westwood Business Park- The applicant is requesting a Zone Change and Comprehensive Plan Revision from Agricultural to R-1. This is an existing subdivision. This is in compliance with the new Comprehensive Plan.

Shari Buck stated that this already exists; they are just trying to bring it into compliance with the correct zoning. The zone change fits the Comp Plan. The township does recommend approval as well as the staff.

Jim Talbert stated that they are 5 acre lots. When we changed the ordinance to the 40 acres they were still zoned AG.

Marilyn Noonan was there to represent Westwood.

No board comments.

No audience comments.

Motion to APPROVE: Olson, Second: Best, Voice Vote: All Ayes

Item 4: Caliber Midstream- The applicant is requesting a Conditional Use Permit request to construct a 10"-12" steel oil pipeline roughly 6.5 miles connecting to the Dakota Access Pipeline.

Shari Buck stated that this pipeline will connect to a Dakota Access Pipeline.

Jeff Skarre, representing Caliber Midstream, stated that this is a PFC regulated line and one of their conditions is to have county approval. They have easements or are in agreement with all landowners.

Commissioner Best wanted to add condition number 11 stating If any easements are obtained through eminent domain, the applicant shall appear before the Planning and Zoning board, and County Commission for re-approval of those easements obtained through eminent domain. She asked if they had any problem with added that condition or any of the other conditions.

Jeff stated they were perfectly fine with all conditions.

Motion to APPROVE: Haugen, Second: Wisness, Voice Vote: All aye.

Item 5:Youngquist Brothers Oil & Gas N.D- The applicant is requesting a zone change to a Planned Unit Development. This Development will include a mixed use of Light Industrial, R-1 and R-3 Zoning. This request is in compliance with the Comprehensive Plan, which allows for mixed use in the Arnegard Transition Area.

Shari stated that they have moved the housing away from the industrial part of the property bringing the industrial part into compliance. They have also submitted plans for landscaping. They plan on adding 2 more units in for managers. She also stated that the housing is strictly for employees.

Commissioner Olson asked If there was a condition stating that the housing is for employees only.

Jennifer stated that they have been great to work with and they have worked really fast to get into compliance and turn in everything we needed.

Commissioner Nordby asked why we are having R-1.

Jim stated that a PUD is to legitimize existing areas. The R-1 zoning is away from the industrial part.

Shari stated that we are not allowing anymore units to be added in the R-3 side besides the 2 units for the managers.

Commissioner Wisness asked Commissioner Olson if it had gone through the Arnegard Township.

Commissioner Olson stated that it did and the township approved it.

Brett Youngquist was there to represent the Youngquist Brothers.

Motion to APPROVE: Olson, Second: Devlin, Voice Vote: All Ayes

Item 6: Komron Hakabachi- The applicant is requesting a variance to allow a construction of a home on 2.20 acres.

Jennifer Peglau stated that Komron bought the 2.2 acres in 2014. It is in the middle of an industrial subdivision. Two of the industrial companies have stated that they believe it is not safe for a house to be put in an industrial subdivision.

No audience comment.

Motion to DENY: Olson, Second: Haugen, Voice Vote: All Ayes.

Adjourned at 7:00

Planning and Zoning Special Meeting

July 25, 2016

The meeting was held July 25th 2016 at the McKenzie County Courthouse in Watford City, ND and called to order at 5:07 pm

Members present: Paul Wisness, Vawnita Best, Butch Fleck, Aaron Gravos, Doug Nordby, Les Haugen, Kris Mracheck, Jeremy Olson, Bethany Devlin

Absent:

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Planner, Shari Buck; Building and Planning Director, Jim Talbert;

Others: See sign in sheet

Item 1: Discussion of Proposed Zoning Ordinance

Jim Talbert, McKenzie County Planning and Zoning Director, explained that small changes, spelling corrections, grammar, punctuation are all part of the proposed zoning ordinance. Substantive Changes will be highlighted.

Article I: Additional definitions. No substantive changes in definitions. Added definition for TENORM. Dannette Walsh from ONEOK suggested a change in the definition of "Oil and Gas Transmission Line" .

Article II

Section 2.6: Greater clarification of non-conforming definition

Section 2.10: Setback clarifications. Jeff Skaare from Caliber Midstream, suggested adding "from" to the bottom of page 22 to 23.

Section 2.11: Parking Standards: Completely new. Standardized from across the country. Commissioner Nordby suggested we should work with the city so we are not any different.

Commissioner Graves asked on landscaping standards if we were thinking about grass? Mr. Talbert said "we call it ground cover. We also require a landscape plan"

Mr. Talbert also explained that screening and buffering was simplified. We were finding requirements in Light, Heavy and Medium buffering was onerous. Section 2.12.5, you will see that most has been reduced to a light or medium buffering.

Commissioner Mrachek commented that he's notices a lot of fences and trees going up, so it has been nice.

Miles Fisher (Kinder Morgan) passed out a version of landscaping. He says, in the Comp plan you can see McKenzie County has buffering between Industrial and R-1. Chapter 11-33-03 of the Century Code say zoning regulations should be what the Comp Plan says. We don't want trees around Industrial because of the fire hazard. Commissioner Nordby said it helps soften the landscape. When you come in to Bismarck you see it soften the landscape. There is room and it can be done nicely.

Section 2.12.7: Mr. Talbert explained that there are changes in wording to allow 4 strand barb wire fencing.

Section 2.13: Bonds. Not any changes, according to Mr. Talbert, but giving a greater explanation of what bond is to cover; regulations with application. They give us a bond estimate and the bond is given no later than 30 days after approval. We are closing the loophole. A definition given to Reclamation, Construction and Violation Bonds.

Commissioner Mrachek asked if a violation bond is given instead of an easement? Mr. Talbert: No a bond is still required. There should be a cover letter so they know what the violation is; to prevent someone from saying they are not going to change it. An Easement is strictly so we can go on site. An easement should have an end, and a cover letter also.

Commissioner Olson: What is the difference between a Reclamation Bond and a Violation Bond? Mr. Talbert: A violation bond is to stop violations. Reclamation bond is different and should be in place.

Jeffrey Skarre from Caliber Midstream: I will bring information and verbiage. There are bonds filed with the State— if overlapping, it would be nice to have relief.

Mr. Talbert: Century Code says if the State is requiring for the same purpose, we can't do it. We want to look at what the State requires.

Commissioner Nordby: Can we set in motion to access the bond. If it's a dual bond, we should have access to it (PSC)

Dannette Walsh , ONEOK: On the Reclamation bond, how does it apply to transmission lines?

Mr. Talbert: On Oil and Gas Transmission lines, we are not going to require a bond. PSC does. Reclamation bond--- we are looking for structures, pipes that come out of the ground.

Commissioner Wisness: If a scoria pit is dormant, do they have to keep a bond?

Mr. Talbert: They have to restore it to the original state or keep a bond on it. If it goes beyond a year of not being used, we should look at it. `

Section 2.16 Skid Fee: Jim Talbert: We are allowed by State to impose fee. 2013 McKenzie County had \$1.50 per sq ft fee. It's for all skid units whether they are being used or not. Ari (Johnson) is Okay with working but it can be improved by shortening.

Commissioner Mrachek: Does it include skids on Oil Pad sites? We are not charging.

Article III

Section 3.2: Transmission Lines are a Conditional Use

Section 3.42: Agricultural District: Allowed uses.(1) 3 additional houses on 40 acres, subdivided and sold to a direct family member.

Commissioner Fleck: What happens if some family member sells to someone who is not a family member?

Mr. Talbert: If we see abuse we will address it.

Commissioner Best: Williams County entertains a VAR for family members.

Commissioner Olson: What if it was kept as a whole parcel?

Mr. Talbert: Because you have to own land to get a loan.

Commissioner Mrachek: Why 3 houses?

Mr. Talbert: Because that is what is in a minor subdivision. Should we take it out of AG and put it in a subdivision?

Commissioner Wisness: We are still the land of the free—and a variance is a way to allow the flexibility.

Darwin Williamson: Sheridan Wyoming had the same deal. They should be able to do what they want with their land. They allow nothing smaller than 5 acres.

Mr. Talbert: A Variance makes the most sense.

Commissioner Nordby: There should be a reason why they can't do the 40 acres.

Under Subdivision Heading: Mr. Talbert: We should have a mechanism in place to maintain standards (long-term compliance)

PUD Additional Language: Darwin Williamson: On PUD for Section 25, a mechanism, when we get that, depending on use. When we get a PUD we will not have a CUP.

