

**January 2018**

Planning and Zoning Commission Minutes

January 8<sup>th</sup>, 2018

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

Members present: Bethany Devlin, Les Haugen, Vawnita Best, Kris Mrachek, Jeremy Olson, Aaron Gravos, Butch Fleck and Paul Wisness arrived at 5:21PM.

Absent: Gene Veeder

Staff present: Planning and Zoning Director; Jim Talbert, Planner & Code Enforcement Officer; Jennifer Peglau, Planning Attorney; Ari Johnson and Administrative Assistant; Peyman Kadir.

Others: See sign in sheet

Minutes from the December 11<sup>th</sup>, 2017 meeting: **Motion to APPROVE minutes: Olson, second: Gravos, Voice Vote: All Ayes.**

**Unfinished Business:**

None

**Public Hearings:**

**Item 1: Aries Residence Suites 0001-18 Zone Change Tabled**

**Item 2: Hess 0001-18 Comprehensive Plan Change and Zone Change: The applicant is requesting a Zone Change from Agriculture to Industrial for approximately 40 acres in section 29 to support the land use of the gas processing facility. Also applicant has requested approximately 37 acres in Section 32 to change from Agriculture to Industrial to support a laydown yard and commercial parking area.**

**Jim Talbert:** This is a project where Hess has an existing compressor station off of CR 14; that particular facility had been zoned heavy industrial back in the day. Hess is looking to replace that plant, to build a new one and this one would be decommissioned or go away as I understand. There are two parcels here, one in Section 29 and the other in Section 32. They are requesting a comprehensive plan amendment to industrial and then zoned heavy industrial. In Section 29 is where they will be putting their new compression station, south of the existing plant is where they are proposing truck parking and a laydown yard area and that also would be included in their comprehensive plan amendment to industrial and then zone change to heavy industrial. As such the laydown yard, in Section 32, is considered an allowed use in heavy industrial and so no conditional use permit would be required. The one in Section 29 currently also falls under Agriculture, they are not required to make this change for this particular area it being a gathering facility and by law we cannot regulate gathering facilities. Hess would like to make it consistent for what they have in this area, do the entire area, change zoning and make it consistent for what they are proposing to use.. Trevor Hunter is here from Crowley Fleck and a couple of representatives from Hess are here to

answer questions. I should let you know that late this afternoon we did receive a call from an adjacent owner who is concerned about the road and the amount of traffic that will be on that road.

**Olson:** The portion in section 29, the existing facility, that is going to be decommissioned?

**Jim:** Yes, from what I understand that is going away.

**Ari:** I would still be heavy industrial.

**Jim:** Yes, that wouldn't be changing.

**Trevor Hunter:** I am an attorney from Crowley Fleck here on behalf of Hess North Dakota Pipeline, this is Jory Keever, project manager from Hess, and Michelle Phillips is here as well she is the team lead on the surface land site for Hess. I just want to touch on a few things then we'll answer any questions you may have. We have some brief written material here that Jory put together to further help illustrate what's happening here. There is a comprehensive amendment and two zone changes. The section 29 land is currently in the process of being purchased by Hess from Milo and Chase Wisness and that's where the new proposed compressor station will be. The in Section 32 is currently being negotiated for purchase from Ron and Myra Anderson and we are seeking a zone change for that southern parcel as well for a lay down and truck parking yard mostly for the construction of the compressor station. Both landowners have submitted letters with the application in support of the project. This afternoon Jory spoke to Karolin Jappe, she had no concerns from an emergency manager's perspective. Late this afternoon we did learn of a concern as to the truck traffic and I'll let Jory speak to that but currently with the existing infrastructure there is one truck load every three day and when the new station is constructed that will increase to one truck every day, so really no significant truck traffic on that road at all. The Maximum that Hess anticipates for trucks on the road will be one truckload per day. As I understand it that's a section line road and the one that runs northwest there is paved and whatever Hess puts on there will be A) on a paved road and B) under whatever county weight limit applies to that road. We haven't had a chance to speak to the landowner that had the concern but I want this board to understand that the traffic on that road is not going to be significant. Hess does plan to speak to the concerned land owner.

**Jory Keever:** The conceptual drawing I've handed out indicates the type of facility we will be installing, this is not the facility it is just a conceptual drawing what our facility could look like and it will follow this philosophy with a modular design. Our objective here is to replace our existing legacy design that's been there for many years, the main objective is to gather gas produced in the area and as well as reduce the flaring volumes we have in the area currently. We've done some upgrading north of here to a fifty (50) million capacity. We want to upgrade the operating capacity here from forty (40) million station to fifty (50) million with six to eight (6-8) modular units to be installed to handle that kind of capacity. Our main focus for us and objective for installing a new facility in this area is to reduce our flaring and optimally gather all the oil and gas produced in the area and this will allow us to optimally produce the wells in the region. We are responsibly trying to meet our NDIC flaring targets that they have requesting of all the oil and gas operators. Right now we flare about 20-25% gas in this area and this station will eliminate that to near zero. We are motivated to reduce our flaring and get this project done successfully.

**Jim:** Did I state correctly that once this new plant goes in the original plant will be removed?

**Keever:** The old plant will be decommissioned and taken out of service; the site will retained as it is but it will no longer be operated.

**Jim:** But the other buildings and facility will remain?

**Keever:** They will remain and be abandoned out as part of our abandonment process.

**Jim:** Is there a reason not to remove it?

**Keever:** No, we wouldn't have any further or future use for it.

**Jim:** As it will be abandoned it is going to deteriorate and I have a concern it will become an eyesore. I would request Hess to remove it back to reclaimed property. I understand this being a gathering facility it can be built without our approval one way or the other but I would strongly request that Hess remove the abandoned facility. We don't need junk in the county.

**Olson:** Not necessary reclamation but repurpose it.

**Jim:** I'd say remove the building and the out of the ground apparatuses so that it just doesn't look junky.

**Olson:** There is enough abandoned oil field buildings in the area, there is no need to add to it especially since you will be there.

**Michelle Phillips:** Right. We would have the intent, when we say reclamation to turn the land back that is not the intent, because we can foresee moving over and continuing to use that if this compressor station were to expend. There could be a delay but we can try to see if we can repurpose any of those buildings with other sites, that is just part of our normal decommissioning process. This has been negotiated as part of our PSA with the landowners that we are not allowed to continue to store junk; we won't have anything that looks unprofessional or unorganized. It would be decommissioned but I just personally can't vouch for a timeline.

**Best:** What does NDCI require in terms of a decommissioning process do they have any level of requirement on this site as you decommission it?

**Phillips:** We won't not meet NDIC requirements. Yes, they do have requirements for decommissioning and reclaiming. Those tend to apply more to well pads than to compressor or gathering sites. I do know they regulate in that area as well. It would be our intent to follow all requirements with NDIC for decommissioning. I wanted to be clear we wouldn't be reclaiming this; it would merely be removing the buildings off the property.

**Olson:** That's the biggest concern.

**Phillips:** We were negotiating PSA this morning part of that private contract is that on neither of these tracts lands we wouldn't use it to store junk.

**Best:** Is there a reason that that existing compressor station parcel isn't included in the zoning request?

**Hunter:** It is already zoned industrial.

**Fleck:** Is your yard in the south going to stay after the construction or is that just for during the construction?

**Keever:** Right now that area is a little conceptual in theory, looking around our process facility we may have some blast radius requirements we need to remain outside of but it's going to be for construction trailer, temporary parking and possibly laydown, it will probably be utilized for more than just the temporary use as well. It may extend in use in the future for associated projects with in the Hess development.

**Jim:** If we do zone this heavy industrial, the allowed uses that they have they can do without coming back. We can't put conditions on them but honestly our choice are approve or deny for this facility. If they decide to change use of that southern parcel as long as it fell within that allowed use, we wouldn't have any say in that.

**Olson:** Description sounds like light industrial use.

**Jim:** A laydown yard and truck parking typically is considered light industrial. I have some concerns where this is truck parking also. You are saying that there is only one truck per day for the plant but since this is a truck parking area will there be an increase of truck traffic to get to this lower section or are you anticipating it strictly during the construction?

**Keever:** The anticipation is during the construction for most of the use, some prefabrication, pre-work, building some of the sub-boarding items for the insulations but currently I can't define all the potential future uses. Maybe used for storage, not junk or inventory yard, it will be a tactically used area. We do have a lot of work in this area with this particular station, with all the activity for gathering and other developments in the area, it would be useful to have a spot to come in and out of. When we say truck parking it's more of personnel trucks coming in and out than the heavy trucks.

**Jim:** You said you would anticipate it would still be an active area for other things happening, the question that rises in my mind is how active are we talking about? Now all of a sudden I understand you move it to other pads and areas. I can see this being used fairly extensively.

**Keever:** I guess it's possible.

**Jim:** Is County Road 14 paved in this area?

**Keever:** Yes.

**Best:** The concern I see according to the request is there are two parcels in one application; CR 14 is paved but the other road is not, is that correct?

**Jim:** The road on the southern parcel is not paved.

**Best:** So your ingress and egress on the south parcel is going to end up having to be on 31<sup>st</sup> St, has there been a discussion of Hess paving that portion so that all that ingress and egress of the two (2) parcels are coming in and out of pavement?

**Keever:** I don't know if we've determined all the ingress/egress, the one particular to the facility that we are going to build we are going to attempt to use something that possibly can go all the way from the station and access south to the other parcel as well. Obviously the road that comes off of County Road 14 will be utilized.

**Best:** If we are going to hard zone than no other applications will come before us or very few and so to me it's very important that those two heavy industrial parcels are ingress and egress onto a hard surface rather than 31<sup>st</sup> St in its current state which is gravel.

**Hunter:** There are some discussions about using access from the new facility and crossing over on 31<sup>st</sup> To CR 14 onto private land to the southern parcel.

**Jim:** Trevor I think the concern that was expressed by the person that called in is a dust issued, whether you are coming across the side or coming in. There is potential of dust and I know the person we spoke to this afternoon,

talked as many times about dust in this area. It is very fortunate you are right off of CR 14, I just know that is going to be one of the key questions.

**Hunter:** Certainly. Dust is a valid concern and there are dust mitigation options.

**Best:** Our dust mitigation is handled through our conditional use permits and you will not have conditional use permits so we need to address this on the development site. If there were two different parcel applications we would view the north one on 31<sup>st</sup> differently to the south one.

**Jim:** They actually are. When they submitted their application it was one comp plan change but they actually did two different zone changes, to be fair to them that is exactly how they approached it.

**Jennifer:** I did take the call on the complaint and Hess is out there strong, for instance 30<sup>th</sup> St. Hess's well pads are there and that road is atrocious. It's not just dust control, it's the maintenance of the roads that she has a huge concern about.

**Hunter:** As to this road or the associated road that's related to Hess?

**Jennifer:** All of the above but this road too.

**Jim:** She has expressed great concern about these roads.

**Hunter:** And that's good to know but you know that call came in about 3:30 PM. I told you and I have told this board we plan to address the person who made the complaint and we will absolutely have that conversation.

**Jim:** To be fair the call did come very late today and they have not had a chance to respond.

**Fleck:** Once we're done today we don't have anything to say about this.

**Jim:** No. We have a couple of options. We can approve, deny or table. If you approve it, it will go to the County Commissioners. Trevor and Hess would make a presentation to the County Commissioners also. So it's not like all is lost. If it is denied or if its tabled we can have them come back to this board or the County Commissioners could kick it back to this board.

**Johnson:** Another thing to be aware of is we make recommendations to the Board of County Commissioners and we could recommend approval if they have taken care of these concerns by the time it comes to that board.

**Haugen:** Did the outlying landowners get notices like we usually send out? I guess what I'm wondering is why they didn't respond before today?

**Jim:** They are not required to respond within a certain time.

**Jennifer:** She was out of town.

**Haugen:** They normally get a couple of weeks ahead of time.

**Jim:** It was during the holidays.

**Best:** Is the request on the comp plan and zone change specifically for the parcel on the north side of the County road?

**Hunter:** There is one comp plan application that includes both parcels, there are two zone change applications one for section 29 parcel and the other for section 32 parcel. One thing I do think it important to know is the only thing at the end of the road is a private, lease road. There is one oil pad at the end of this road and it is Hess's pad, if you follow this road south there is nothing there, it just ends at a well pad. There are no homes around here.

**Jim:** It's a dust issue.

**Hunter:** I understand I just think it's important to know.

**Best:** When you look at the numbering in the road it's 31<sup>st</sup> St NW the county has taken responsibility for that road, I don't understand where the county responsibility begins and ends and where Hess's responsibility would begin and end.

**Jim:** That road does fall on a section line so it would be a county road.

**Olson:** Would that be considered minimal maintenance as far as the county is concerned?

**Jim:** Where it's a less road it's not even considered minimal maintenance, its non-maintenance.

**Best:** When this comes to the commission level the section line portion on 31<sup>st</sup> should probably be figured out and so it might be in your best interests to table it for one meeting so you can get something figured out.

**Hunter:** We wouldn't be on tomorrows agenda but the one after, so we'd have a few weeks to figure it out?

**Best:** Correct, unless we table it then it would be one month.

**Hunter:** We'll plan to figure it out by the 16<sup>th</sup> of January.

**Olson:** You do not wish to table this?

**Hunter:** Correct, and that has to do with construction there is a timeline for land negotiations then construction. There are several deadlines for Hess that's why a January decision is important. I understand the concern it is received well and we will have a comment for it.