Mr. Talbert: Regardless of zoning, we'll make sure things are staying compliant.

Darwin Williamson: We have formed a CO-OP. Questions asked are if the CUP stays on.

Mr. Talbert: There is a check and balance with a PUD. This board will tell you what they would like in a PUD.

Randy Hedrick: Question: Specifically for maintenance, how do I make everyone adhere to the rules in area 25?

Mr. Talbert: I think we need a mechanism where monies are going I to take care of needs.

Amick Davis: Do you envision people coming before you with a PUD application and we work on this together? Do you see workforce housing as a PUD?

Mr. Talbert: You hire the experts to help you put together your plan (engineers, etc)

Article IV

Commissioner Nordby: We shouldn't be approving any billboards out in the middle of the prairie. Burley, Star, Minot County.

Mr. Talbert: Would you like to limit it to Industrial?

Commissioner Mrachek: rather than outside of town?

Commissioner Nordby: Size?

Commissioner Mrachek: Brightness?

Miles Fisher, Kinder Morgan: The state has outdoor advertising specs. It has to be within 500 ft of Industrial.

Mr. Talbert: Signs: Billboards should be a Conditional Use.

Mr. Talbert: TENORM: Technically Enhanced, Naturally Occurring Radiological Material.

Commissioner Nordby: We haven't got any limits.

Mr. Talbert: This is the time to do it. The State is at 50 picocuries. Do you wish to have a limit?

Commissioner Nordby: If it is above 5 we should have a say.

Mr. Talbert: TENORM: anything above 5 picocuries has to have a CUP?

Section 4.5

Commissioner Nordby: Will we license mobile home parks?

Mr. Talbert: No, the State still licenses them. Mobile homes are Conditional Uses in R-3, Commercial etc. WE can look at licensing Mobile home parks if you wish.

Ben Ashram, Kinder Morgan: You could have 10,000 gallon water tanks out of reach in a fire.

Section 4.16

Mr. Talbert: Recreational Vehicles: I've gone back and forth to find happy medium where roads are being maintained. Discussions about not having RV's being lived in in winter. That route didn't make the most sense. I added a section for RV's that are here between Nov. and March. Added requirements of insulation etc.

Commissioner Best: I would like to make sure there is garbage pick-up weekly.

Karolin Jappe: Trash barrels burning are not allowed.

Mr. Talbert: No additions allowed on RV's. A detached deck is allowed.

Section 4.17 Noise:

Jim Talbert: There is a concern about noise—Flares with a jet engine sound. Tri Town has a pump associated with a salt water depo that measured 67 decuples at a nearby home. 40 to 50 decuples is standard. The State does not have a noise ordinance. We've tried to address that.

Commissioner Graves: How do we implement this?

Mr. Talbert: The State has to take care of it. Or we have to have the expertise and equipment to measure, that would hold up in court.

Commissioner Best: How do we deal with this without having to have a whole new chapter of ordinance?

Mr. Talbert: The odor ordinance is easier to measure. I am concerned with the county having to have the equipment. The State does not have a level for noise. The State can measure. WE are trying to come up with an acceptable level.

Commissioner Best: Cost?

Mr. Talbert: No additional cost.

Article V: Fire Code

Mr. Talbert: This is something we need to include in our ordinance. We have approved it but it was kicked back by the County Commission. State Fire Marshal said we have to adopt it all or not at all, with the exceptions of 5 small sections. This plan would adopt IFC 2012 and the 5 sections we can change as listed here.

Chris Nelson, Fire Marshal from Williams County is an expert witness.

Ben Anderson, Kinder Morgan.: Thank you Jim for sitting down with us. A workable solution. We support it as is.

Mr. Talbert: We would adopt it as 2012 per State Fire Marshal because the recent additions are not in public domain.

Commissioner Fleck: I have concerns. We don't know exactly what this will do. As farmers, we now have to get permits.

Mr. Talbert: That's strictly the State's requirements. I think the Fire Code is well respected throughout the World. This IFC goes hand and glove with IB code. To make sure our buildings remain safe going forward. It's a move that should have been taken together. . There is an added section for County Fire Marshal with duties. Worked with Chris Nelson. If we adopt the Fire Code, logical step is that we hire a Fire Marshal. We have a couple of options. Williams County Joint Powers agreement. Good way to start. In the long-term, we could have a deputy Fire Marshal that would be accountable to Chief Fire Marshal.

Commissioner Nordby: The Plan and Cost..bring it in at the same time.

Commissioner Best: When we've had these discussions—I've contacted Chris and it became evident it would be a high level experience position. I visited Williams County. Determined that there was a capacity for sharing.

Chris Nelson: A lot of feedback from different petroleum Companies.

Article VI: Subdivision Ordinance

Mr. Talbert: The previous ordinance was hard to follow. Most of the standards came from the ordinance, but now we have a step by step process. I also received ideas from the County Engineer. The developer must prove that the development is not pre-mature. Minor subdivision, up to 4 lots. Major subdivision would have a pre-meeting, prepare preliminary plat, and follow the procedure outlined.

Meeting adjourned at 8:45 pm.

Planning and Zoning Commission Minutes

August 8th, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:05pm.

Members present:, , Paul Wisness, Vawnita Best, Butch Fleck, Doug Nordby, Les Haugen, Kris Mracheck, Doug Bolken, Jeremy Olson

Absent: Aaron Gravos, Bethany Devlin

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Planner, Shari Buck; Administrative Assistant, Brittany Cook; Building and Planning Director, Jim Talbert; GIS Coordinator, Aaron Chisholm; Building official, Scott Twogood; Planning Attorney, Ari Johnson.

Others: See sign in sheet.

Minutes of June 25th, 2016 were presented. **Motion to APPROVE Minutes: Olson, Second: Best: Voice Vote: All Ayes**

Unfinished Business:

Item 1: Melgaard Construction- The applicant is requesting a Conditional use permit request to construct gravel pit for industrial use.

Shari stated that Trey McCurley was new to the company and came to us to legitimize the scoria pit. She also stated that this pit is out in the middle of nowhere.

Commissioner Olson asked if they came to us.

Shari conformed that they did come to us.

Commissioner Fleck asked about the weeds on site.

Trey McCurley, representing Melgaard, stated that the county has already sprayed for the weeds.

Jim stated that the Conditional Use Permit requires a weed management plan.

Scott, building official, asked if we require archeological permits. I know it's a DOT standard.

Jim stated that we have not required that in the past.

Motion to APPROVE: Nordby, Second: Olson, Voice Vote: All Ayes

Public Hearings:

Item 1: ND27, LLC- The applicant is requesting a zone change to a Planned Unit Development. This development consists of Light Industrial Uses, and is in compliance with the Comprehensive Plan. The PUD is approximately 16 acres.

Shari stated that their PUD permit is not for workforce housing. They can come back in the future to amend that condition. They have an erosion control plan. They do have to have a construction bond.

Alan Crocket, representing ND27, LLC, stated that we have done everything we have been asked to do.

Jim stated that they have been great to work with.

Motion to APPROVE: Olson, Second: Best, Voice Vote: All Ayes.

Item 2: Caliber Bear Den Interconnect, LLC- The applicant is requesting a Conditional Use Permit to construct two truck off load facilities.

Shari stated that one of the sites is in a rural area. The other site is right by the Dakota Access DAPL plant.

Jim stated that the board approved the pipeline last month. This is just for the truck off load facilities.

Commissioner Nordby stated that he would like to have them pave their access if we decide to pave the road in the future.

Commissioner Best asked if they plan on using County road 30.

Jeff Skaare, representing Caliber Midstream, stated that they do plan on using County Road 30.

Commissioner Best asked Jeff if he knew that County Road 30 had a weight restriction.

Jeff Skaare asked what the weight restriction was.

Aaron Chisholm stated that it was 80,000 pounds right now.

Kris Mracheck asked how many trucks would be running a day.

Jeff Skaare stated that there would be anywhere from 5-15 trucks a day.

Commissioner Best stated that she wants two conditions added in the CUP. One being they will have to pave their access if they decide to pave road in the future. Another one being that they have to follow the weight restriction on the road.

Motion to APPROVE with those two conditions added: Best, Second: Haugen, Voice Vote: All Ayes

Item 3: Sacagawea Pipeline Co.- The applicant is requesting a Conditional Use Permit to construct the Johnson's Corner to Dakota Access Pipeline that will be approximately 2 miles in length. The pipeline will be 16" in diameter.