**Mrachek:** Any other comments from our board?

**Fleck:** Are you just servicing Hess wells or are you going to service all the wells in that area.

**Keever:** The intent is to gather as much as we can, so we would seek out any and all.

**Jim:** That would further reduce flaring, would it not?

**Keever:** For the general state of North Dakota, not only our own but over all state flaring.

**Mrachek:** Any other comments?

**Motion to APPROVE for the comp plan and both zone changes: Olson, Second: Gravos, Voice Vote: All Ayes.**

### **Item 3: Manufacture Home Inspections.**

**Jennifer:** We are requesting an amendment to our ordinance to include manufactured home inspections. Our inspector was certified by the state so now you can inspect all new manufactured homes which would help us since we have to sign off on the permits for their zoning but it has to be in our ordinance before we could get our placards to start the inspections. So it would be **5.11.3 “Each manufactured home installed anywhere in McKenzie County must be installed by a State-approved, licensed installer and inspected by a State-certified inspector.”**

**Mrachek:** Just so we are clear, are the manufactured homes the pillars or the foundation?

**Jennifer:** Pillars.

**Jim:** Manufactured homes is by HUD and it follows requirements setup by the federal government. Modular homes can be built almost the exact way but it has to follow North Dakota building codes and so the factories inspect it to meet North Dakota requirements. A modular typically has a crawl space or basement under it, it's on permanent foundation. A manufactured home typically is put on piers though that is not a requirement whether it's manufactured or modular.

**Mrachek:** Another comment, this says anywhere in McKenzie County does that include the townships that do their own zoning?

**Jim:** No, maybe we should add the wording, but this would be anywhere we have building authority. This 5.11.3 is an amendment to our building code. Jennifer why don't we add that language; “Anywhere in McKenzie County that the county has jurisdiction”.

**Mrachek:** Would you happen to know what the fee is for those?

**Jennifer:** Five hundred (\$500.00).

**Jim:** Typically it is one inspection if it's a single wide trailer, trailer is considered a HUD home, and a double wide is typically two inspections, it can be more than that if there are problems but that's standard.

**Jennifer:** Right now we don't have a licensed inspector a lot of them go through Dickinson or Williston. In this County Scott is the only inspector, so he probably will go in different jurisdictions because it is a State code but if it's out of our jurisdiction we won't be charging for it.

**Best:** Can you talk us through a little more of the details of the allowance homeowner self –installation ends and the requirement for a certified installer begins?

**Jim:** The state, within their inspection and installation process, they do require state approved unless the homeowner is doing their own installation.

**Haugen:** According to what it says here, they need a state-approved installer.

**Jennifer:** That's just for new homes.

**Jim:** This is strictly for new homes, once it becomes a used home it is no longer required to go through state inspections.

**Jennifer:** It said new, we'll re-add that.

**Fleck:** Our zoning is still required, isn't it?

**Jim:** Under zoning we certainly have had jurisdiction but as far as the building department up until now we have not inspected manufactured homes because our inspector wasn't certified and it requires a state certification.

**Fleck:** For a new home a person still can't do it?

**Jim:** No, if it's your home you buy it you can set it. But if you hire someone to do it that person has to be a licensed contractor to do it.

**Johnson:** We'll have to clarify that because that's not how it's worded.

**Best:** We already have to revise it to include where our authority lies, can we include that amendment as well when we bring it back next month, will that work?

**Jim:** Yes, we can bring it back next meeting.

**Mrachek:** You said Scott is our only inspector, what happens if he goes away?

**Jim:** It goes back to the way it is right now, which is they would have to find an inspector from another part of the state, Dickinson or Williston, that is state-certified.

**Mrachek:** Any would have to get a certificate to occupy, how long would that take?

**Jim:** That how it is right now. We are trying to speed the process; we are not doing anything that would slow it down.

**Mrachek:** How fast is an inspection?

**Jim:** I believe within a week.

**Motion to TABLE until revisions are made: Olson, Second: Fleck, Voice Vote: All Ayes**

**Meeting was adjourned at approximately 5:50 PM.**

**February 2018**

## Planning and Zoning Commission Minutes

February 12<sup>th</sup>, 2018

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

Members present: Paul Wisness, Les Haugen, Vawnita Best, Kris Mrachek, Jeremy Olson and Butch Fleck

Absent: Bethany Devlin, Aaron Gravos and Gene Veeder.

Staff present: Planning and Zoning Director Jim Talbert, Planner & Code Enforcement Officer Jennifer Peglau, Planning Attorney Ari Johnson and Administrative Assistant Peyman Kadir.

Others: See sign in sheet

Minutes from the January 8<sup>th</sup>, 2018 meeting: **Motion to APPROVE minutes: Olson, second: Fleck, Voice Vote: All Ayes.**

### **Unfinished Business:**

- A. **Manufactured Homes Inspections (amendment to Zoning Ordinance) Tabled**

### **Public Hearings:**

**Item 1: Aries Residence Suites 0001-18 Comprehensive Plan Amendment and Zone Change: The applicant is requesting a Comprehensive Plan Amendment in order to Zone Change from Industrial to R3 to support the current land use. The property is located SE1/4 of Section 1, Township 149N, Range 99W.**

**Jennifer:** They are requesting a comprehensive change and a zone change, they are an existing facility and they are in compliance. They do go through the yearly review, they do have a reclamation bond, at this time they would like hard zoning and they do understand they have to be in mobile home park standards. This is a comp change and zone change for three (3) different parcels (650000115, 650000105, & 650000150) currently they are zoned Industrial, one of the parcels comprehensive plan is Transitional and the other two are Industrial. They are going to add green space with a barbeque sitting area and a playground all this spring.

**Jim:** Aries has always been one of the better quality facilities in the area and the idea of it switching over to a residential use where families could live as opposed to just a workforce housing makes sense. It had originally been zoned Industrial, it is adjacent to Transitional which does allow a residential opponent and so we would just be extending that to include the existing trailer park.

**Olson:** If I recall I thought the intent was to do Comprehensive plan changes fairly infrequently and not as requested.

**Jim:** We do try to do that and we have had a few now. This is adjacent to existing uses that are within the Comp Plan and it is an existing facility. We aren't creating something new here, we are just trying to capture the zone

that is already occurring. We have actually just had three Comp changes in the last year since we passed the change and so we have stayed true to that. In each of those cases I believe they have all been to change to be more consistent with what was already built on site.

**Best:** Now that we have two different uses, who is responsible for the screening requirements and those sorts of things?

**Jim:** Where they will be the ones changing, they will need to make that buffer zone. To the north there is where Dakota Access has their tanks, as part of the buffer we will be asking Aries to add trees for the buffer between them.

**Best:** So the staff has a plan for buffer and they are meeting requirements?

**Jim:** We do and they are.

**Jennifer:** They are meeting the mobile home standards.

**Jim:** Which are higher standards than what we have required in the past.

**Jennifer:** With the mobile home standards we do have to have that reclamation bond in place, it will remain.

**Best:** Which three (3) parcels exactly?

**Jennifer:** Parcels 650000115, 650000105, & 650000150 in Section 1, Township 149, Range 99.

**Mrachek:** Any other questions or comments?

**Jennifer:** Do they have a representative here if you have any questions for her?

**Mrachek:** Any other questions from our Board?

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

**Item 2: White Wing Limited 0002-18 Zone Change Tabled**

**Item 3: Arrow Field Services Conditional Use Permit 0015-17. The Applicant is requesting a new natural gas processing plant with a capacity of 200 million cubic feet per day, and a fractionator plant with the capacity of up to 40,000 barrels per day. The property is located W ½ NE ¼ of Section 21, Township 149N, Range 98W, parcel number is 630010300.**

**Jim:** Arrow Field Services also known as Crestwood is a facility along County Road 37, last year this Board approved the construction of phase 1 which was a thirty (30) million cubic foot per day natural gas production there. They've come back and want to add a second phase; which is substantial, one hundred and twenty (120) million cubic feet. We had expressed concern about the impact on the road and Crestwood has worked very diligently with staff and actually will be presenting to the county commission a contribution of three (3) million dollars to help improve

County Road 37 from highway 85 all the way to the site. That does alleviate our concerns and fears. Crestwood has been very helpful, originally when they did phase one they purchased an additional twenty (20) acres because we knew there would be some road alignments or realignments that would need to take place and now they are stepping forward again. We are recommending approval of this Conditional Use Permit. If you have any other questions we'll be happy to answer them and they have representatives here also.

**Fleck:** How much of the county road is involved?

**Jim:** Their site is approximately three and a half (3.5) miles in from Highway 85 on County Road 37. Their construction would not be this year, they would be doing much of the engineering this year and construction the following season.

**Mrachek:** Any comments from the audience?

**Wisness:** How much truck traffic will there be on the road?

**Dean Volesky:** Director of operations at Crestwood: Currently we are in the area of about fifteen (15) trucks per day with the thirty (30) million RGT plant, it's probably about five (5) thousand barrels per day production and we are also hooked up to the OneOK pipeline, OneOK is currently under some constraints where they cannot move all the NGL out of the territory, they are planning an expansion on their pipe so once that is in service which is in the next couple of years, we are going to be able to put a majority of the product down that pipe and so that will eliminate a lot of that truck traffic. Now with this expansion we are going to be pretty close to tripling that amount of NGLs up to about fifteen (15) thousand barrels per day. So with that it's going to be a combination of trucks and pipe. We can't support that with trucks to the point we'd be moving everything out with trucks, so if you triple the amount of trucks we are using right now, 12-15, so it would be approximately 45 trucks if we are having to move all of it out by trucks which we don't see happening, the pipe will be there also.

**Wisness:** Is that a county road?

**Jim:** County Road 37 is a county road, yes.

**Best:** Crestwoods or Arrows contribution to realignment is very important, thank you for doing that. It is about three and a half (3.5) miles off of Highway 85 and we do need to realign and get this road some additional safety standards; the contribution is going to help do that. It seems that as long as the contribution exists to realign and upgrade that road to pavement, it would be minimally disruptive to the neighbors along that road. So I want to thank you for your willingness to participate with us in that needed upgrade.

**Volesky:** We could see that too, there were some concerns, and like Jim stated with the additional twenty (20) acres that we bought in that bottom territory to help move that road with some of the original plans and the paving taking place.

**Best:** I don't know the details but there is a public salt water disposal just past your location too and it sounds like, according to the engineers office, that enhancement/upgrade will go past that too so there is a few uses that create truck traffic and it will be helpful on those five (5) miles or so in on that road.

**Jim:** When we have generous contributions like this from the industry it does allow us, because it costs us approximately two (2) million dollars per mile to build a road, with this we are not just looking at this three and a half (3.5) miles but we are hoping to extend it seven miles. The idea is the following year to continue it up to highway 23. It is a great asset when we have corporations that set forward like this.

**Mrachek:** Any other comments from the audience?

**Motion to APPROVE: Haugen, Second: Fleck, Voice Vote: All Ayes**

**Item 4: "Sunset Clause" Temporary Housing Renewals.**

**0008-14 Delmer Rink/Rink Construction-10955 25<sup>th</sup> St NW IN COMPLIANCE**

**0022-14 Delta Constructors-12698 6<sup>th</sup> St NW, Grassy Butte IN COMPLIANCE**

**0031-14 Newfield Exploration-2687 131<sup>st</sup> Ave NW, Arnegard IN COMPLIANCE**

**0085-14 True Oil/Slash 2 Slash-1345 141<sup>st</sup> Ave NW IN COMPLIANCE**

**Jennifer:** We have a total of four for renewal, Delta Constructors, Newfield Exploration, True Oil and Delmer Rink that we would recommend renewing for another year with their workforce housing. I have been keeping an eye on twenty-seven (27) of them, four of them need the Sunset Clause renewal and two of them are in violation currently.

**Olson:** Two out of the four that need renewal?

**Jennifer:** Nope, two out of the twenty-seven

**Olson:** The four that are up are in compliance?

**Jennifer:** They are all in compliance, they all have their reclamation bonds and they work with us great.

**Olson:** Any reservations at all?

**Jennifer:** None at all.

**Best:** Jennifer, do you know the CUP number for Rink?

**Jennifer:** Yes, it is 0008-14.

**Jim:** Wasn't that the one before this Board just a couple of months ago?

**Jennifer:** That was a zone change for the shop not the housing.

**Jim:** We had talked about it. It's in the near vicinity?

**Jennifer:** Yes.

**Olson:** Yes, they also wanted to get an exception to have an extra house on the parcel?

**Jim:** Yes, where their ranch house was.

**Mrachek:** Any comments from the audience? Any comments or questions from the Board?

**Olson:** Are you looking for one motion to do all four at once or one at a time?

**Jim:** I think we can do them all at once.

**Fleck:** What is a Sunset Clause?

**Jim:** With a lot of the workforce housing we understood that there was going to be a point where we would want that workforce housing to go away. We see a long term need for but there is going to come a point in our history where we don't want that anymore and the Sunset Clause just says that we are going to look at it each year and determine if it is still needed. We are recommending approval of these because we feel the need is still there and these four are in compliance.