Shari stated that there were no comments for the public for or against this pipeline.

Kathleen Spilman, representing Sacagawea, stated that 2 miles of the pipeline is an already approved pipeline.

Commissioner Best asked if they had all permits and easements.

Kathleen stated they do have all of them. This was the last permit they need.

Motion to APPROVE: Fleck, Second: Wisness, Voice Vote: All Ayes

Item 4: Plote Contracting LLC- The applicant is requesting a Zone Change from Commercial to Light Industrial to support current land use. Applicant is requesting a conditional use permit for the employee housing. Employee housing will be occupied in summer months with the exception of one year around for security purposes.

Jennifer stated that this is a nice facility, they have their Certificate of Occupancy, and the site is fenced. She stated that they just want to bring this site into compliance.

Commissioner Nordby asked what type of business this is.

Larry Plote, representing Plote Contracting LLC, stated that this is a construction business, this spot is basically a shop for storage and the housing is strictly for employees.

Commissioner Wisness asked how many units there were.

Larry stated that he has 4 units now totaling 8 people. He wished to have a total of 5 units totaling 10 people.

Jennifer stated that he does have a bond in place at this moment.

Commissioner Wisness stated that the Alexander Township did approve this.

Motion to APPROVE: Wisness, Second: Olson, Voice Vote: All aye.

Item 5: Justice Oilfield Water Service- The applicant is requesting a Zone Change from Agriculture to Light Industrial to support current land use. Applicant is requesting a conditional use permit for the employee housing and diesel tank on-site.

Jennifer stated that this shop and land was sold to them with the employee housing. They were not aware that their Certificate of Occupancy did not support the employee housing. They are willing to make it safe for their employees to move back in. They will be installing a sprinkler system and whatever else Scott requires them to have. They have not received any comments about this site from the public. Arnegard Township did recommend approval.

Commissioner Best stated asked if the entire parcel has a weed plan not just the part they are asking for the CUP.

Jennifer stated that the entire parcel will have weed control.

Tracey Justice and Tina Wirholm were present to represent Justice Oilfield Services.

No audience Comments.

Motion to APPROVE: Nordby, Second: Olson, Voice Vote: All Ayes

Item 6: April Szostak- The Applicant is requesting a conditional use permit to legitimize an impound/sales lot.

Jennifer stated that they did have a comment from a neighbor Mr. Brown stating that his grandson lives in his home close to this proposed impound lot and he wants this area to stay a nice place for them. He does not want this to be approved. April told me that they would only have a 24 car limit.

Chairman Mracheck asked if the trees are used has a buffer.

April Szostak stated that they do go all around the fenced in yard. She also stated that she believed Mr. Brown is thinking of a different parcel that she is also worried about.

Joel Brown, concerned neighbor's grandson, stated that he would like a mat under every car that is placed in the yard in case if it starts leaking something in the future. He also would not like the security lighting to be on his property. He stated that there are more than 30 cars in the lot right including pull behind campers and trailers. He asked if the property will only be inspected once a year or more often than that.

Jim stated that the property is normally inspected once a year unless someone calls with a complaint or we just happen to be driving by.

Commissioner Nordby asked if their intent was to get rid of the cars that are put in the impound lot.

April stated that that was their intention to crush the cars that came in there.

Chairman Mracheck asked if the crushing is done there.

April stated that the crushing was done there.

Brian Szostak stated that the crushing will not be done there. They will be put on a semi and taken away.

Jim asked if this will be used as a salvage yard.

Brian stated that this will not be used as a salvage yard, but he is not opposed to sell a part or a whole car to someone. You can also store your camper for \$50 a month here.

Jim asked if they have more than 30 vehicles here.

Brian stated that there will only be 24 CARS on the lot at a time not including campers, pull behinds, or other things.

Jennifer asked when they would turn people away.

Brain stated that was a grey area, they haven't even thought about that.

Jennifer stated they don't want this to get out of control.

Brian stated that's why they have a fence.

Commissioner Haugen asked how long the cars stay there.

Brian stated after 30 days if someone doesn't claim it or come get the vehicle or camper they file for a lost title and then sell it or crush it.

Commissioner Best asked if they have a state license.

April stated they do have all their permitting through DOT.

Commissioner Best asked if DOT requires a liner beneath the cars.

April stated that they do not.

Motion to TABLE: Nordby, Second: Olson, Voice Vote: All Aye

Item 7: Three Forks RV Park – The Applicant is requesting a conditional use permit to legitimize the existing RV Park.

Jennifer stated that our Building Official Scott gave them a 30 day stop work order. The stop work order was for them to remove the Add-ons. She stated that she gave them 30 days to remove the trash and abandoned RVs that are in the park. They did not remove the add-ons so we then placed 24 hour power shut off notices to all RVs. She stated that the state has also had problems with this park. They are recommended denial due to no one working with the office.

Chairman Mracheck removed himself from the vote and conversation due to knowing the landowner.

Commissioner Nordby asked if they have been working with us.

Jim Talbert stated that Evan has worked with us a little bit.

Commissioner Olson asked if we should have to ask someone to clean something up like this.

Commissioner Haugen asked if they got the violation done within the 30 days.

Evan Ingram, representing Three Forks, stated that he is not making excuses just trying to explain why the park is the way it is today. When he was notified about the violations he was not able to get the add-ons taken down within the 30 days. The residents were not working with me in removing them. I asked for a 3-4 day extension and asked my lawyer if I was able to just tear it down myself. He said that I could. After the 24 hour power shut off notice was given I had the add-ons removed that evening. He stated that he should have kept up with the property.

Jim asked why we should continue to let this violation happen.

Evan stated that they should allow this because they have his word to keep it up to their standards. He also has a lot of money into this park.

Commissioner Best stated that his word isn't good enough because as a business owner you should want to keep this up. If this place has got this way because of money then what does adding more conditions will not help your cause.

Commissioner Olson asked if this would have broken their grandfather clause.

Jim stated that yes their grandfather clause is broken.

Evan stated that this place has not always looked this. This park use to look very nice. We need to step up and put a little more money into it. He stated that he is willing to meet all the conditions.

Commissioner Best said they built workforce housing for over a 100 drilling wells. WE will not see that again so we don't need all these RV parks.

Evan stated that we wouldn't need to see that for them to recuperate.

Ari stated that they have been in his office for previous violation.

Evan stated that the previous violation was for the skid units they placed there. They payed about \$12,000 for those skid units.

Jim stated that the fee they paid was a tax not a violation fee.

Commissioner Fleck asked if all the units on the property lived in.

Evan stated that all of them but one unit is being lived in.

Commissioner Best asked if they are removing the units and taking them to a permitted junk yard.

Evan stated that he has taken the abandoned units to the junk yard on highway 85.

Commissioner Fleck asked if we don't give him a CUP will they have to remove everything.

Jim stated that they question is do we what this kind of business in our county.

Commissioner Haugen asked if we have had any contact with the landowner.

Jennifer stated that we have not had any contact with the land owner.

Evan stated that they have had problems with the landowner before. The problems were the same concerns as the counties.

Jim asked if they were okay with all the conditions that were placed.

Evan said he was willing to do anything.

Jennifer stated that Brittany was out to the site Saturday and there was a lot of trash still on site. It looked like a RV pulled out and left all kinds of trash and junk behind. What would be a time frame on how soon you would be able to get that cleaned up?

Evan stated he would be able to have it all cleaned within 48 hours.

Motion to DENY: Best, Second: Haugen2, Voice Vote: All Ayes.

Item 8: Zoning Ordinance

Jim read the letters from the Oil industry. Jim stated that most to these concerns were in the ordinance from day one. The new ordinance actually simplifies their process.

Commissioner Best asked who sent the concerns.

Jim stated that Ron Ness with the petroleum council and many others with the council.

Commissioner Olson asked if all the letters were the same.

Jim stated that they were all basically the same, Copy and paste. They may have added a line or two. Jim stated that they have tabled the Radioactive Waste and odor ordinance at this time.

Rob Linberg, audience comment, stated they need more time to look at the changes. He is asking if this can be tabled one more meeting.

Josh Moore, audience comment, stated they need more time as well, they wish to have it tabled one more time as well. He stated they are more than willing to sit down with staff with any concerns they come across.

Commissioner Best asked if we should make a timeline for the comments so Jim can get the changes made in time.

James Demorit, audience comment, stated he wants his concerns addressed.