**Mrachek:** We are just renewing for an additional year?

**Jim:** Correct.

**Olson:** They needed the workforce housing because there just wasn't enough regular housing.

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

**Item 5: Revision to Building Code.**

**Jim:** I have been here almost three years and ever since I've been here we've had the building code. The building code was passed here in the county in February 2012; zoning didn't pass until March 2013. The building code is the North Dakota building code which currently uses the International Building Code (IBC) 2015 and we have been following that code. When we passed that code I believe we did have a responsibility to follow that code as it is written to the best of our understanding. There are other counties who also have passed the code who do not do it in the inspections and I think they put themselves at risk. In saying that the building has a provision that once a county has passed the code it says: "The governing body of a city, township or county that elects to administer or enforce the building code shall adopt and enforce the state building code however the state building code may be amended by Cities, Townships and Counties to conform to local needs. Over these last three years I have observed us going out and doing these inspections, originally with Forsgren and then with our own staff and often it seemed to me that the code came in conflict with industry standards. In your packets I have printed off, it ended up being fifteen pages, the codes that oil and gas facilities need to follow through state and federal regulation standards that go forward and this does not include any of the IBC. You can see the extent they are regulated. Probably six months ago I began to question whether I felt the inspections on the building codes were making the facilities safer and met a desired change that wasn't happening already. Our building inspector, Scott Twogood, is here he does an excellent job of going out and finding various things but often these were causing delays and conflict, going back and forth between their engineers and us on what was going to be acceptable or not. It is my opinion that our inspections of these facilities are not changing the overall safety of the building. I don't think we've had greater or less incidences because of our inspections and that does not reflect on Scott at all, Scott is going out and doing a fantastic job, he is going out and doing what he is asked to do. I am proposing that we amend the building code to allow for an exemption of certain oil and gas processing and storage facilities, it would not include any facilities that have offices or living quarters, this will not affect shops and so on that we see around, this is strictly

processing plants and facilities and it is because they already have so many state and federal codes that they have to follow anyway.

**Scott Twogood:** McKenzie County Building Official: These are the most hazardous buildings in the County that pose the most danger to the residents of the County. Even though they may say there are building those to such high standards why am I finding so many problems when I do inspect these buildings that are being built to standards and codes. Biggest ones are just the egress in the event of something happening in these buildings and getting out, improper doorways, improper landings, and improper stairways. Yet they say they are building these things to these standards but I am not seeing that. It's not this company or that company it's throughout the industry. It is concerning that to try to amend these codes, giving them that exemption. For one in the building code itself you are forbidden to exempt those buildings, you have to do what is most stringent, you can change or amend the codes but you cannot simply ignore them or those types of structures, it's just something the code doesn't allow. Legally I don't think it is something we can do, we need to take a closer look at that and I think we still have to go through the State to get this approved even if it is approved by the commissioners, if I'm not mistaken.

**Jim:** I have checked into that and we are allowed to make these modifications per state code. This amendment will not affect any zoning changes, distances from property lines between buildings that are in the Zoning Ordinances will remain. Prior to these buildings coming online it would require a fire safety inspection from a fire inspector going through it and one yearly after.

**Mrachek:** This is coming about because it's taking a while and delaying some construction or?

**Jim:** It's a couple of things, one I think that we are putting the County in greater liability, if a building blows up and there have been inspections and we have said that all is well. The question is would our inspections have stopped the building from blowing up?

**Mrachek:** Is that the same argument if my house starts on fire and burns down?

**Jim:** No, because we have given a level of security that we have followed these standards. I think that we are making our County less competitive; our surrounding counties do not do these inspections.

**Twogood:** By the code those counties should be doing the inspections.

**Jim:** I agree. I want to exempt it so we are following it legally, following the process.

**Twogood:** I think because of the code, we can't exempt those because we are obligated to inspect them for safety.

**Mrachek:** Maybe Ari should be the one to answer this.

**Ari:** The provision the building inspector is talking about is part of the building code and the building code says we can amend it so the question is can we amend that part, basically the applicability portion.

**Best:** I have two questions, one relating to what other counties are doing and why? My second question is; are there any conflicts in the prescriptive rules between all of these codes versus our codes?

**Ari:** We had a meeting with the petroleum council and we discussed these issues, the example they gave was stairs. The building code has a certain requirement for stairs but they have other codes that are applicable to them that have different requirements. It does seem like there are actual points of conflict.

**Twogood:** That is OSHA specifically and OSHA is a building standard to make a workplace safe.

**Olson:** What is the goal tonight; is this a discussion, a vote or first reading?

**Jim:** This would be the reading. You obviously have the option of approving, denying or tabling. With either approval or denial that recommendation will go to the County Commissioners for their vote. Table would keep it from going to the County Commissioners at this time.

**Fleck:** Is the State falling down on your inspections? Are they supposed to inspect them every year too?

**Twogood:** The State does plumbing and electrical and again these other entities you are talking about, these other inspections that are going on, they're just not doing their jobs.

**Fleck:** So nobody is inspecting them, is that what it is?

**Twogood:** Not that I see, I'm finding issues that I shouldn't be.

**Jim:** We have people from the industry here tonight that could answer about the inspections, Federal and State, which they do have to go through on an ongoing basis, if there is someone from the Industry that would like to address.

**Twogood:** I've got one other note besides these buildings we are talking about. The State has already designated IBC certified builders throughout the United States who can build these buildings, like a HUD home for instance, a trailer house is a HUD home, State inspected on site and build to those specifications those can also be brought into the state with the same criteria and build to state standards and are readily available yet the industry is not taking advantage of that or don't know about them.

**Daubs Thompson:** Vice President and Assisted general counsel for Crestwood Midstream; we are full heartedly in support of this amendment. The International Building Code is meant to regulate buildings, habitation buildings, it's not meant to regulate enclosures like gas processing facilities. Most other states that have robust oil and gas operations actually have exemptions for these types of facilities similar to what Jim is proposing. This would make McKenzie County more attractive for business opportunity purposes. What Jim has proposed here would require a waiver, it's not a blanket exemption, it would still require a company to come in and meet with Jim and other individuals and articulate why the waiver should apply to their facility.

**Olson:** Is that true, Jim?

**Jim:** That is true.

**Thompson:** There probably should be a fee associated with that, Jim and his staff has to go through the process, review and determine whether a waiver is appropriate. Through that waiver process companies would have to certify that they are in compliance with these are regulations; for example you are in compliance with the API (American Petroleum Institute) standards, so if something goes wrong Jim and his staff can say "You certified you are in compliance with these and you are not." That gives you an enforcement mechanism. It is important to know from a liability stand point, I can tell you that in many instances if a company is told by a county or government of any kind that they are 100% in compliance and something goes wrong they will point that back at you. This is more beneficial for the county, now you are asking the industry to certify. Just one more thing, there is an annual fire and safety inspection, someone will still be coming through these facility on an annual basis the general safety and whether it complies with the Fire Code. Any other questions that I can answer?

**Fleck:** If you guys are doing such a good job, how come our building inspector is finding these problems?

**Thompson:** The issue there is, what we are building with in gas processing facilities, they are enclosures, that's what you are thought as in our world of business. We have to build enclosures that comply with OSHA regulations; we have to build enclosures that comply with API standards and other oil and gas industry standards that every company should be adhering to as a member of that organization. The problem is that those enclosure standards are different and not as robust as the building requirements for habitable structures. What you are doing is having a building that really is supposed to be an enclosure is now being forced to comply with greater standards similar to if it was a habitable building, which is not.

**Patrick Perkins: County Fire Inspector;** There is not a section in the IBC that complies to process plants, there is a section IFC that does, in chapter 57. The codes are meant as minimum standards.

**Best:** Who is doing the engineering design reviews on behalf of the County?

**Twogood:** I am.

**Best:** Maybe the question should be what are some other states doing too?

**Jim:** When I first started to study this out and try to find the best solution I looked at Texas, Oklahoma, Wyoming and also surrounding counties, we are presently the only county in the state that is inspecting these facilities. Scott is correct that these other counties are putting themselves at risk, we are trying to approach it properly, we passed it and now we are trying to amend it to fit our local needs. In other states these are generally exempt from the building code. A lot of these facilities would normally have walls or anything around them, but because of our harsh climate, we put an enclosure around it for safety. Short answer is other states are not requiring it, other states are not requiring it and I think it affects our ability to compete with other markets.

**Olson:** The one thing making it okay is that it still has to go to the county for a waiver, so it's not blinded.

**Jim:** We will still be doing a safety and fire inspection prior to operations beginning and then annual inspections after that.

**Mrachek:** Is there a reason this came up, are we behind or is it costing them?

**Twogood:** No, I think we are leading by example. This is what everybody should be doing. A lot of these states Jim mentioned are home rule states that are different than what we are doing here. That has to be looked at too.

**Fleck:** Did you say Jim that there is still going to be inspected annually anyway?

**Jim:** We will inspect them from a fire and safety stand point.

**Fleck:** What's the difference?

**Jim:** The one is a building code

**Wisness:** Is it the cost that's a factor, that's driving this change?

**Jim:** No, I am looking at it and saying what is best for the County. I believe that as a County we are taking on more liability, we are making ourselves less competitive in the market.

**Mrachek:** I guess I could care less about the competitiveness but I would like to hear more about the liability and maybe Ari and the council should give an opinion on that.

**Ari:** I don't have enough information at the moment to answer questions.

**Mrachek:** I would say then we don't have enough information.

**Best:** I feel like we should table this and do some research in the next thirty (30) days.

**Jeff Skaare: Director of operations for Caliber Midstream:** I think it is really important we don't take a hard left turn here and we focus on the writing of what's here. This is not a major change this is a grab for discretion when it is regulated by another entity.

**Jim:** One other note if I can make. When I started on this nobody in the industry came to me, this was something that I felt we needed to do to make work better and keep moving forward. I reached out to the Petroleum Council and asked for their thoughts and opinions on this. I don't want anyone to think that I am being pressures. I see a deficit on how we are doing things and I'm trying to come up with a relatively easy solution while still keeping people accountable moving forward.

**Olson:** I think this is probably one of the most regulated industries there are.

**Ari:** I would suggest instead of tabling you send it to the County Commission with the suggestion that they obtain State Attorney's opinion or the Attorney General's opinion on one can we make this amendment and two what exposure to liability do we have if we have these facilities that we are supposed to be inspecting and we're not.

**Jim:** In working on this not only have I worked with Ari but I have been working with Chaz and his staff to review it and I have kept him informed throughout this process.

**Best:** I would still prefer to table and the one thing I am curious on making sure is included in the amendment is how we turn the tables and how we have that certification process that all components are met to be the obligation of the applicant to verify that, the self-certification of compliance however that's handled to make sure we have a process where we can achieve that.

**Motion to TABLE until next meeting: Olson, Second: Best, Voice Vote: All Ayes**

**Meeting was adjourned at approximately 6:40 PM.**

**March 2018**

Planning and Zoning Commission Minutes

March 12<sup>th</sup>, 2018

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

Members present: Paul Wisness, Les Haugen, Vawnta Best, Kris Mrachek, Aaron Gravos and Butch Fleck

Absent: Bethany Devlin, Jeremy Olson and Gene Veeder.

Staff present: Planning and Zoning Director Jim Talbert, Planner and Code Enforcement Officer Jennifer Peglau, Planning Attorney Ari Johnson, Planner Peyman Kadir and Administrative Assistant Amy Tranholt.

Others: See sign in sheet

Minutes from the February 12<sup>th</sup>, 2018 meeting: **Motion to APPROVE minutes: Butch Fleck, second: Aaron Gravos, Voice Vote: All Ayes.**

**Unfinished Business:**

- A. **Manufactured Homes Inspections (amendment to Zoning Ordinance) Tabled**
- B. **Revision to Building Code**

**Public Hearings:**

**Item 1: Knife River 0002-18 CUP- Conditional Use Permit. Knife River is requesting a conditional use permit for a borrow pit. The site is located in NW1/4 Section 32, Township 150N, Range 98W**

Planning Director Jim Talbert presented and explained that Knife River has come to an agreement with Rolfson Oil for maintenance of "Haul Route". Please see 0002-18 CUP for a copy of the signed agreement. This is located south of town off of 125<sup>th</sup> and is requesting to use approximately 6 acres, there is storage units and light industrial buildings along this road way.

Audience, Representative, Committee and Board Comments:

Victoria Kiegel (Audience): Stated she had a copy of a temporary permit approach and it stated the county will maintain the road. Will the county maintain the road? Is there any discussion for the county to maintain the road?

Jim Talbert: The County doesn't maintain the road, the permit is a temporary permit from the road department and they didn't need this permit. Rolfson Oil will continue to maintain the road and Knife River has a signed agreement with Rolfson Oil. There is no discussing for the county to take over the road and the county doesn't plan on taking on any more roads as of now.

Chris Kautz (Knife River Representative): Was asked by Vawnta Best if Knife River agrees and consents to all the conditions provided in 0002-18 CUP. Mr. Kautz agreed to all conditions provided.

**Motion to APPROVE: Butch Fleck, Second: Aaron Gravos, Voice Vote: All Ayes.**

**Item 2: White Wing Limited 0002-18 Zone Change Tabled**

**Item 3: Andeavor Field Services 0003-18 CUP. Application for a conditional use permit to construct a gas pipeline. Pipeline will run through; Township 151 N, Range 98W, Township 150N, Range 98W, Township 149N, Range 98W. This project is a 17 mile crude oil transmission line that starts in Section 35 Township 151N, Range 98W and ends in Section 30 Township 149N and Range 98.**

Planning Director Jim Talbert presented and explained that this is a 12inch line that will run from Oneok 1806 all the way south of town to Targa. Jim stressed that condition #10 was added for reinforcement. If the applicant obtains any easements through condemning land and/or eminent domain, the approval will be reversed and the application will be responsible for getting a new approval from the planning/zoning and County Commissions.

Audience, Representative, Committee and Board Comments:

James Stanford (Representative): James explained in more depth about the construction. New construction will be from Oasis gas plant to their facility south of town next to the Targa plant. They will repurpose 20 miles of the Bakken pipeline. They currently have 40% of easements from McKenzie County and plan to be completed mid-April 2018.

Commissioner Vawnita Best asked Mr. Stanford multiple times if they could comply with condition #10. Mr. Stanford reinsured that there is no issues with condition #10 and can absolutely comply.

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

**Item 4: April Szostak 0003-18 ZC. To support the existing land use, the 12 acre parcel will be split. Applicant is requesting Zone Change to Residential 5A (ares) to support existing home. This is located at 12632 23<sup>rd</sup> St NW, Watford City, ND 58854. NW1/4 NE1/4 Section 12 Township 149N Range 99W**

Planner and Code Enforcement Officer Jennifer Peglau explained that client is requesting a Zone Change; this is a mixed use with residence home, shop and workforce housing. Client is in need to split parcel to help assist in a loan approval. This property is currently zoned as industrial and proposing this property be changed to Residential 5A and leave the parcel with workforce housing and shop as is, grandfathered.

Brian Szostak present.

Audience, Representative, Committee and Board Comments: NONE

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

**Item 5: Frack Shack America Inc (Mohave Engineering) 0004-18 Z, CUP. Applicant is requesting a Zone Change from Agriculture to Light Industrial. Also a Conditional Use Permit for the existing workforce housing. The existing land use fits the zone change requested to Light Industrial. However there is workforce housing inside the building which requires a Conditional Use Permit also.**

Planner and Code Enforcement Officer Jennifer Peglau explained that this is located off of 125<sup>th</sup> and the applicant is requesting a Zone Change from Agriculture to Light Industrial. The building sits in the middle of two parcels

which the new survey shows the property line change. They will be parking trucks in the back parcel and the shop with workforce housing will be on the West side. We are not asking for a bond because the housing is in the permeant structure and we didn't feel the reclamation bond was appropriate with a permanent structure.

Audience, Representative, Committee and Board Comments:

Commissioner Butch Fleck asked the staff if they plan to expand and add more workforce housing.

Planning Director Jim Talbert explained that they will not be expanding and will not be adding any workforce housing.

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

**Item 6: Williamson Properties, LLC 0004-18 ZC. To support the current land uses and existing housing on parcel. 2530 132<sup>nd</sup> J Ave NW Arnegard, ND 58854, Section 25, Township 150N, Range 100W.**

Planner and Code Enforcement Officer Jennifer Peglau explained the owner is in the process of cleaning up his parcel and wants to subdivide it. Currently there is real property on the land that has housing and the other have will be light industrial. There is currently 7 units left but are sold, they just need to be hauled out. The applicant will just leave the one main building which will be in R3 zone. This is a 10 acre site when done it will be a light industrial on the Northern half and the other half will be R3.

Audience, Representative, Committee and Board Comments: NONE

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

**Item 7: Faye Pit LLC 0005-18 CUP. Conditional Use Permit. Applicant is requesting a conditional use permit for a fresh water holding pond to services nearby oilfield activity by lay flat only.**

Planner Peyman Kadir explained this holding pond will be 1.3 barrel capacity pond and is off of County Rd 12. This site should not be used for trucks as stated in condition #7. They will be required to have a state water permit; we don't require the permit until its ready to use. Applicant has applied for a SWPPP with the state and that will cover conditions #3 and #10.

Audience, Representative, Committee and Board Comments:

Commissioner Les Haugen asked the staff where the water is coming from? Also have the neighbors come forward or have the neighbors been notified that this could affect their water rights?

Planning Director Jim Talbert explained they don't know where the water is coming from, but once they get the State water permit they will know more information. Since we don't know where the water is coming from we haven't notified anyone yet and the same owner owns the parcels around this area.

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

**Item 8: ONEOK Rockies Midstream 0001-18 CUP. Conditional Use Permit to convert existing 12. The existing line is located in sections 30, 31, 32, 33 or Township 153N, Range 101W, Sections 1, 6 of Township 152N, Range 102W, Sections 6, 7, 18, 30, 31 of Township 152N Range 101W, Sections 5, 6, 8, 17, 20, 21, 28, 29 of Township 151N Rang 101W, and Sections 10, 15, 22, 23, 25, 26 Township 150N, Range 101W. Applicants are requesting Conditional Use Permit to support the conversion of an existing 12” steel natural gas pipeline (gathering) to natural gas liquids (transmission) pipeline.**

Planning Director Jim Talbert explained that the applicants want to go from gathering to transmission. All the requirements for public have been satisfied and they staff hasn't received any phone or written comments on the proposal. There is no new line and they have also got PSC approval.

Audience, Representative, Committee and Board Comments:

Alyssa (ONEOK Representative): Land owners have been notified if the underlining agreements require an amendment. An example is land owners have been notified if the agreements didn't say natural gas and we know have to carry natural gas liquids, those land owners have been contacted/notified or we are in a negotiation with those land owners. Otherwise land owners within 500 feet have been notified and have signed agreement of acknowledgement of the change and other land owners have been notified about surveys on the line.

Commissioner Les Haugen and Vawnita Best asked Craig and Alyssa with ONEOK if they have any issues with the conditions and asked if they agree and accept the conditions. Both representatives accepted and can comply with all the conditions provided.

**Motion to APPROVE: Butch Fleck, Second: Aaron Gravos, Voice Vote: All Ayes**

**Item 9:SWAT Consulting, Inc 0005-18 ZC, CUP. Applicant is requesting a Zone Change from Agriculture to Light Industrial. Also a Conditional Use Permit for the existing workforce housing. Section 12, Township 149N, Range 99W, Parcel 651001300 and 651001000. The existing land use fits the zone change request to Light Industrial. However there is workforce housing inside the building which requires a Conditional Use Permit also.**

Planner and Code Enforcement Officer Jennifer Peglau explained that this is located south of town in the Sunrise Estates subdivision. The applicant is requesting a Zone Change from Agriculture to Light Industrial. The applicant is not allowed to have any RV's on this parcel applicant needs to provide adequate water supply for fire protection. There isn't a bond requested because the housing is in the permeant structure and we didn't feel the reclamation bond was appropriate for permanent structure.

Audience, Representative, Committee and Board Comments: NONE

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

**Unfinished Business: Revision to Building Plan. A resolution to amend the Building Code of the McKenzie County Zoning Ordinance.**

Planning Director Jim Talbert explained we were able to modify to help local needs. The oil and gas processing plants are unique in their own nature. The state building code is the same version of the national code. Oil and gas is unique and doesn't fall under the natural. There were some questions from the board last time regarding what other Counties and States are doing and did it work? Example the City of Fort Worth has modified the building code to meet the special and unique requirements of the oil and gas industry. Fort Worth has had this in place for a long time and its working very well for them. We are recommending that the applicants come in and request a permit waiver and if met the certain standards in the oil industry could be granted a waiver. This would not include buildings that are used as offices or that would fall under the building permit. Prior to the building being used we would require fire and building inspections and then they would fall in line with the annually safety requirements. The petroleum industry is required to follow codes, standards, guidelines and specifications to insure the safe construction and operation of facilities, which includes codes from the International Code Council (ICC), American Petroleum Institute (API), National Fire Protection Association (NFPA), Codes of Federal Regulations (CFR), American National Standards Institute (ANSI), Instrument Society of America (ISA), and the Factory Mutual Global Research (FM), International Organization of Standardization (ISO) and others.

Building Official Scott Twogood explained more in depth and showed examples of buildings. What is exactly happening in these buildings there is a large variety over the industry. A lot of these buildings fall in the H category. There are a lot of precautions that should be made that are not being made. Some of these buildings are designed to deflagrate meaning designed to blow up which would cause more harm and damage. I have provided pictures of other agencies that have failed to see missing screws, columns not lining up or structures not lying properly. When I see this in my final walk through I shouldn't see this stuff that has been supposedly checked. These are all commercial buildings in the oil and gas. When operators choose to pull the heating and air out of the buildings to make them exempt from the code. They are taking advantage of the law and codes. Example this is a 5000 gallon propane tank 5 feet from the building. There is no regulations on these but "Don't worry they are doing it the right way." This is an agency and we have no control over. So why are going down this road and what wrong with one more set of eyes? I would hate to see this come back on us in the court of law. We can't exempt these from the codes. Buildings are too close to each other now; the response was I guess we have missed this. I have been in the industry for a long time and this is the worst I have ever seen it.

Commissioner Vawnita Best asked Twogood if there was any specific states that was listed prior, have you found out what their safety review is and how is it different? Have you looked into how these other states do this? If you think we need local eyes on these projects is there away in your mind that we can eliminate the conflicting requirements between all these codes and the IBC?

Building Official Scott Twogood stated some of those codes and standards may not even be recognized by the IBC and OASHA isn't a building standard as explained last month, it's a safety thing for people it's not a structure thing.

Commissioner Vawnita Best said my question was how we keep the IBC Standards and requirements conflicting with the industry standards and requirements. I understand we also have conflict between IBC and the building code resolution.

Building Official Scoot Twogood answered with even if these are actually being followed by the North Dakota codes, which they are not, so that is a different issue. This brings me back to the part about bringing these buildings into the state. There are conflicts with the building codes, other agencies and we should work toward getting a resolution so we can have a safer building and workplace.

Commissioner Aaron Gravos addressed a question to Jim Talbert. Jim can you give an example to where you would apply this to someone coming in?

Planning Director Jim Talbert responded we have a couple facilities that will be going up shortly; one is Crestwood and Targa building. These are large gas processing plants, this would apply to these types where they are bringing in oil and or gas and then processing it to a point and then pushing it on down the line.

Commissioner Aaron Gravos asked where is the conflict between the oil and gas industry and the National Building Code.

Planning Director Jim Talbert responded the American Petroleum is their standard to build for oil and gas specifically. IBC is general in nature. It's all a bunch of complicated codes and lots of exceptions. Scott is seeing issues in these buildings because he is looking at them at the IBC level instead of the API. After talking with ONEOK and Targa they go through on a regular basis and monthly basis, they are re-inspecting and looking for issues and marking corrections. This whole purpose is to work with them to provide safety to the community and workers. This waver they wouldn't be pulling a building permit or have to do building inspections, but they are not excluded from the fire inspection. These are for compressor buildings, mechanical buildings where people are occupying the building.

Commissioner Aaron Gravos addressed Ari, from a liability stand point doing something like this what at risk would we be taking?

Planning Attorney Ari Johnson responded no, the County has so many portals of immunity, one is the discretion immunity. If Jim gives or doesn't give a waver the County is immune from being sued. I don't think the County is responsible for a building failure.

Ron Ness (President of the Petroleum Council) stated he is here to represent all the midstream operations in McKenzie County. This is great work and it's been great to have the planning and zoning department which was created six years ago, it's an evolution you understand that and where we focus our time to. I don't think there isn't an industry in the state that is more regulated than the midstream. Key points are these are mainly weather structures to protect equipment or facility from the harsh weather in North Dakota. In the middle of the page on of all the requirements where these midstream operators have to comply to and every time it makes it harder for the facility. These rules have been around in other states and they work. We strive for safety and everyone facilities. It's been good work on the staff's side recognizing our resources.

Craig Forsander (ONEOK) stated typically in our industry you see oil and gas inspection companies that are specialized in the pipeline; you will see a lot of different inspectors in several of craft depending on projects, not just a building inspector. I want to capture on some points. We are in support of the amendment. We are continuing to improve our facilities everyday of course if you go over something with a fine tooth comb you will probably find something but this is why our company does monthly inspections to help eliminate these issues. The overlapping regulations we ran into with IBC and OSHA. We went through the process and was approved but when

we got to the end we got into a dispute. Our staircase was built to OSHA codes but they didn't meet the IBC regulations. There was a misalignment between OSHA and IBC. WE have to really engage with high knowledgeable people due to being regulated so heavily. WE have to have risk management plans to for the safety of workers and safety around the areas. Our facilities were never intended for the public access. Any contactors or personal coming into our facilities to work have to go through intense training. Our facilities meet and at time exceed the standards and we are constantly looking out for the public and our employees. The buildings are not designed that if we have a worst case scenario that we will not have damage to that building because it will happen. There was a problem with the quality of workmanship over the last couple years with the large amount of buildings coming in or being built and we have to continuously work to improve these issues. We have had to go back and fix issues. It's not a onetime deal it's a constant fix. The picture Scott pointed out about the propane tank by the building, just because you see a propane tank at a facility doesn't mean it's in propane service, I just wanted to clarify that. There are a number of vessels at a facility but you have to understand what they are using it for. A lot of this is operator knowledge and we are accountable for this for the safety of our facilities.

Building Official Scoot Twogood responded with I'm trying to ensure that building does what it is supposed to do in an event of an incident. The construction work I have seen isn't up to par granted. These pictures are not even a week old.

Craig Forsander (ONEOK): But are they facilities that are a week old?

Building Official Scoot Twogood: They are still under construction, brand new. None of these pictures were existing, but again I'm supposed to be going into these buildings as the last person and I'm finding all these catastrophic failures.

Craig Forsander (ONEOK): You're saying you're finding stuff that doesn't meet the codes; I don't think you're finding catastrophic failure. I think your meaning and my meaning of catastrophic failure are different pertaining to these images.

Building Official Scoot Twogood: Would you want to own or work in a building like that?

Craig Forsander (ONEOK): No, but we would correct the issues.