Jim stated that August 24th was a good deadline.

Move to TABLE: Olson, Second: Best, Voice Vote: All Aye.

Move to move the September meeting the 13th: Norby, Second: Olson, Voice Vote: All Aye.

Adjourned at 8:03

Planning and Zoning Commission Minutes

September 13, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:01pm.

Members present: Paul Wisness (arrived 5:05pm), Vawnita Best, Butch Fleck, Doug Nordby (arrived at 5:05), Les Haugen (Left at 6:45pm), Kris Mrachek (arrived 5:26pm), Aaron Gravos, Jeremy Olson (left at 7:09), Bethany Devlin

Absent:

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Planner, Shari Buck; Administrative Assistant, Lacey Fink, Permit Coordinator, Brittany Cook; Building and Planning Director, Jim Talbert; GIS Coordinator, Aaron Chisholm.

Others: See sign in sheet.

Minutes of July 25th, 2016 were presented. **Motion to recommend APPROVAL of the Minutes: Best, Second: Gravos: Voice Vote: All Ayes**

Minutes of August 8th, 2016 were presented. **Motion to recommend APPROVAL of the Minutes: Fleck, Second: Gravos: Voice Vote: All Ayes**

Unfinished Business:

Item 1: April Szostak – Szostak Services- The applicant is requesting a conditional use permit to legitimize an impound/sales lot.

Jennifer stated the applicant has a total of 9.9 acres 4 of those are fenced off for the impound/sales lot. She stated there is a tree buffer around the fenced in area. She also stated this impound lot would help the county out with the abandoned car program. The max amount of days of abandoned/scrap cars is 30 days. The maximum amount of cars would be 100. Scrap cars would have a 30 day turn around to be removed and deposited of properly.

Commissioner Olson asked if this was the second time they have been before them.

Jim Talbert stated that there were still a few questions left unanswered the last time they were before you. Those questions have now been answered and we are recommending approval.

Jennifer stated since we will be working with her so closely, I will be reviewing her almost every month until I feel there is no longer a need.

Commissioner Best asked if the concerns with the concerned citizen have been resolved.

April Szostak, representing Szostak Services, stated they have been resolved.

Jim Stated the distance is far enough away they don't feel it will be an issue. The site is on County Road 30 and we feel this would be a good site for this type of business because the surrounding areas are industrial uses.

Commissioner Fleck stated that one of the concerns were the drippings from cars. He asked if that has been taken care of.

Jennifer stated there will be ground barriers underneath each vehicle..

April stated that they have organized the lot better and classified each area for sales, storage and/or salvage.

Commissioner Best asked if you have a solution for vermin problems.

April stated that they take of that weekly.

Commissioner Best asked if we could add that to the conditions. Also, asked if the applicant had any issues with that condition being added.

Motion to recommend APPROVAL to the County Commission with condition #11 added stating the applicant take care of any vermin nuisance : Fleck, Second: Best, Voice Vote: All Ayes

Public Hearings:

Item 1: Zoning Ordinance

Jim Talbert stated he met with all the representatives from the petroleum Council to receive their comments; he then took them into consideration and looked back at the zoning ordinance. 2 days ago the NDIC sent a letter stating that per the Century Code the land uses that NDIC has jurisdiction over and that they regulate to be excluded from the new zoning ordinance. Jeff Huber stated if we adopt the IFC (International Fire Code) then we either adopt everything the state did or we adopt nothing at all. Mr. Talbert also suggest we change anywhere in the IFC that states Fire Marshall to Fire Official. That way it gives us more flexibility on whether we hire a Fire Marshal or a Fire Inspector. The State Fire Marshal stated that his office would be willing to assist in the initial inspections as the County pursues applicants.

Commissioner Best asked if Jim would send a clean copy to the full email list you have been in contact with.

Jim stated that he will make the recommended changes and send a clean copy to the Commission and everyone that he has been corresponding with concerning the Ordinance.

Jeff Huber, State fire Marshall, stated that Jim has done a fantastic job.

Beth Skedsvold, audience comment, asked if they include notification rules in the ordinance regarding violations. She stated that she would have like to have been notified about a violation on their property. She stated that she feels the legal owner should be found and notified about something in violation on their property.

Jim stated that he apologized for any information that was not given to her. He further stated that the Department makes every effort to notify the owner and the violator.

Beth Skedsvold stated that all she received was an easement to sign that was very vague, stating that the county can come on the property and remove the violation.

Jim stated that we should include a cover letter explaining the violation and the procedure moving forward.

Commissioner Fleck asked if we vote for the zoning ordinance do we vote for the IFC.

Mr. Talbert said if he votes for the ordinance as it is written he would be also voting for the IFC as it is part of the ordinance.

Chairman Mrachek stated he is not going to vote since he came in late for the meeting and early parts of the discussion of the ordinance.

Motion to recommend APPROVAL to the County Commission with the changes: Nordby, Second: Grivos, Voice Vote: Commissioners Devlin, Wisness, Haugen, Best and Nordby vote Aye; Commissioner Fleck voting Nay.

Item 2: XTO - The applicant is requesting a Zone Change of a ten acre parcel from Agriculture to Light Industrial. The property is located in a Transition Area.

Shari stated that there are no plans at this time to develop the site or any specific plans for the site.

Commissioner Nordby stated he wanted to know what the Comprehensive Plan designation was for this site and said there would be a problem putting something industrial in this zone because of the proximity to the National Park. The Comp Plan is designed Agriculture.

Dan Collins representing XTO stated they have no plans for building at this time and if they ever did in the future it would be for light industrial. We want the zone change because we own the land.

Commissioner Nordby stated if you have no plans why are you asking for a zone change.

Dan stated nobody is farming on that property and that he is a representative for XTO and they are waiting to see how the market goes prior to making plans.

Commissioner Haugen stated if you have no plans why change it.

Dan stated I don't know, just for the future.

Aaron Chisholm stated it is currently designed Agriculture in the Comp Plan.

This discussion revolved around the question if this property was in the Transition Area of the Comp Plan. It was determined that it was not in the Transition Area. Commissioner Nordby thought development was too far south along Highway 85 and was not appropriate.

No audience comments.

Motion to recommend Denial to the County Commission: Olson, Second: Best, Voice Vote: All Ayes

Item 3: PXI, Inc. – The applicant is requesting a Zone Change of one parcel from Agriculture to Light Industrial.

Shari Buck stated that the property is located in Section 25 near the landfill and they have gone through the Arnegard process and they recommend approval of this zone change. PXI has zone- changed three other contiguous parcels to Light Industrial. For some reason, this parcel was left out of the earlier zonings.

Commissioner Best asked if this is a transition zone.

Aaron Chisholm stated yes, it's a transition zone.

No audience comments.

Motion to recommend APPROVAL to the County Commission: Olson, Second: Nordby, Voice Vote: All Ayes

Item 4: McKenzie County Sheriff – The applicant is requesting a Conditional Use Permit to construct a Law Enforcement Gun Range.

Shari Buck stated that this will be a supervised shooting range and that Arnegard approves and that the sheriff's department has done a good job and that this would be temporary for a few years. The only condition the Planning Staff is asking to change is to have an 8 foot chain link fence up before use.

Deputy Luhman stated that was okay to get the fence up and that they plan to have it for 25-50 years. Deputy Luhman stated it is temporary 25-50 years until the landfill need the space.

Commissioner Nordby asked if it's been excavated.

Deputy Luhman state it has not been. There are a few piles of dirt that forms a berm.

Commissioner Best stated if the area needs anything done with the weeds.

Jim Talbert stated that this area used to be a landfill and figured it's been scraped and has no weeds.

Deputy Luhman stated that they would have the shooting area mowed as needed.

Commissioner Olson stated to add weed control to a condition.

Commissioner Nordby asked is that the exact spot you told us when you came to the meeting.

Deputy Luhman stated yes.

Commissioner Best asked if the construction maintenance was already added in the budget.

Deputy Luhman stated when the Sheriff's staff has down time they will go maintain the property and the budget is out of the Sheriff's department budget.

Russ Howes, audience comment, asked if there were any restrictions on what they are shooting.

Deputy Luhman stated it is not open to the public. It is only open to law enforcement.

Deputy Luhman stated handgun caliber, 22 Cal to 45 ACP, 22 Caliber, 380 ACP, 38 Special, 357 Mag, 357 Sig, 9MM, 40 S&W, 45 ACP, Rifle Caliber, 22 cal, .223 Caliber, 5.56MM, 308 Win, 308 Win Mag, Shotgun, 12 gauge, Launcher, 37 MM and 40 MM. He stated they will be shooting to the south.