Building Official Scoot Twogood: I'm trying to help you and fix these problems, once again what's wrong with one more set of eyes? We all will mess up but what's wrong with another set of eyes.

Craig Forsander (ONEOK): These buildings are designed and should have the automatic shut off or the sensors in place to help reduce or eliminate any harm. I have seen stuff but I have never seen an incident where the building was to blame for an explosion. The incident about a guy's airbag went off and was too close to the building wasn't anything to do with the building it was human error.

Building Official Scoot Twogood: Again, I'm trying to make sure these buildings are designed to do what they are supposed to do. Example is the Twin Towers that were designed to take a big hit and they stayed standing nine minutes before they collapsed. It was designed to last, there is a lot of codes I don't agree with but I'm here doing my job and you have respect that.

David Low (Targa Resources): We have talked about our plans and codes. Some of the pictures Scott showed us that is part of our due diligence group to look at these things and correct them and fix. We have been working on a building for two years and we have tried every way to make the building fail. If you have never been around these types of facilities, then you won't understand the procedures, codes and regulations we have to uphold and follow

by. I challenge anyone to come into our facilities and see what we do and all the precautions we take, down to all the alarms, detectors and safety features we provide in each building. We are always looking for the best practices for safety. We have touched on all the codes and the resolution plan. I think this is a great plan and I have no further comments.

Building Official Scoot Twogood: There were two buildings too close to each other and that's a failure to the code. We need to do our due diligence to make sure we fix the problems and I don't think it would have been addressed or caught if I hadn't.

David Low (Targa Resources): When you come out and saw the pictures and did your documents and saw the building from ground up? Were they perfect? No, there needed some fixing, we are not perfect and no one is perfect, error will happen.

Building Official Scoot Twogood: There were corrections and that's the way it will be, we don't want these problems reoccurring and we are talking about standards.

Commissioner Vawnita Best stated this is not a light discussion at all but I have two things. I keep going back to, if you want the right to something then you're obligated to the responsibility of it and one concern I have is we have these different codes and uses and does the County really want to be in the business or the sight reviews of these very complex uses? Do we want to be in the business of doing step by step and piece by piece? I don't know the answer but I do know I was sitting here when the ONEOK staircase situation was addressed and the first thing to come out of my mouth was if McKenzie County wants the right to assert a stair design, we should have caught this in the design end and we didn't catch it and I didn't like sitting here during that time and I didn't like that.

Building Official Scoot Twogood: Can I make a comment pertaining to those stairs. I wasn't part of that but whoever did that review may or may not have been on the plans, a lot of these plans don't show all the details such as a star case or stair way. The contractor should know better not to build to those standards.

Commissioner Vawnita Best stated I'm not pointing fingers but I'm saying if you want to right than you have to take that responsibility. You're a one man shop, do we want that responsibility and should we have that responsibility? I might be wrong but when I look at this resolution #6 it's putting the owners responsibility back on the operator, it's putting the responsibility back on them. I'm not comfortable with #6 but I'm comfortable giving it the opportunity to see if it works.

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

**Meeting was adjourned at approximately 7:00 PM.**

**April 2018**

Planning and Zoning Commission Minutes

April 9<sup>th</sup>, 2018

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

Members present: Paul Wisness, Les Haugen, Vawnita Best, Kris Mrachek, Aaron Gravos and Butch Fleck, Gene Veeder, Jeremy Olson and Bethany Devlin.

Staff present: Planning and Zoning Director Jim Talbert, Planner and Code Enforcement Officer Jennifer Peglau, Planning Attorney Ari Johnson and Planner Peyman Kadir.

Others: See sign in sheet

Minutes from the March 12<sup>th</sup>, 2018 meeting: **Motion to APPROVE minutes: Butch Fleck, second: Aaron Gravos, Voice Vote: All Ayes.**

**Unfinished Business:**

**A. Manufactured Homes Inspections (amendment to Zoning Ordinance)**

Planning Director Jim Talbert presented and explained that manufactured homes come in two halves; they are inspected and put into HUD/Federal requirements. Right now there is one inspector and not in McKenzie County, this would be an opportunity to help our people so they don't have to wait long for an inspection. Fees are based on how many times we expect to go out and inspect, these would be fairly quick so we try to keep the fee down.

Chairman Kris Mrachek stated that we might want to change the verbiage to state within McKenzie County's jurisdiction instead of McKenzie County.

Jeremy Olson asked if this was a just a reading or if it's up for a vote.

Planning Director Jim Talbert stated that if they recommended approval tonight it will go before the County Commissioners, once before the County Commissioners and approved, it will be published again by the auditor and there is a thirty (30) day waiting period prior to it being official in our Code.

Audience, Committee and Board Comments: NONE

**Motion to APPROVE: Jeremy Olson with the change to the verbiage to include "within McKenzie County's Jurisdiction, Second: Butch Fleck, Voice Vote: All Ayes.**

**Public Hearings:**

**Item 1: White Wing Limited 0002-18 Zone Change TABLED**

**Item 2: Delmer Pond, Bakken Industries 0006-18 Conditional Use Permit TABLED**

**Item 3: White Horse Water 0007-18 Conditional Use Permit. White Horse Water is requesting a conditional use permit for a freshwater pipeline and holding ponds.**

Planner Peyman Kadir presented and explained that White Horse Water is building a freshwater pipeline that will be roughly 7.4 miles in length with two (2) freshwater storage ponds, the first located in Section 9, Township 147-N, Range 101-W and the second in Section 3, Township 148-N, Range 101-W with a booster pump station about halfway through the pipeline in Section 22, Township 148-N, Range 101-W.

Audience, Representative, Committee and Board Comments:

Board Member Les Haugen asked if they had all the easements for the pipeline.

Kevin Koach (President White Horse Water): Kevin explained that they are in the process of obtaining all their easements. All the land owners have the paperwork just waiting for the signatures.

Planning Director Jim Talbert explain that typically pipelines are not held up when/if easements are not in place. We know they can't dig until they have those easements, with the CUP they could go ahead and put in the two (2) water pits. The ones we do administratively are ones attached to an existing CUP. Freshwater is about the least objectionable thing we do.

Commissioner Vawnita Best commented to Mr. Koach about not having eminent domain authority and the project wouldn't happen until voluntary easements are exercised. Commissioner Best asked Mr. Koach if they had issues with any of the conditions on the permit.

Kevin Koach explained that they had no issues with the conditions.

Commissioner Best asked about water permits and if the applicant had any issues with condition #3 "The applicant shall share all final approvals and continuing approvals/reviews with all County/State/Federal agencies as they are obtained or altered, along with any violations and as it relates to this conditional use approval for the County permit file."

Mr. Koach reassured that they had no issues with condition #3.

Butch Fleck asked why condition #10 was in there since they would not have eminent domain anyways.

Jim Talbert state that with pipelines this is one of the standard conditions and reassured that it was an oversight on the Planning departments' part and we would remove condition #10 "If the applicant obtains any easements through condemning land and /or eminent domain, they must appear back before the McKenzie County Commission to explain why negotiations fell through."

Board Member Les Haugen asked if there was a problem with some of the route being on State lands.

Mr. Koach stated that they have been in contact with the State and have submitted paperwork for a permanent easement through them but in the main time they have also applied for a temporary, the state has conditionally granted it but they are going back to their main office to see if it going to be approved.

Audience, Committee and Board Comments: NONE

**Motion to APPROVE: Butch Fleck, Second: Aaron Gravos, Voice Vote: All Ayes.**

**Item 4: White Horse Water 0008-18 CUP. Applicant is requesting a conditional use permit to legitimize an existing pond and the construction of a new freshwater holding pond and freshwater pipeline.**

Planner Peyman Kadir presented and explained that this project is in Section 13, Township 152-N, Range 100-W and White Horse Water is going to be tapping into an existing well pad, an existing freshwater holding pond and building a new freshwater holding pond south of the two existing structures.

Jim Talbert explained that they had asked the applicants on both of their applications if there would be any trucks or traffic and the answer was no on both the CUPs, these are ponds they will be pulling out of for fracs. Peyman Kadir explained that is one of the conditions of their application, that the site shall not be used as a truck depot.

Board Member Jeremy Olson asked if they are in the process or had all their easements in place.

Kevin Koach explained they did and with this CUP it is an existing site that used to be here with a company called Earth Water Bakken that was kicked off the land by the landowner back in the summer of 2016. White Horse Water has signed a new agreement with the landowner and has taken over the site; the old company never permitted their infrastructure under a CUP so White Horse Water is making sure they bring everything into compliance in addition to the new pond.

Code Enforcement Officer Jennifer Peglau asked Mr. Koach if Earth Water Bakken was Duane Sand's company.

Mr. Koach stated that Duane Sand was a part of it but he wasn't the primary owner.

Commissioner Best commented that depending on the in ground pond applications in the past we've had different site requirements. For example we've had in ground ponds that are near residential areas and they requirement parameter fencing.

Jim Talbert stated that when ponds are in populated areas we have required a chain link fence but of these CUPS are in fairly rural areas and we felt comfortable with the barb wire on those. The whole idea is we are trying to make sure kids don't get up there that are living in the area and both of these are really remote.

Commissioner Best asked if the applicant had issues with any of the conditions and asked to remove condition #9 "If the applicant obtains any easements through condemning land and/or eminent domain, the approval will be reversed and the applicant will be responsible for getting a new approval from the Planning/Zoning and County Commissions."

Mr. Koach stated they had no problems with any of the conditions.

Audience, Committee and Board Comments: NONE

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

**Item 5: ONEOK Rockies Midstream 0009-18 CUP. Application for a conditional use permit to construct a 200 MMSCFD gas plant.**

Planning Director Jim Talbert presented and explained that ONEOK owns a quarter section just off Demicks Lake and initially phase one will be a two hundred (200) million cubic foot gas facility with hopes that it would expand to four hundred (400) million cubic foot facility. The county has talked with ONEOK about access roads and they will be paving the road coming off of County Road 12 a mile and then heading east just over a half a mile. On other projects that has been done as a contribution where they have provided a part and the County has provided a part. Because this particular road is not on our CIP (Capital Improvement Plans) the County has requested of them to pave that road and during a meeting today ONEOK is in agreement to pave it, the timing of paving that road will actually be this year. Again ONEOK is paying for it and the County is supervising it, chances are they will go ahead and build the road this year. The County is entering into a contract with ONEOK for the road, ONEOK is going to do the engineering of the road and the County will bid it out and supervise. They are hoping to start the dirt work on their facility this year; they have to bring in some heavy equipment and are looking for an opportunity to move it in.

Board Member Aaron Gravos inquired about why a zone change was not done.

Jim Talbert explained that this type of facility can happen either in a heavy industrial with a CUP or in agricultural with a CUP and the reason it has always been kept in AG is the pipelines go where they need to go, they are not falling within industrial areas and often the pressure stations have to go in specified places and it would require a CUP whether it is heavy industrial or agricultural and so we just kept it as agricultural with a CUP.

Board Member Butch Fleck asked if this was a completely new project and if they have to put in pipeline as well.

ONEOK representative Jeff Hammond stated that they had originally gone through PSC, had gotten approval through PSC in 2015 to do the project then it fell through and everyone pulled back. They have recently notified PSC. Some of the field infrastructure was put in there; there is a compressor site just north that was put in as part of the original scope that got put in from a gathering side that are feeding some of the other facilities would probably be redirected to this facility.

Commissioner Best asked where they were at with the PSC.

Jeff Hammond responded that his understanding of it is that they have 4 years to begin the process after the application was proved, their legal has advised them to issue a notification to the PSC, and they have issued public notice.

Audience, Representative, Committee and Board Comments: NONE

**Motion to APPROVE: Jeremy Olson, Second: Aaron Gravos, Voice Vote: All Ayes**

**Item 6: West Dakota Water 0010-18 CUP-Conditional Use Permit for a freshwater holding pond.**

Planner Peyman Kadir presented and explained that West Dakota Water is requesting a conditional use permit for a freshwater holding pond including installation of underground and surface pipe for transfer of freshwater to existing West Dakota Water facilities. This project does not include a trucking depot or facilities supporting truck water hauling. The pond will be located about two (2) miles east of Highway 1806 just north of 30<sup>th</sup> St NW.

Planning Director Jim Talbert explained that West Dakota Water has other pipelines in this facility, they have found that their capacity is running out with the number of fracs that have been requested. They are looking for other avenues.

Commissioner Vawnita Best asked if the applicant was available and stated that the board wanted to confirm condition #2, "This site shall not be used as a truck depot", and make sure the applicant understood that no truck traffic is allowed.

Thomas Timpson with Alliance Consulting for West Dakota Water reassured that was the case, there won't be any trucking involved with this pond. When asked what the life of the pond would be. Mr. Timpson replied that there hasn't been a term put on it. When asked where the water was coming from. Mr. Timpson replied that there was an existing pipeline on that land and it would be piped into the pond.

Audience, Representative, Committee and Board Comments: NONE

**Motion to APPROVE: Paul Wisness, Second: Les Haugen, Voice Vote: All Ayes**

**Item 7: JMAC Resources 0011-18 CUP-Conditional Use Permit for a temporary borrow pit.**

Planner Peyman Kadir presented and explained that JMAC Resources is requesting a conditional use permit for a borrow pit to be used for the construction of the new Targa Badlands gas plant if they get the bid. The borrow pit will be located in Section 24, Township 149-N, Range 99-W. On Syverson land west of Highway of 85 on 21<sup>st</sup> St. NW. The applicants is proposing a two year timeline, but think if they get the bid on the Targa plant they will have the pit closed and reclaimed at the end of the dirt work for the plant.

When board members asked if any of the applicants were present for questions none were available.

Commissioner Vawnita Best reasoned the concerns that borrow pits eventually turn into weed fields and if the reclamation bound is sufficient and if they are completely on board with the weed maintenance. Jim Talbert stated that the applicants are on board with weed maintenance and that the standard one hundred and fifty percent (150%) of the estimate for reclamation. That he would look that over and make sure it is enough to cover the costs. Board Member Butch Fleck asked about the two (2) year timeline stated on the application and why for so long. Jim Talbert stated that they are pulling the dirt off for the Targa plant on 125<sup>th</sup> Ave and Spring Creek Road, they will strip off the topsoil, pull it back, borrow and then put the topsoil back on and reseed it. Board Members asked why the two (2) years? Jim Talbert stated that the timeline was never questioned and the applicants are not present to answer that questions, he asked if it was a deep enough concern that we should table it for a month and have the applicants answer that question. The Board Members didn't think it was.

Audience, Representative, Committee and Board Comments: NONE

**Motion to APPROVE: Aaron Gravos, Second: Jeremy Olson, Voice Vote: All Ayes**

**Item 8: Gary Nottestad 0012-18 CUP-Conditional Use Permit for a marijuana manufacturing and growing facility.**

Planning Director Jim Talbert presented and explained that we had passed a modification to our zoning laws to accommodate medical marijuana distribution facilities and also manufacturing, growing facilities. The applicant is

requesting a conditional use permit for a manufacturing and growing facility in Section 2, Township 150-N, Range 100-W north of Arnegard. He explained the Township had met and is recommending denial and as has been consistent the Planning department typically follows the township's recommendation. It was brought up that the County has had trouble with Mr. Nottestad in the past regarding violations on this property and that there are some concerns still. There is a letter from Arnegard Township for the record;

Arnegard Township Supervisors  
c/o Marlene Olson: Secretary  
2581 237<sup>th</sup> Ave NW  
Arnegard, ND 58835

March 20, 2018

McKenzie County Planning Director  
201 5<sup>th</sup> St. NW  
Watford City, ND 58854

Dear McKenzie County Planning and Zoning Commission, and County Commissioners.

This letter is to provide feedback and recommendations for the following Conditional Use Permit application in Arnegard Township (Section 2, 150N 100W), McKenzie County, ND.

Gary Nottestead/Green Acres Medical

The applicant is requesting a Conditional Use Permit for a medical marijuana manufacturing/growing facility in Arnegard Township, Section 2, T150- R100.

Arnegard Township recommends denial of this application:

Public opposition during an input meeting

Mr. Nottestead's past non-compliance with previous Conditional Use Permits

Opposition input from the Arnegard Police and Fire Department representative

It has always been the vision and mission of the elected Arnegard Township Supervisors to balance the expansion and development of Arnegard Township with the stewardship of the agricultural base, respecting the neighboring landowners and citizens of the Township. The public citizens of Arnegard Township) have expressed strong opposition to unrestrained industrial and commercial development in this township. In order to accommodate the commercial expansion and development within Arnegard Township, we have endeavored to segregate the majority of commercial/industrial developments in accordance with the Arnegard Township Land Use Plan.

For the Arnegard Township Supervisors

*Jeremy L. Olson*

/s/ Jeremy L. Olson, Township Supervisor

Gary Nottestad, the applicant, read a letter he had prepared;

Cannabis is a natural medicinal herb that God created. It has been used as a medicine for hundreds of years. There is a federal patent to use marijuana to restore brain damage from a stroke. Franklin Roosevelt's father was importing opium and to eliminate the competition they had the government list it on the schedule one list and started the reefer madness campaign. Cannabis does not make a person angry or violent, it makes a person happy.

There are receptors in all organs in the body, called endo cannabinoid system. There are no receptors on the brain stem so it won't stop your breathing.

Some of the things cannabis treats are cancer, M.S., stroke, headaches, Parkinson's, concussions, seizures, epilepsy, C.P.D.-depression, dementia, suicide, Neuro protection, opioid addiction, Crohn's, autism, P.T.S.D., pain.

Two classes of cannabis are Sativa, which is energetic, and Indica, which is relaxing. The chemical T.H.C.-Tetra Hydro Cannabinol is what causes the high. Most of the medical varieties contain large amounts of C.B.D.-Canna Bi Diol and low T.H.C. Cannabis is less addictive than alcohol or cigarettes.

Gary Nottestad stated that there is a company out west called Canna Hydro that he has been in contact with and that is interested in coming out and running the facility.

Chairman Kris Mrachek asked if the State has all the rules and laws in place for these facilities. Jim Talbert explained that they have recently, within the last month, passed their final version. It is anticipated that the State will be deciding on actual locations by the end of the year. The growing facilities as the law is written now there will be two (2) in the state to service the eight (8) distribution facilities in the state. What will happen in North Dakota is what happened in most of the states that have already started this; they start off with a limited number of facilities and within a few years that has greatly expanded. Each growing facility can have a total of one thousand (1000) plants, which sounds like a relatively small number. Within a few years we expect the number of growing facilities to go up. State law requires applicants to meet zoning regulations of the county or city. The deadline for applications with the State is April 19<sup>th</sup>, 2018.

Audience, Representative, Committee and Board Comments: NONE

**Motion to DENY: Butch Fleck, Second: Vawnita Best, Voice Vote: All Ayes**

**Meeting was adjourned at approximately 6:30 PM.**

**May 2018**

Planning and Zoning Commission Minutes

May 14<sup>th</sup> 2018

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

Members present: Paul Wisness, Les Haugen, Vawnita Best, Kris Mrachek, Butch Fleck, and Bethany Devlin.

Staff present: Planning and Zoning Director Jim Talbert, Planning Attorney Ari Johnson and Planner Peyman Kadir, Administrative Assistant Cindy Mecham.

Others: See sign in sheet

Minutes from the April 9<sup>th</sup> 2018 meeting:

**Motion to APPROVE minutes: Butch Fleck, second: Vawnita Best, Voice Vote: All Ayes.**

**Unfinished Business:**

NONE

**Public Hearings:**

**Item 1: White Wing Limited 0002-18 Zone Change, NW ¼ of Section 19, Township 150-N, Range 100-W 2675 137<sup>th</sup> T Ave NW**

Planner Peyman Kadir introduced zone change application for White Wing Limited, stating the application had been filed for a while, but they were out of compliance with one of their previous applications so we waited until that was done before proceeding. They are located at Section 19, Township 150, Range 100 W- 137<sup>th</sup> T Ave. They want a zone change from Agricultural to Light Industrial, the comp plan is light industrial.

Planning Director Jim Talbert said the plan is already in place, zoning is being changed to light industrial the existing building is one of these that will be bringing it into the use that it is.

Paul Wisness asked if it has been approved by the Arnegard Township.

Planner Kadir responded yes we received approval from the township.

Audience, Representative, Committee and Board Comments: NONE

**Motion to APPROVE: Les Haugen, Second: Butch Fleck, Voice Vote: All Ayes.**

**Item 2: Bakken Industries-Jellesed Pond 0014-18 CUP: Represented by Ralph Reddell, NE ½ Section 7 Township 151-N, RANGE 95-W**

Planner Peyman Kadir introduced a Conditional Use Permit for a fresh water pond. They are doing 2 ponds located in the Blue Butte TS off of County road 12, we did get approval from the TownShip. Section 7 of TS 15 Range 95.

Ralph Reddell stated that they do have changes on this as the landowner is asking that the top soil not be left there, but distributed on his land.

Planning Director Jim Talbert then asked, where would it go?

Ralph Reddell explained the landowner would like the top soil dispersed over his property.

Planning Director Jim Talbert said ok with following landowners instructions we have concerns about the ponds in general, I want to bring to your attention. I have talked to the state water commission, presently if a pond is less than 50 acre feet, it does not require state water commission approval. Consequently we are getting 2 ponds side by side 50 cubic acres. I called because it seems to me this process is circumventing what seemed to be what the state was trying to comply. What I was told was that the state commission is aware this is happening, but as it stands now there is no mechanism in place that would prevent this. These multiple ponds that are less than 50 acre feet, even if there are several together, that doesn't break the state law that presently stands. When you have 2 ponds that are side by side, they cannot share a wall or embankment. The state will consider that 1 giant pond. The toe of the slope of 1 of the ponds needs to come back to the natural grade and the next one needs to be separated from it. If it were to fail due to a common wall, it would cause failure and create a great deal of problems. As I am looking at this plan just received some of the information yesterday on the south ends of the ponds, I would ask you to make those so the toes of those slopes do not touch each other, so they are stand-alone facilities.

Ralph Reddell stated they are actually 25 feet apart and no common wall.

Director Jim Talbert explained people cannot change the natural drainage ways without going through the state once it reaches a certain volume of water that would carry. In this case and in the next one that is in the same group, the state had no issues, but I wanted you to be aware that there are things that we are learning and trying to properly regulate so that we are in compliance ourselves with the state water commission.

Butch Fleck asked if the berm on top is 25 feet wide?

Ralph Reddell answered yes of natural undisturbed ground.

Les Haugen stated the drawing must be wrong because it's touching each other.

Ralph Reddell said the bottom is touching each other because there is a drainage running through there, that's showing where the interconvening lines are that's actually rock.

Les Haugen asked, does that make them legal though?

Director Jim Talbert explained these will be separated and this is ok, because these are not being built up as much as being dug into the ground. The fear of failure if these were both a dammed site here, water could compromise the flow, 98 acre feet of water on down.

Les Haugen asked if the water was being pumped out of a river or trucked in.

Ralph Reddell explained that a WAWSA facility was taking care of it.

Director Jim Talbert said WAWSA has a facility here, this is all Jellested land.

Butch Fleck said so there will be no trucking? Just piped in and out?

Ralph Reddell answered there would be no trucking, we are doing away with the trucking.

Director Jim Talbert said and just so you know if we have ponds that do require trucking, we are going to be looking at roads being built. Last month we had 6 different ponds, this time we have 2 and all have been no trucking and lay flat and taken across the land.

Butch Fleck asked, is this where they have to fence it?

Director Jim Talbert answered with the fencing we have looked at where these ponds are going if it's going in a populated area we require a chain link fence, in remote areas we have allowed barb-wire fencing, this one is remote enough we would allow barb-wire. We try to look at a safe environment.

Vawnita Best, Jim this specific condition does it have a 6ft chain link fence?

Planner Kadir, We have decided that based on it coming off of county road 12 and a major road that yes it would need to be a chain link fence.

Director Jim Talbert stated, I stand corrected.

Vawnita Best asked Mr. Reddell, do you have any issues with the 9 conditions that are proposed by the staff?

Ralph Reddell stated, the only condition we have is the top soil.

Vawnita Best said, that is not showing up here.

Ralph Reddell said the landowner explained that after top soil has been there a year it dies underneath, and he wanted it to be scattered over the property. I didn't know if we had permission to do that.

Director Jim Talbert said when and if those need to be put back down you'll need to purchase the top soil for the area. And that would just be included in the bond amount.

Ralph Reddell answered yes we are working on that with him.

Vawnita Best asked, how do we value the bond amount with them, has that number been set yet?

Director Jim Talbert responded that it has not been set yet, but once we get approval, they will give us an Engineers estimate and then I review it, but we will make sure it includes the top soil.

Audience, Representative, Committee and Board Comments: NONE

**Motion to APPROVE: Paul Wisness, Second: Les Haugen, Voice Vote: All Ayes.**

**Item 3: Bakken Water-Johnson Pond 0015-18 CUP, NE ¼ Section 33, Township 150-N, Range 99-W. West on 25<sup>th</sup> St. off the highway 85 bypass then south on 129<sup>th</sup> ave.**

Planning Director Jim Talbert opened the conversation stating that this agenda was from same person just different LLC.

Planner Peyman Kadir followed with same application just different part of the county, Hwy 85 By-Pass that goes right around town, it is on Johnson land. We did sit down with Ralph and Tim Pickering and myself and went over road access because there is just a path there, so Ralph and Bakken Water agreed to build that road.

Ralph Reddell stated that is not in the agreement yet, we changed some of that.

Director Jim Talbert explained that the road coming off of Hwy 85 already has an access provided by DOT, and when it hits 129<sup>th</sup> you'll be building that southward to the entry into your site. That will not have to be paved but built to the county standards.

Ralph Reddell said yes that is correct.

Les Haugen asked if they have determined the life expectancy of these ponds, will it be quite some time?

Ralph Reddell answered, its according to how they engineer them. Companies come in and they use a 20 MIL, which we call low grade material for ponds which have 4 to 5 years expectancy. The UV will actually tear them down as will the wind. There is a better material out there called a 40 MIL HD, you can hardly take a knife threw it. I can bring in a sample.

Les Haugen asked, they begin to get rips in them?

Ralph Reddell Yes they get brittle 10-12 years. We use this down in New Mexico allot, 40 MIL HD and it has done very well. We have allot of rocks down there unlike up here, it doesn't cut through near as fast as the 20 MIL.

Butch Fleck asked so it's just a road access?

Director Jim Talbert said yes right now it's basically a dirt trail , we are having them build a road that will hold up in any weather.

Vawnita Best, Mr. Chairman and staff, is that 129<sup>th</sup> on the section line?

Director Jim Talbert, yes it is.

Paul Wisness, any bonding that should take place.

Director Jim Talbert, yes it will be a reclamation bond, we tied up all of these ponds.