Commissioner Wisness asked what happens to the gun range if the gun range is needed for the dump.

Commissioner Nordby stated at some point the gun range will just go away.

Commissioner Best asked who designed the specifics for the gun range.

Deputy Luhman stated Suhail had one of the county engineers design it. He also stated the EPA had requirements for lead removal.

Commissioner Best asked who engineered the site.

Deputy Luhman stated Ulteig did the drawings.

Shari stated that they have to clean up the lead/shells after shooting.

Motion to recommend APPROVAL to the County Commission: Wisness, Second: Best, Voice Vote: All aye.

Item 5: West Dakota Water LLC – The applicant is requesting to construct a Fresh Water Pipeline that will connect to an already approved, under-construction line.

Shari Buck stated that it is connecting to an existing pipeline.

Commissioner Gravos asked if the shapefile has been filed with Aaron.

Jim Talbert stated a shapefiles are filed after the pipe has been laid.

Motion to recommend APPROVAL to the County Commission: Gravos, Second: Nordby, Voice Vote: All Ayes

Item 6: - Arrow Electric – The applicant is requesting a Zone Change to a more appropriate zoning for the use.

Shari Buck stated they are requesting approval to zone change to light industrial from Ag in this area and Arnegard township gave approval.

Jim Talbert stated light industrial would be the best zoning for what the area would consist.

Motion to recommend APPROVAL to the County Commission: Olson, Second: Gravos, Voice Vote: All Aye

Item 7: Rough Riders Propane - The applicant is requesting to store small propane tanks, and permit a propane filling station. The primary storage tank is 1000 gallons.

Shari Buck stated the CUP is for storage/filling tanks and transporting. They need to get an inspection from the state fire marshal and a few weeds still need to be cleaned up. She said they approve of the site of location and that there are no homes in the area and they have permission to drive into the area because the land owner owns both parcels.

Jim Talbert stated all state inspections and county requirements need to be met before operating the business.

Shelly Fleck – President of Badlands Integrity Group and representative for Rough Riders Propane stated she was thrown in when Jeff (the owner) got pulled over for too many tanks.

Commissioner Best stated that there are 25 conditions and wants to know why there is not a perimeter fence requested.

Jim stated that there is no fencing per request.

Shari stated that the tanks are locked in cages and not a lot of activity for a fence to be needed and that nobody will be coming into the site other than authorized personnel.

Jennifer Peglau asked do you weigh tanks when they are filled.

Shelly stated they only fill their 1,000 gallon tank to 800 gallons because of North Dakota summers and winters, with the possibilities of expansion of gases.

Jennifer stated she is asking about the cylinders that are being filled on site and then delivered.

Jeff Novak (owner) stated they have a meter scale on site.

Shelly stated they will have a fire extinguisher and a sign put up.

Jim stated before operation this site needs to be inspected by Kyle Shockley the State Deputy Fire Marshall and our office.

Shelly stated they will meet or exceed with any laws by us.

April Szostak, audience comment, asked when the tanks are bled off, are they being watched carefully so it is not leaking into the air.

Shari stated that is state regulated.

Shelly stated nobody is around for 300 feet and we also have no problem with bleeding off.

Motion to recommend APPROVAL to the County Commission Approve: Olson, Second: Haugen, Voice Vote: All Ayes.

Item 8: NST Express - The applicant is requesting laterals to interconnect into a previously permitted oil pipeline.

Shari Buck stated this CUP has been approved by Sioux Township with the stipulation that an easement must be in place before the line can be built on that land.

Jim Talbert asked what the length of these lines are going to be.

Paul Forsting-representative from NST Express stated they are a couple hundred feet.

Commissioner Haugen asked about the easements.

Paul Forsting stated the easements will be in place before the project is started.

Jim stated if they use eminent domain, they would have to come back before this board.

Paul stated he does not believe they will have to use eminent domain.

Commissioner Best asked if NST was fine with condition #10 added that if they take land over with eminent domain, they come back before this board.

Paul stated yes.

Motion to recommend APPROVAL to the County Commission with condition #10 added stating if they take over land with eminent domain they come before this board: Best, Second: Olson, Voice Vote: All Aye.

Item 9: Quaser Inv, LLC – The applicant is requesting a Zone Change from Agriculture to Commercial to support an existing motel use.

Shari stated the Arnegard Township approved the zone change from Agriculture to Commercial.

Karen George-representative for Quaser Inv. LLC stated she took ownership August 19th and within 21 days of ownership that they have already moved the illegal approach back 500 feet. She also stated they are currently operating under a grandfather status they would like to be zone changed to make improvements to the property.

Jim Talbert stated they were too close to Highway 85 and they did move back.

Commissioner Fleck asked if they were in good standing.

Jim stated yes they are and this is a good looking facility.

Motion to recommend APPROVAL to the County Commission: Fleck, Second: Wisness, Voice Vote: All Aye.

Item 10: Indian Hills Development

Tabled by applicant.

Item 11: Bloom Enterprises – The applicant has not met conditions on the CUP 0005-13 that was approved on September 17, 2013.

Jennifer Peglau asked if we could accept cash in lieu of bond because they have had trouble receiving a bond because they are in receivership. They have stated they have had some problems with funds. She also stated that they have no certificate of occupancy on the shop and that they are working with our building official to bring the shop into compliance so that they can receive a certificate of occupancy.

Marilyn Noonan– representative for Bloom stated they do not have any issues with funds now.

Jim Talbert asked how much are we asking for.

Jennifer stated \$37,500 for cash in lieu of bond.

Jim asked if we can have the cash within 30 days.

Marilyn stated yes, I'm assuming.

Jim stated if not we will bring the CUP back before the P&Z board for revocation.

Chairman Mrachek asked if we have to develop a process for this one time.

Jim stated we are working with attorneys to get a contract in place so both parties are protected,

Commissioner Best asked if there is any occupancy as of now.

Marilyn Stated no but there are people scheduled to move in the beginning of October.

Jim stated nobody can move in until everything has been taken care of.

Commissioner Fleck stated that if we take this money we will have something in case they decide to just leave it.

Commissioner Olson stated more than we have now.

Motion to recommend APPROVAL to the County Commission: The cash in lieu of bond: Nordby, Second: Fleck, Voice Vote: All Aye

Item 12: Williamson Properties LLC – The applicant has not met conditions on CUP 0044-13 that was approved on October 22nd, 2013.

Jennifer Peglau stated that the pictures presented to commissioners are a week old and he has been in the process of cleaning up and getting a bond.

Darwin Williamson – Representative for Williamson Properties stated they are still in the process of cleaning up, he has no excuses and expects to have it all cleaned up by the weeks end.

Jennifer asked if the appliances have been moved yet.

Darwin stated no, some of the appliances were out for repair.

Jennifer asked if there were any dumpsters on site for all the debris.

Darwin stated yes, in the process.

Commissioner Nordby asked what type of facility this is.

Jim stated this is a trailer park. He is trying to get things cleaned up. He stated he is in favor of tabling for 30 more days to have everything cleaned up or revoke it.

Commissioner Best stated that the pictures are very frustrating.

Jim requested to table the project for 30 days, at which time they must have a bond in place and have Darwin clean up the site to be in compliance. Once they are in compliance we will look at a PUD, or zone change to R-3.

Jennifer stated she's done a lot of research on section 25, needs to meet conditions with 2012 CUP from Arnegard. What we do with this one today needs to be consistent across the board with all the other properties we bring in front of you. She stated she is not very happy with the 30 more days.

Darwin stated that there has been a lot of rain lately and with that the weeds grow rapidly.

Chairman Mrachek stated that he's had over 3 years to clean up.

Commissioner Best stated the bar is low and disappointing. Also, we've been working with people and we shouldn't have to come to this, the staff tries to resolve problems before this.

Marlin Williamson (Darwin's brother) audience comment, stated it's been 3 ½ years and nothing has been enforced and weeds grow fast. You guys should be looking at what Darwin has done thus far, the pictures do not do justice for him.

Jim stated the conditions of the CUP have been in place since 2013. And that a bond should have been set in place 3 years ago. And that the staff/county has been very patient, 3 ½ years is hardly a rush to judgement. Mr. Talbert said he went out in the spring of this year and told Darwin what needed to be fixed and last week he went out again and it has not been improved.