Paul Wisness asked, is that in this paperwork?

Director Jim Talbert said yes, it should be in there conditions number# 8, which is a standard condition that we put in all these ponds.

Vawnita Best directing her question to Ralph Reddell, do you have any issues with any of this? And then how does it work with the road and bridge, the road dept. handles the roads and the planning and zoning is handling the line?

Director Jim Talbert said we coordinate with Suhail and his group, they will actually be building this up and we will inspect it. When you met with Tim Pickering today (directing his question to Ralph Reddell), didn't he give you the standards for the road?

Ralph Reddell answered, in the last meeting I had with Mr. Pickering he said they are going to build that road in phases.

Vawnita Best, this approval is contingent if, the road construction agreement is sufficient.

Director Jim Talbert, Again it's still part of the conditional use permit, if they do not abide by it then we bring it back before you and have it revoked.

Audience, Representative, Committee and Board Comments: NONE

**Motion to APPROVE: Vawnta Best, Second: Butch Fleck, Voice Vote: All Ayes.**

**Item 4: MK Investments-MK Industrial Park 0001-18 Sub, ZC Represented by Steve Rude. Approximately 40 acres in the NW ¼ of Section 32, T150N, R98W, on the date this report Parcel IF # 200022600.**

Director Jim Talbert: The Comp plan is already in place and the zoning would be from agricultural to light industrial subdivision located on 125<sup>th</sup> Ave south of the Hwy 23 bypass the plan shows Schilke drive and 125<sup>th</sup> Ave. This will be done in 2 phases, roughly 5 acre industrial lots. We explained to them that they would have to pave the road out to 125<sup>th</sup> up to their entrance. Initial phase will be these 6 lots, at some point the road will continue on. Whatever they plat we are requiring a constructional bond until it's complete. We have had some concerns about the drainage and if a fire truck can get turned around in the back area, it is large enough to get the ladder truck back there, and they have addressed these concerns.

Steve Rude commented they just wanted to get to the end, get the zone changed and the final plat at the same time, get the road built so they could start selling lots. I did have 1 question, it's says applicant shall record covenant no later than August 1<sup>st</sup>, 2018, I have not had the opportunity to discuss that with you.

Director Jim Talbert explained that the preliminary plat doesn't get recorded, the final plat anticipating that your going to be bringing that to the county commissioners, was my belief and understanding once the county commissioners approve it, you have 90 days to get it recorded with the county recorder. You certainly can do it faster than that.

Vawnta Best stated she thought these were the first subdivision plats since they revised our subdivision ordinance, are the conditions coming from that?

Director Jim Talbert answered these conditions her by enlarge are coming from the zoning dept, myself and my staff along with SuHail will be working with them in that planning process.

Vawnta Best asked Mr. Rude if he had any issues with the conditions 1-12 with the planning process, Mr. Rude commented I don't think so.

Audience, Representative, Committee and Board Comments: NONE

**Motion to APPROVE: Butch Fleck Second: Les Haugen, Voice Vote: All Ayes**

**Item 5: McKenzie County Sheriff's Office Shooting Range 0007-16 Amended CUP TABLED, The gun range is located on County-owned property, at the Landfill located at N ½ S ½ NE ¼ Section 36, Township 150, Range 100. The range has been designed for Handguns, Rifles, and Shotguns.**

Director Jim Talbert: The McKenzie County Sheriff's Office would like to amend the original CUP to extend the use of the firearms range to various community groups authorized by the Sheriff; to foster community relations as well

as firearms education and safety. A licensed/certified firearms instructor will be present at any and all of these events to monitor safety. The site is 3 sided and has 25 feet high walls that the shooting goes into. There is a need for youth learning to shoot if it's not causing liability from the county standpoint. However, it should have come before us before the youth were allowed to shoot out there. We have an email from the Insurance that was sent to the Sheriff, as I read through that it appears to be ok but, I sent it up to the States Attorney's office for Chas to read over, at this time I have not received a response from him. With that said I feel we should hold everything before taking it to the county commissioners until we do get clarification from the States Attorney. Ariston Johnson recommended we table this and try and resolve the issue to figure out what the code has in it, or getting that added after all. We did not adopt the CUP and did adopt the district.

Director Jim Talbert stated he and his staff would work with the sheriff's dept. in getting this amended to go before the county commissioners next month, however even after that happens the sheriff's dept. cannot act upon it for 30 days due to state law, so anyone could object to it. So until these things happen, no groups besides Law Enforcement on the property until end of July or first part of August.

Butch Fleck: We will table the motion at this time.

Audience, Representative, Committee and Board Comments: NONE

**Motion to TABLE: Butch Fleck, Second: Paul Wisness, Voice Vote: All Ayes**

**Meeting was adjourned at approximately 6:05 PM.**

**June 2018**

Planning and Zoning Commission Minutes

June 11<sup>th</sup> 2018

Meeting was held at the McKenzie County Courthouse Commissioner Room in Watford City, ND and called to order at approximately 5:00pm

Members present: Paul Wisness, Les Haugen, Vawnita Best, Kris Mrachek, Butch Fleck, Aaron Gravos, and Jeremy Olson.

Staff present: Planning and Zoning Director Jim Talbert, Planning Attorney Ari Johnson and Planner Peyman Kadir, Administrative Assistant Cindy Mecham, GIS Bonnie Foster.

Others: See sign in sheet

Minutes from the May 14<sup>th</sup> 2018 meeting:

**Motion to APPROVE minutes: Jeremy Olson, second: Vawnita Best, Voice Vote: All Ayes.**

**Unfinished Business:**

NONE

**Public Hearings:**

**Item 1: 001-18 PUD Summit Counseling Services. TABLED**

**Item 2: 005-18 ZC Targa Badlands LLC, NE 1/4 NE 1/4 Of Section 23, Township 150-N, Range 96-W McKenzie County North Dakota.**

Planner Peyman Kadir presented the request from Targa for a zone change in which they acquired some land next to their existing facility. Targa would like the zone changed from Agricultural to Heavy Industrial, their existing area is Heavy Industrial.

Director Jim Talbert commented that this facility is out by Johnsons Corner and the staff supports this change.

Jeremy Olson asked if there were any issues with the Township?

Director Jim Talbert stated they do not have to go through the Township.

Audience, Representative, Committee and Board Comments: NONE

**Motion to APPROVE: Jeremy Olson, Second: Aaron Gravos, Voice Vote: All Ayes.**

**Item 3: Amendment to the Agricultural District to allow an outdoor gun or shooting range as a conditional use.**

Director Jim Talbert: This is about the Sheriff Office amending their CUP. We determined the CUP was given incorrectly because we didn't have the zoning ordinance under agricultural, there was no mention of outdoor

shooting range at all. This amendment is to add outdoor shooting range to the agricultural district as a conditional use, and this doesn't replace the shooting range overlay district this is just in addition.

Kris Mrachek asked I know we are adding that, but do we have conditions set up?

Ari Johnson explained with this application I was just reading on the next agenda there are conditions proposed for that.

Director Talbert: What we are doing is adding it to the zoning ordinance as conditional district outdoor-gun-shooting range.

Kris Mrachek: So I assume it is similar to the overlay district.

Director Talbert said the overlay district actually brings us what they desire to do, there are some differences. On the conditional side since we have not received anything from the overlay district shooting range. But we are looking at similar things we had the Sheriff's Office do at the time they put it in, with Safety being the first concern.

Bruce Fleck asked, so does it not go in affect for 30 days.

Director Talbert stated that is correct, because it is an amendment to the zoning ordinance, once this meeting is over, I give it to the auditor, she then has to publish it for 2 weeks. It also takes 30 days assuming no one opposes it, which we don't anticipate.

Paul Wisness asked, if there are any other questions on it.

Director Talbert stated no.

Ari Johnson asked Director Talbert if we want to call it a firearms facility on the CUP here, instead of outdoor gun-shooting range. I ask this because with the overlay district it is in the definitions. Then we also have performance standards that are built into that ordinance too. It wouldn't make it the whole overlay district thing, but all the rules we have for firearms facility would apply.

Director Talbert stated he would be in favor as long as we don't have to readvertise for it.

Ari Johnson stated it is all clerical.

Vawnita Best asked Ari if we had a definition for the outdoor gun range.

Ari Johnson stated no, we had no mention of it at all, and so now with the amendment that we passed in Nov-Dec, in that time frame for the overlay district, we have a term "firearms facility" that's defined as archery range, munition range, shooting range or any combination operated by a single operator on one contiguous parcel of land that the operator owns or leases for the facility. So we just change (28) to firearms facility. If someone wants to put in an Indoor one, in the agricultural zone and they come to us with a plan that we like, we can do that to.

Director Talbert commented that this particular one has a time limit associated to it, we've always known it's only for a certain amount of time.

Ari Johnson stated an indefinite amount of time.

Audience, Representative, Committee and Board Comments: NONE

**Motion to APPROVE: Vawnita Best, Second: Les Haugen, Voice Vote: All Ayes.**

**Item 4: Amendment to Conditional Use Permit for the Law Enforcement Gun Range. Located on county-owned property at the Landfill, N ½ S ½ NE ¼ Section 36, Township 150-N, Range 100-W. Representing Sheriff's Office: Russ Shahin**

Russ Shahin asked with this request by the Sheriff's Office, will it be in accordance with this amendment that hasn't passed the county at this time.

Ari Johnson explained that it will be one of the conditions. Assuming the County Board of Commissioners pass the amendment, then as soon as the amendment takes effect if they also pass this application it will take effect the same day. They are out there operating, but we agreed that as long as they are going through the process we will leave them alone.

Peyman Kadir added that this amendment to the shooting range original CUP that was presented in 2016, to include the McKenzie County Sheriff's Office and extend the use of firearms to various community groups authorized by the Sheriff to foster community relationships as well as firearms, education and safety. A licensed or certified instructor will be present at any and all events to monitor safety.

Jeremy Olson asked what types of groups would be using the gun range?

Russ Shahin answered Hunter Safety, 4-H, and Cub Scouts.

Jeremy Olson then asked, so these groups would all have to be scheduled through the Sheriff's Office correct?

Russ Shahin, yes that is correct.

Peyman Kadir added that in the packets provided there are sign off sheets that the parents and who ever attends would have to sign on with the Sheriff's Dept. This is a waiver that releases the use agreement. This is directly from the Sheriff's Office.

Director Talbert explained when and if another commercial facility is available, we can readdress this, but right now for the youth that are trying to learn and understand firearms, there really isn't a place for them to go and do it safely. They are shooting into a 25ft dirt wall at this location.

Kris Mrachek asked if there were any signs put up.

Jeremy Olson commented, this is a private range.

Russ Shahin stated the property is gated and secured; it also has no trespassing signs and there are no markings that this is a gun range.

Jeremy Olson stated that this has always been a temporary range and in the future it will be landfill.

Vawnita Best asked if there was a perimeter fence in place.

Director Talbert said at the time this project began, the Sheriff's Dept. said they did not have the funds to build a fence and that Deputy Luhman was trying to get donations. It was then that we put a stipulation in the CUP that a deputy had to be on site to visually watch the perimeters until an 8ft fence could be installed. Mr. Talbert also stated that the County Landfill would take over the property in the future.

Russ Shahin then commented from what he had been told the fence could cost up to \$50 thousand dollars, and asked if in fact that was a wise investment for the county money.

Vawnita Best said if we continue to bring the public out there we need to have a secure facility. There also needs to be posted signs at the intersection stating private land and private property.

Ari Johnson explained by changing the term in the CUP, the conditional use item that we did in the last agenda to Firearms Facility, one of the performance standards that we wrote into this is compliance with all State, Federal, and Local laws. Every permit has to be in compliance with the law.

The board recommends the approval of the following Amendment to the CUP 0039-16 McKenzie County Law Enforcement gun range contingent on the following additional conditions being met; 9) the amendment to Agricultural District, 3.4.3 #28 Firearms Facility, getting approved. 10) Applicant must comply with section 3.12.9 Performance Standards of the McKenzie County Zoning Ordinance and 11) Site shall not be opened/used until all the original and additional conditions of CUP 0039-16 have been met. Adopt the findings as provided in the staff report.

Audience, Representative, Committee and Board Comments: NONE

**Motion to APPROVE: Butch Fleck, Second: Jeremy Olson, Voice Vote: All Ayes.**

**Item 5: 002-18 PUD RW Trucking-TABLED**

**Meeting was adjourned at approximately 5:37 PM**

**July 2018**

## Planning and Zoning Commission Minutes

July 9<sup>th</sup> 2018

Meeting was held at the McKenzie County Courthouse Commissioner Room in Watford City, ND and called to order at approximately 5:00pm

Members present: Les Haugen, Vawnita Best, Kris Mrachek, Butch Fleck, Kenny Liebel, Jeremy Olson, Bethany Devlin, Gene Veeder.

Members absent: Paul Wisness.

Staff present: Planning and Zoning Director Jim Talbert, Administrative Assistant Cindy Mecham, GIS Bonnie Foster.