Marlin stated this procedure should be done with other people as well.

Darwin stated it's taking 3 years to catch up, this is his whole life. He stated he works a 9-5 job just like we do and it is hard to keep up with his property.

Chairman Mrachek stated we understand your concerns, but your place needs to be clean and up to standards and follow the rules.

Motion to TABLE for 30 more days to get bond in place as well as clean up: Nordby, Second: Wisness, Voice Vote: Bethany Devlin, aye; Paul Wisness, aye; Vawnita Best, nay; Jeremy Olson, aye; Doug Nordby, aye; Aaron Gravos, aye; Butch Fleck, aye.

Item 12: Fee Schedule Updates

No Board comments

No audience comments

Motion to recommend APPROVAL to the County Commission: Nordby, Second: Gravos, Voice Vote: All Aye

Adjourned at 7:15

Planning and Zoning Commission Minutes

October 12, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 4:57pm.

Members present: Paul Wisness, Vawnita Best, Butch Fleck (excused himself at 6:10 pm), Doug Nordby, Les Haugen, Jeremy Olson, Bethany Devlin.

Absent: Kris Mrachek, Aaron Gravos

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Planner, Shari Buck; Administrative Assistant, Lacey Fink, Permit Coordinator, Brittany Cook; Building and Planning Director, Jim Talbert; GIS Coordinator, Aaron Chisholm.

Others: See sign in sheet.

Minutes of September 13, 2016 were presented.

Motion to recommend APPROVAL of the Minutes: Best, Second: Nordby: Voice Vote: All Ayes

Discussion Items:

Item 1: Code Enforcement

Unfinished Business:

Item 1: Williamson Properties- The applicant has not met conditions on CUP 0044-13 that was approved on October 22, 2013.

Jennifer Peglau stated she spoke to the Bonding agent regarding the reclamation bond for Williamson; they are in the process of completing it. It's a long process to receive a bond especially when you own 4 businesses like Williamson has; the Bonding agent has to look at everything. Jennifer says she is fine with this because the applicant is actively working with it.

Commissioner Doug Nordby asked if the property was looking better.

Jennifer stated yes, it's looking better and thinks we should table since Williamson is going in the right direction.

No Audience Comments.

Motion to Best, Second: Nordby, Voice Vote: All Ayes

Item 2: Indian Hills - The applicant is requesting an amendment to the current CUP 0027-13 to legitimize the mobile home trailer on location for employee living.

Jennifer stated the applicant is asking to allow a trailer on site for his personal living quarters. When she first talked to him there were 3 RV's and 1 trailer on sight and the 3 RV's have been removed since then. She stated the applicant should supply a bond if we go ahead with the approval with the trailer.

Commissioner Olson stated that the bond would allow some recourse if the property doesn't meet there conditions.

Jennifer stated the original conditions didn't include a bond therefore if we approve this we can ask for a bond.

Commissioner Best asked what the reasonable bond amount is.

Jennifer stated it just depends on the whole property and we would have to get an engineer's estimate.

Commissioner Olson asked what is a reasonable time frame for a bond to be set in place.

Jennifer stated with new applicants we need to explain the bond procedure more because they are tricky and could possible require a lot of money down— like this one for Williamson; I'd say 60 days would be a good time frame.

Commissioner Olson stated we need to adopt a formal underline for when an applicant needs a bond.

Jim Talbert stated that it was put in the new ordinance to take 30 days and if the applicant is actively working we will allow them more time if they have been actively working on it. The CUP is also not approved until we have the bond.

Jennifer stated the bonding company wants an approval letter stating they need a bond and how much they are requiring for a bond. When the applicant is not in violation it is easier for them to get a bond. When the bonding company knows they are in violation they have a harder time giving them a bond especially if they know we as staff are recommending denial.

Jim stated this particular bond will be small around most likely ten thousand dollars or less.

Commissioner Fleck asked if they knew how long it takes to get a bond.

Jennifer stated once we have them in place we are protected. A reclamation bond last forever, unless they get a letter from us stating that they no longer need a bond.

Commissioner Best asked if there were any thought to relocate the employee housing.

Rich Wilder, representative and 1 of 6 owners for Indian Hills, stated yes, but would like to have the trailer stay there as it is used as housing as it is already hooked up to water and sewer and decided to stay in it instead of leaving it vacant.

Commissioner Olson asked if it will cost the applicant ten thousand to get bond, worst case scenario. He asked the applicant would he rather move the trailer or get a bond and have to pay that much money.

Rich Wilder stated he doesn't have ten thousand dollars to do that right now.

Jim stated the bond in a whole would be \$10,000 and the applicant would have to pay a percentage of that \$10,000.

Jennifer stated there are a lot of factors in determining how much the applicant pays for the bond, they ask for down payments for collateral.

Rich Wilder stated he has someone who lives in the trailer while he leaves for a period of time to keep an eye on the property. He also stated that in the future he is looking at having a couple manage the apartments and they would need something bigger than a studio apartment.

Jim stated they have allowed in the past for 24 hour watchman or property manager have a trailer on site and doesn't seem out of reason.

Commissioner Best asked the applicant if he has an issue with getting a bond.

Rich Wilder stated no, I just hope I can afford it. He stated that Jennifer and Jim have been working with him and he will do anything they request.

Jim stated you have to commit to either removing the trailer or get the bond is what Commissioner Best is saying.

Rich Wilder stated that he will commit to having to get a bond set in place.

Motion to recommend APPROVAL to the County Commission with the condition of having 150% bond set in place: Best, Second: Nordby, Voice Vote: All Ayes

Public Hearings:

Item 1: Tesoro Great Plains

Tabled by applicant.

Motion to Table: Best, Second: Haugen, Voice Vote: All Ayes

Item 2: Watford Ridge LLC – The applicant is requesting a Zone Change from Agriculture to R-3.

Shari Buck stated the applicant is requesting a zone change from Agriculture to R-3, their property is very nice and we see no issue with going forward with the zone change. She also stated that they have been working with Jennifer for quite some time now. They would be getting rid of their CUP. Commissioner Olson asked if they are getting rid of their CUP.

Jennifer stated that the applicant is compliant with the CUP.

Jim stated that the applicant has cleaned up the area and this is a nice facility.

No Audience Comments.

Motion to recommend APPROVAL to the County Commission: Fleck, Second: Wisness, Voice Vote: All aye.

Item 3: Sue Powers-Hartman – Conditional Use Permit to allow a water depot.

Shari stated we have received 3 letters with objections from surrounding land owners – Duane and Cynthia Beckert, Kolleen Kubik and Lindsey Hovden. With the downstream of water coming through, we don't deal with water permits you can reference the state engineer letter for information.

Commissioner Olson stated that they are looking at the facility for planning and zoning only.

Shari stated the applicant is asking for 5 tanks with water storage.

Jim stated do your conditions have a bond to be set in place.

Shari stated the conditions didn't include having a bond but could add it.

Jim stated the state agreed the pond was illegal.

Nanette Edmondson, representative for Sue Powers-Hartman, put engineer on hold. Their temporary water permit is for 60 acres foot but the maximum rate of withdrawal has been reduced to 300 gallons per minute instead of 400 gallons per minute.

Commissioner Fleck asked if trucks were going to be hauling in and out of the area.

Nanette Edmondson stated she doesn't believe trucks will be hauling water from site, she can't imagine the road would be usable for truck access.

Jim stated that the roads out there are not prepared for trucks going in and out.

Commissioner Olson asked if the applicant is on the hook to remove the pond prior to approval of the CUP.

Jim stated we can add the conditions; he state that his understanding was that the pond was not being used and water was no longer being diverted into the pond.

Nanette Edmondson stated she would rather remove the pond the engineer is getting expensive.

Jim stated that we want the pond removed.

Commissioner Olson stated we are not permitted to approve a CUP where there's a violation with the pond.

Jim stated the applicant needs to bring the pond area back to its natural state, no more berms.

Commissioner Olson agreed to bring the pond back to normal.

Commissioner Best asked if the State engineer is concerned with it and if it's a safety hazard for the land owners downstream.

Nanette Edmondson stated the pond hasn't consistently produced – the diversion is what the state is worried about.

Commissioner Best stated they have to be in compliance and the state engineer's stop work order was still an issue.

Commissioner Haugen stated he is concerned with Charlie Creek and agriculture should be searched. .

Commissioner Olson asked if the Charlie Bob Creek was being pumped and how this affects downstream users of the water.

Jim stated that this is an ongoing question and problem with the State's permit policy. It appears to many that the State is allowing so much water to be pumped from streams and ponds that the livestock and ranchers downstream are being adversely affected.

Commissioner Best stated their permit was placed on administrative hold.

Commissioner Olson stated we can control the dirt not water so were on the same page.

Jim stated if it's unclear where the State stands on the permit that we should table this application and allow the applicant to get documentation from the State to show things are in compliance to make a confirmed decision.

Commissioner Fleck asked if the state says anything about the pond being used.

Nanette Edmondson stated 56 gallons a day was the agreement.

Jim stated if the State water permit expires at the end of Dec. 2016 and if this CUP for water tanks is approved, the CUP can be renewed and can be done administratively.

Nanette Edmondson stated it's not worth causing havoc with local landowners and was not compliant with the state engineer.

Commissioner Best asked what the hold is with the state engineering.

Nanette Edmondson stated the applicant is causing the hold because they do not want to spend seven thousand dollars to complete the engineering study. Financially she doesn't know if they want to do that or not. She stated that she thinks they would rather make the creek go back to its original course and put seed and grass over the spot to cover and hopefully bring in the 5 water storage tanks.

Merle Foss, audience attendee, stated his family goes back 4 generations just North of where this pond is located and wants the applicant to be dealt with fairly. He wrote a letter a year ago when the pond was created and the applicant wasn't compliant. He stated it's not so much with the pond, his property is above it but his property goes through Beaver Creek and for decades the cattle would come down to get water. He saw them trenching and that would speed the flow of the water. He was concerned with water coming off his beaver dam.

Motion to TABLE: Wisness, Second: Best, Voice Vote: All Ayes

Item 4: - Wolverine- Jonas Crump – The applicant has not met conditions on CUP 0013-13 that was approved on September 17, 2013.

Jennifer stated they are currently in violation, they added 4 Fema trailers which broke their CUP and their nonconforming use. The game plan is to subdivide the land, get a bond in set for the trailers so they can be compliant, and over the next year move the housing from Wolverine down to Stonegate and rezone that parcel.

Staff recommended to table it until next month.

Motion to Table: Nordby, Second: Best, Voice Vote: All Aye

Item 5: Eagle Rock Timber- The applicant has not met conditions on CUP 0043-15 that was approved on April 21, 2013.

Jennifer stated they never had a bond or CUP set.

Motion to Table by applicant: Nordby, Second: Fleck, Voice Vote: All Ayes.

Adjourned at 6:12 pm

Planning and Zoning Commission Minutes

November 14th, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:07pm.

Members present: Paul Wisness, Vawnita Best, Butch Fleck, Doug Nordby (arrived at 5:14 pm), Les Haugen, Aaron Gravos, Bethany Devlin.

Absent: Kris Mracheck, Jeremy Olson.

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Planner, Shari Buck; Administrative Assistant, Lacey Fink, Building and Planning Director, Jim Talbert; GIS Coordinator, Aaron Chisholm; Ari Johnson, County Attorney.

Others: See sign in sheet.

Minutes of October 12th, 2016 were presented.

Motion to recommend APPROVAL of the Minutes: Fleck, Second: Gravos: Voice Vote: All Ayes

Unfinished Business:

Item 1: Williamson Properties – The Applicant has not met conditions on CUP 0044-13 that was approved on October 22, 2013.

Jennifer Peglau stated that the applicant still has no bond in place but has done a lot of clean up since the last time, he still has a lot of work to go but he is working on it and working on the collateral for bond.

Darwin Williams stated the hold up with the bond has been with his accountants and having multiple businesses, he stated he was approved for the bond today but the bank wants letter of credit or \$44,000 collateral down to get the bond. He expects to have the bond by the end of this week.

Jennifer stated it's an irrevocable letter of credit and they are very hard to get. The bank has a board meeting this Wednesday to look it over.

Commissioner Nordby asked if Darwin is trying?

Jennifer stated yes.

No Audience Comments.

Motion to Table: Nordby, Second: Gravos, Voice Vote: All Ayes

Item 2: Sue Powers-Hartman – The water depot will contain 5 frac tanks for water storage/sales.

Shari Buck stated we recommend the applicant to be tabled because issues are still standing. As of today we received a letter from the office of state engineer and the applicant is in compliance with the office of state engineer. She stated she went out to location today and took new pictures of site. The staff recommends tabling this for the 5 frac tanks, there's a lot of reclamation work to re-store to the pre-existing conditions.

Jim Talbert stated the applicant has two regulations, the first is to meet with the state requirements concerned with the creek flowing naturally and second, the location needs to go back to its natural state, the applicant needs to add grading and at this time the applicant should be tabled. He also stated the applicant needs to have the site replanted to its natural state and to be reseeded. He recommends a bond be set in place for 2 ½ years for vegetation to hold and get back to how it was.

Commissioner Fleck stated it will be hard to get the site back to its vegetation and with the limited amount of water in the stream.

Commissioner Haugen asked if there has been any seeding done yet.

Jim stated not at this time and doesn't make sense to do it this late in the year.

Commissioner Haugen stated he's known people to seed this late in the year and has worked out.

Jim stated the location is not ready to be seeded that they should wait till spring and to cover that portion in the bond.

Shari stated she had 2 phone calls today from landowners next to location who have sent in written letters previously – Cynthia Beckert and Kolleen Kubik and they want to bring this back to its natural state and concerned with the amount of trees that were brought down and would like to see those replanted and reclaimed.

Nanette Edmonson-Representative stated they are finishing the grade and it will be done.

Jim stated the applicant should talk to the soil conservationist and have it restored.

Nannette Edmonson stated she doesn't have a problem doing this; they do it all the time.

Commissioner Fleck stated he has seen the applicants do some work.

Nanette Edmonson stated they have been doing work with the excavator.

No Audience Comments.

Motion to Table with additional information, applicant needs to be in compliance with health construction and environmental disturbances. Re-establish a vegetative cover as soon as possible to minimize erosion. Applicant needs to do more grading, the slope is too steep and to get in contact with the soil conservationist: Nordby, Second: Haugen, Voice Vote: All Ayes.

Public Hearings:

Item 1: Tesoro Great Plains Gathering and Marketing LLC – The applicant is requesting a Zone Change from Agriculture to Industrial.

Shari Stated the parcel was added to light industrial, and they do meet the requirements.

Adam Plunsky, representative for Tesoro stated the applicant has no construction plans currently that's it for future use only.

Commissioner Fleck asked if we had a similar situation awhile back.

Jim stated yes, part of their requirements and reasoning were different.

Adam Plunsky stated they are only requesting the zone change for any future expansion.

Commissioner Best asked if this will bring them to compliance.

Jim stated the small parcel is zoned as agriculture and it would be consistent with what's around them. He also stated they can't support the applicant unless a 2 acre minimum be picked up for additional land and they now have 2 acres.

Commissioner Haugen asked if the applicant owns the land between them.

Jim stated no.

Commissioner Best stated looking at 109th road, is that extensively traveled and do you know who owns it.

Adam stated the road is traveled on a lot and he does not know who owns it.

No Audience Comments.

Motion to recommend APPROVAL to the County Commission: Gravos, Second: Fleck, Voice Vote: All Ayes.

Item 2: McKenzie Electric – Shafer South – The applicant is expanding transmission lines to supply power.

Shari stated the applicant is adding 9 miles of transmission line and the staff is requesting approval.

Nick Cebulski – representative for McKenzie Electric stated they have re-submitted with approval letters from landowners and have 100% of the easements signed.

No Audience Comments.

Motion to recommend APPROVAL to the County Commission: Fleck, Second: Haugen, Voice Vote: All Ayes.

Item 3: Wildcow Subdivision Preliminary Plat: Tabled.

Item 4: Eagle Rock Timber: Cleared.

Item 5: Mark Gillette – The applicant is requesting a Zone Change from Agriculture to Light Industrial.

Jennifer stated there are two 5 acre parcels, one parcel has not been developed and the other has a shop. The parcels have a CUP and they are in compliance in Arnegard Section 2. Applicant wants a zone change from Agriculture to Light Industrial to support the current land use and surroundings. She also stated the applicant went in from of Arnegard Township and was approved.

Commissioner Best asked when do subdivisions trigger a zone change.

Jim stated it's already been subdivided into two 5 acre parcels and meets subdivision requirements and are requesting a zone change to what it should have been in the beginning – light industrial. One of the parcels is undeveloped and the other one is light industrial business.

Jennifer stated this is a transitions area in the comprehensive plan and the zone change would support this.

No Audience Comments.

Motion to recommend APPROVAL to the county Commission: Gravos, Second: Devlin, Voice Vote: All Ayes

Item 6: McKenzie Investments – The applicant is requesting a Zone Change from Agriculture to R-3.

Jennifer stated this is in the Arnegard Section 25; this is a transition area in the comprehensive plan. Applicant is requesting a zone change from Agriculture to R-3. R-3 would support their land use. They have subdivided their parcel with light industrial for their equipment and R-3 for the housing. With that being done we support the zone change.

Jim stated section 25 is one of these transitional areas we have approved light industrial and R-3.

Jennifer stated the amended zoning ordinance requires RV parks and mobile home parks to carry a reclamation bond; they have a bond in place already.

Jim stated this landowner has been jerked around with staff previously and the applicant has been working very hard to be in compliance and believes the applicant was treated unfairly.

Marilyn Noonan- representative for applicant stated the applicant has done a nice job out there and looks good.

No Audience Comments.

Motion to recommend APPROVAL to the county Commission: Nordby, Second: Gravos, Voice Vote: All Aye.

Item 7: CMG Oil and Gas – The applicant has not met conditions on CUP 0033-15 that was approved on January 20, 2015.

Jennifer stated she has been working with the applicant since October 20th and still no bond has been put in place. They were approved in January 2015 for a CUP to operate a scoria pit. They have had 3 CUP's and have not turned in one reclamation bond. They are not present today.

Commissioner Nordby asked if they're working on a bond.

Jennifer stated today they started working on the bond; they're not local but run businesses here.

Commissioner Nordby asked if they were up to date on stuff they are operating on.

Jennifer stated no, the applicant is not up to date and they are currently operating on one pit.

Commissioner Haugen asked if landowner was notified.

Jennifer stated she sent the landowner a public notice.

Commissioner Nordby stated they need to get a cease and desist to the applicant until they are compliant.

Commissioner Haugen stated they should try and call the landowner before sending a cease and desist.

Jennifer stated she only has addresses for contact information.

Commissioner Best stated she may have numbers to contact applicant.

No Audience Comments.

Motion to Instruct Jim to send a Cease and Desist letter to applicant: Nordby, Second: Gravos, Voice Vote: All aye.

Item 8: Hiland Crude: Cleared.

Item 9: Clean Harbors: Cleared.

Item 10: Bakken Base Camp: Tabled.

Item 11: Tervita

Jennifer stated she would just like a direction from the commissioners on how to move forward with their treatment facility. There is no bond set in place with their CUP that was issued. They came in to tell us they would not need their CUP any further due to be regulated by NDIC and the Health Department due to the acceptance of TNORM.

Jim stated we do have jurisdiction over TENORM.

Commissioner Best asked if a change of waste triggers the CUP.

Jim stated IHD took a similar stance and there was no recourse but there was talk regarding legal action.

Commissioner Best asked Jennifer how she found out applicant was hauling up to 50 picocuries.

Jennifer stated when they came in to withdraw their CUP they stated they in fact accept TENORM and it gets trucked out to Montana and the Johnsons corner location.

Commissioner Best stated we should send a written letter and follow up. She doesn't know any facility that can dispose 50 picocuries.

Jim stated the staff will investigate further, if they in fact accept higher than .05 picocuries we shall file a cease and desist.

Commissioner Nordby stated yes, that seems to be the only way to get through to these bigger companies such as the applicant.

Jim stated no one has been approved by the state to carry 50 picocuries. We have no jurisdiction under the NDIC.

No Motion was made, commissioners asked staff to investigate more: Olson, Second: Aaron, Voice Vote: All Aye

Adjourned at 6:17 p.m.

Planning and Zoning Commission Minutes

December 12, 2016

Meeting was held at the McKenzie County Courthouse in Watford City, ND and called to order at 5:01pm.

Members present: Paul Wisness, Vawnita Best, Butch Fleck, Kris Mracheck, Aaron Gravos, Bethany Devlin.

Absent: Les Haugen, Jeremy Olson, Gene Veeder.

Staff Present: Planner and Code Enforcement Officer, Jennifer Peglau; Planner, Shari Buck; Administrative Assistant, Lacey Fink, Building and Planning Director, Jim Talbert; GIS Coordinator, Aaron Chisholm; Ari Johnson, County Attorney

Others: See sign in sheet.

Minutes of November, 2016 were presented.

Motion to recommend APPROVAL of the Minutes: Fleck, Second: Gravos: Voice Vote: All Ayes

Unfinished Business:

Item 1: Williamson Properties – The Applicant has not met conditions on CUP 0044-13 that was approved on October 22, 2013.

Jennifer Peglau stated the applicant – Darwin has been working on getting his reclamation bond for a few months and we have tried many many options to receive approval for the reclamation bond for \$45,000 which he doesn't have right now.

Darwin Williams stated that he understands he's in violation and that it would've been easier if he had gotten his years ago when he first started but kept getting side tracked. He stated he would like the board to give him more time to continue to work on getting the bond in place. He thinks everything will change after the 1st of the year and that he is going through a financial hardship and he has no intent to leave, vacate or walk away from. He is just asking for more time and he will work on the bond. He stated all he has to offer is his word.

Jim Talbert asked Darwin how many people are currently in your RV Park that is paying rent and asked how many people would be there if it was full.

Darwin stated currently 20-25 but changes weekly and when it is full there are 90 people. The bank wants to see the occupancy at least 50%.

Jim stated and realistically, how long do you anticipate getting to that level, what is a time frame you want to give the board to get at least 50% full.

Darwin stated 3 months at the most.

Jim asked Ari the county attorney for any recommendations for revoking CUP.

Ari Johnson stated the board can table this until April, revisit and have the applicant make a new application, amend it or deny the approval today.

Jim stated my recommendation is not to table until April and would like Jennifer's opinion.

Jennifer stated she has gone above and beyond and doesn't want to shut him down but since 2013 he has had the chance to get the bond and would have been easier back then since he was full and receiving more income. She stated she is not trying to be hard on him but stated it is her job as a code enforcer and if we keep tabling this she doesn't understand why we need a code enforcer. She recommends we revoke applicants CUP, all options have been exhausted.

Commissioner Fleck stated that it's not fair to the ones who have obeyed the rules.

Jennifer asked applicant why he didn't submit a reclamation bond in 2013.

Darwin stated it was an oversight; he was more involved in the construction site and getting his business running.

Commissioner Fleck stated if we shut him down, we can't do anything until spring because we don't want to kick the people living there out in the middle of winter.

Ari stated there is adequate housing in the community; the applicant has been in violation for 3 years.

Commissioner Wisness asked if it would make any difference if we extended it for another month.

Darwin stated it is possible but with the holidays coming up it may be difficult, he stated at least February.

Commissioner Best asked the applicant if he has available collateral to put towards the cash for the bond.

Darwin stated not cash towards the bond, but there is collateral. He believes that since he is now working with the bank that has the mortgage, there is more of an interest to provide a bond.

Jim Talbert stated that we need to come up with a viable option to protect the county. I prefer to find a win/win when it is possible. Someone will lose, and I always prefer to side with people when we can. But we must protect the county.

Darwin said he had never made a lot of money because he was held up for 9 months by the county building inspection process. If you revoke my CUP it will force me into foreclosure. It will break me. I'm not going anywhere.

Ari stated that we don't need to be worried about setting a precedent. We must have reasonable discretion; be rational and have a reason for our vote one way or the other. As far as a bond, we can reward those who keep the rules, and discourage those who don't follow the rules. It is not a foregone conclusion that the county will have to clean this up. We have a great amount of flexibility within the confines of our zoning ordinance.

Commissioner Wisness stated that we write a lot of rules. A motion was made in favor of extending this until April.

Motion died for lack of a second.

Commissioner Fleck made a motion to revoke the CUP. Motion died for lack of a second.

Commissioner Best stated that we can't move forward hoping we are going to hit big oil. If you have a financial institution to back you, I would support an additional 30-60 days to get things lined up. I would move to table this until the February meeting, knowing we need to have this resolved.

Second by Commissioner Gravos.

Voice Vote held:

Wisness-No

Devlin- Yes

Best-Yes

Mrachek- No Vote

Gravos- Yes

Fleck- No.

Motion carried 3-2.

Adjourned at 5:43 p.m.