Others: See sign in sheet

Minutes from the June 6<sup>th</sup> 2018 meeting:

**Motion to APPROVE minutes: Vawnita Best, second: Jeremy Olson, Voice Vote: All Ayes.**

### **Unfinished Business:**

NONE

### **Public Hearings:**

**Item 1: 001-18 PUD Summit Counseling, Zone change from Agricultural to Planned Unit Development. Located at NE ¼ Section 30, Township 150N, Range 101W.**

Director Jim Talbert said the building sits on 20 acres and was originally built for a work force housing facility, if it was occupied it was limited if that. Summit Counseling is proposing to put in a Drug and Alcohol Rehab Inpatient Facility. Director Talbert said he talked with the Township Board of Alexander; they are concerned if Summit Counseling goes away could the building then be changed to apartments? Mr. Talbert stated it is possible but highly not likely. It is a good opportunity explained Mr. Talbert to use our PUD zoning that we put in the Zone ordinance, which means the applicant, is preparing the Zoning for that particular site, it has to be within reason and it also has to be an improvement over what the straight zoning would normally allow, this allows some flexibility and it also limits how this can be used in the future. There are 40 rooms in this building, with the PUD the applicant has to specify what they will do with each room and how they will be used, Summit Counseling would have to follow and meet all the guidelines, they also have restrictions from the State. The center will consist of 16 patient rooms, a large common and cafeteria area, 4 resident staff beds, 10 administrative offices, 6 meeting/activity/therapy rooms and 4 rooms that will be used for offices, training and recreational material storage. Approximately 5 of the 20 acres will include a parking lot for staff and visitors, a large community garden and recreational area. The rest of the area will be designated as open space.

Director Talbert explained that Summit Counseling would be responsible for maintenance of the roads, improvements and upkeep. He also said that the Alexander Township had a board meeting on June 28<sup>th</sup> in which they denied the new facility, as well as a signed petition with 119 signatures of the Alexander residents that are not in favor, he then read emails from Larry Novak, Peter Nygard, Pete & Jude Helling, Holly Helling and Linda Monson asking for the denial of this permit. Director Talbert stated that there is a real need for this type of facility

in our community and it's not just about people from the outside, we should treat all people the same whether they have been here 2 days or 200 years with courtesy and respect, there is a real problem within our communities, state and country, with Drugs and Alcohol and a facility to help people is a positive for our community. Director Talbert stated that the staff recommends approval of the PUD 001-18, Summit Counseling to the County Commission. Adopt the findings and conditions as provided in the staff report.

Audience, Representative, Committee and Board Comments: Yes

George Owen owner of Summit Counseling stated that Social Services, Law Enforcement and other members of the community asked them to come to this area. George stated he and his wife Brenda have been providing their services in Montana and in the Williston area and driving to Watford. The Mayor of Watford City and the Economic Development Committee asked if they would do a 6 month pilot program if they could get them a grant, Mr. Owen stated yes, so with that funding they opened up the office on main street and now have 3 full time therapist and offer internships, the office is open 6 days a week. We have since opened offices in 4 other parts of North Dakota. We have heard from day one there are no services for inpatient treatment, people needing help have to be transported to Minot, Bismarck, or Billings to get help. Also, no one will or has been turned away due to no funding available or high insurance deductible, we will find a way to get it paid for. This is not a forced treatment facility, and it has been proven that the success rate in forcing someone to get help does not work. This is not someone else's problem, it's happening here in this county, and it's not only what you call street people, it goes all the way up the social ladder from doctors to lawyers and other professional people.

Mr. Owen stated we are prepared to meet all County and State guidelines and rules set forth.

Vawnita Best asked Mr. Owen if they had looked into the old McKenzie County Hospital as a possible site for the treatment facility.

Mr. Owen stated they looked into the old hospital 2 years ago and the cost of removing the asbestos would be astronomical.

Jay Lewis chairman of the Alexander Township stated that 70% of the residents of the township signed the petition to deny this permit as well as what Mr. Talbert had mentioned in regards to the 119 signatures.

Vawnita Best asked Mr. Lewis if there was a roll call vote from the township.

Mr. Lewis stated it was unanimous.

Vawnita Best stated at the end of the day our scope is land use and land use ordinances.

Jeremy Olson commented we never go against the recommendation of the township and I'm not about to start questioning that.

Gene Veeder said the County has a cooperating agreement with Alexander Township and we have never gone against that. I have worked with Summit Counseling and they are an outstanding company however I do hear the voices of the township.

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

**Item 2: 0017-18 CUP Martin Construction, McKenzie County North Dakota TABLED.**

**Item 3: 0018-18 CUP Elkan Inc. Conditional Use Permit for a freshwater holding pond. Location, W1/2SE1/4,E1/2SW1/4, Section 34, Township 150-N, Range 99-W. Parcel #110014000. About 2000 feet south off of Highway 85 on 128<sup>th</sup> F Ave to 24<sup>th</sup> St NW then west to site.**

Audience, Representative, Committee and Board Comments: None

**Motion to APPROVE: Jeremy Olson, Second: Gene Veeder, Voice Vote: All Ayes.**

**Item 4:0004-18 CP, ZC Hiland Partners Holding, LLC: Requesting a Comprehensive Plan Amendment in order to Zone change from Agricultural to Heavy Industrial. Located at SE1/4 of Section 1, Township 149N, Range 99W.**

Audience, Representative, Committee and Board Comments: None

**Motion to APPROVE: Butch Fleck, Second: Jeremy Olson, Voice Vote: All Ayes.**

**Item 5: 0006-18 ZC Hurley Enterprises : Requesting a Zone Change from Agricultural to Light Industrial to be consistent with the Comp Plan and to match land use. Location: 303 Cass Ave S Fairview MT. Section 31, Township 151-N, Range 104-W**

Director Talbert stated that he did receive a call from a neighbor Arlen Flynn who is against the Zone change, stating that it would cause heavier vehicle traffic and he has been to the North Dakota Supreme Courts asking for injunctions.

Vess Hurley owner of the property stated Mr. Flynn has sued him several times and it has only cost each party thousands of dollars in attorney fees, with no resolution. Mr. Hurley stated his family has owned the property dating back to his grandparents.

Director Talbert stated Mr. Hurley meets all the requirements for Zone Change.

Audience, Representative, Committee and Board Comments: None

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

**Item 6: 0021-18 CUP PM Water, LLC Dixon Pond TABLED**

**Item 7: 0022-18 CUP PM Water, LLC-Dahl Pond: Conditional Use Permit for freshwater holding pond. Location: SW1/4E1/2SW1/4 Section 19, Township 148-N, Range 98-W.**

Director Talbert stated it will follow all guidelines, as well as providing a chain link fence around the pond.

Audience, Representative, Committee and Board Comments: Yes

Pat Kelly asked if it had to be fenced due to the area it was in.

Director Talbert said yes it has to follow all guidelines for the safety of all.

Butch Fleck asked where would the water come from.

Pat Kelly stated from the Little Missouri River.

**Motion to APPROVE: Butch Fleck, Second: Gene Veeder, Voice Vote: All Ayes.**

**Meeting was adjourned at approximately 7:27 PM**

**August 2018**

## Planning and Zoning Commission Minutes

August 13, 2018

Meeting was held at the McKenzie County Courthouse Commissioner Room in Watford City, ND and called to order at approximately 5:00pm

Members present: Vawnita Best, Kris Mrachek, Butch Fleck, Kenny Liebel, Jeremy Olson, Gene Veeder, Paul Wisness.

Members absent: Bethany Devlin, Les Haugen.

Staff present: Planning and Zoning Director Jim Talbert, Planner Peyman Kadir, Administrative Assistant Cindy Mecham, GIS Bonnie Foster.

Others: See sign in sheet

Minutes from the July 9<sup>th</sup>, 2018 meeting:

**Motion to APPROVE minutes: Paul Wisness, second: Vawnita Best, Voice Vote: All Ayes.**

### **Unfinished Business:**

NONE

### **Public Hearings:**

#### **Item 3: 0021-18 CUP PM Water-Dixon Pond**

**Located at SE1/4SW1/4, Section 31, Township 148-N, Range 98-W. Parcel Number 610007800**

Vawnita Best asked Pat Kelly if he had any issues with the conditions.

Pat Kelly stated none.

Director Jim Talbert stated this is not adjacent to a county road, and is in a remote area so we approved the barbed wire for fencing.

Audience, Representative, Committee and Board Comments: None

**Motion to Approve Butch Fleck, Second: Kenny Liebel, Voice Vote: All Ayes.**

#### **Item 4: 0027-18 CUP PM Water Hoffman Pond**

**Located at Section 14, Township 148-N, Range 98-W, Parcel number 630006500.**

Planner Peyman Kadir stated this location would require chain link fencing.

Kris Mrachek asked if there were any issues with the conditions.

Pat Kelly said no.

Audience, Representative, Committee and Board Comments: None

**Motion to APPROVE: Jeremy Olson, Second: Kenny Liebel, Voice Vote: All Ayes.**

**Item 5: 0026-18 Sacagawea Pipeline Company Targa to Johnson's Corner Crude Oil Pipeline. Located at Sections 13 and 24, Township 150-N, Range 96-W.**

Vawnita Best asked Jason Stelzer if he had any issues with the conditions 1-11.

Jason Stelzer stated no.

Audience, Representative, Committee and Board Comments: None

**Motion to APPROVE: Gene Veeder, Second: Vawnita Best, Voice Vote: All Ayes.**

**Item 10: 0007-18 ZC Enable Midstream**

**Located at SW1/4 of the SW1/4 Section 29, Township 149N, Range 98W McKenzie County, North Dakota. Parcel number 630013750 approximately forty (40) acres.**

Director Talbert stated they are going to be adding a building to their existing facility so they needed their current permit to change.

Vawnita Best commented that she was looking at the legal and it was saying Section 29 only, I just want to verify that, and in looking at our comp plan, we have an overlay for future heavy industrial that is on top of several residential parcels, so as long as this is in 29, those residents are in 32.

Director Talbert stated this is completely in Zone 29.

Audience, Representative, Committee and Board Comments: None

**Motion to APPROVE: Butch Fleck, Second: Vawnita Best, Voice Vote: All Ayes.**

**Discussion.**

**McKenzie County Sportsmen's Club-Firearms Facility Overlay District.**

Director Talbert stated that in November of 2016 he and Ari Johnson came up with a firearm overlay district with this concept, understanding that each firearm facility could vary depending on natural features that this overlay district allows the applicant to basically write the ordinance for this overlay district. It would have to come before this board and they have been working with me, but they wanted to come here tonight to get some input and hoping to be back with you with an application in a month. Eric Kirby of Kirby Engineering will be making a presentation of what they are proposing.

Eric Kirby stated he was from Kirby Engineering and he had started the McKenzie County Sportsmen's Club formally known as Badlands Shooting Club. We have the piece of land which is perfect for the range, which would be the proposed overlay zone. The shooting ranges are 300 yards, 200 yards, 100 yards. The position of the houses are safe, we are going to have pits and baffles and really we don't need them as the standard ballistic range the bullets can go are that far the way we are setting it up. The shooting range is not pointing towards any houses. There will be a rifle range, pistol range, archery range, and a 3D archery trail. There will be an 80 X 250 foot building with indoor archery, and everyone will check in due to it being a gated site. It will have hours of operation and basically a club opened to the public. The layout will have materials over the firing line as the building is on the south side so it will also protect the houses from the range noise. We have a grant so construction will begin in April and end June 30<sup>th</sup>, this is for the first phase.

Jeremy Olson asked what the hours of operation are.

Jeff Prince stated he happened to be 1 of the close neighbors south of the facility. I have an active involvement with this facility. Not only is it designed correctly as I come from an engineering and construction background, it also addresses all the possible impacts on my property and the neighbor's property. We have been working hard with the Sportmen's Club board and they have developed a business plan, along with hours of operation and because it is federally funded it will be open to the public. To what the hours are to access part of the range, that's all being worked out. We are also working closely with the Game and Fish Dept. so that we can meet their requirements.

Jeremy Olson asked if the neighbors in the area had been consulted.

Jeff Prince said yes, I have been staying very close with my neighbors Jason and Andrea Gressman, they are here this evening. We are here to get your initial reaction because we have to have our application turned in by the end of this week. I have also talked with Randy Broaderson and his wife who own adjacent parcels and have agreed to provide some of the easement for the road. The road now goes straight up into our homes that both the Gressmans and I use, the design that Eric and I are working on is to split that traffic so we don't have anyone just showing up in our yards. With the proper signs, directional spin off from the driveways and follow the existing gas line easement and divert the road away from the houses as soon as possible. The traffic will vary and could be quite a few cars with special events. We are trying to address those traffic impacts such as dust and sound on the houses.

Director Talbert commented that he and Mr. Prince visited the site together that is on county road 37, the facility works well with the contours of the land the way it is designed. The Gressmans had concerns at our first meeting and, those concerns were safety, access, noise, property values. As I have told this group, we can address safety and access. I don't know that this plan fits all the concerns that they have, people will be coming in close to their home and during special events the traffic will be heavier. I did tell Jeff that I wanted a secondary access point because the access road going into is approximately 1/3 of a mile, there is a path that we drove on leaving the site and I think we can make that work in case one of the lanes gets blocked on the main access road going in. I truly don't think the property value can be addressed fully as this could affect property values if they do decide to sell the property in the future. Overall everyone that I come into contact with says this county needs a facility like this, but is it in the right location.

Paul Wisness stated there could be more upside/positive to this than just the negative we have heard.

Vawnita Best explained when the owner of the land came in and talked to this board there were no residents within a mile of the proposed location. I think the fact now is we are looking at a location incredibly close to residents that live on small parcels where there are virtually no buffer zones. We have to be considerate to their rights as property owners and enjoyment.

Jeff Prince said the fire line is 1700 sq. feet from my back door and 1800 sq. feet from the Gressmans.

Ariston Johnson stated that he believes there was some discussion about 1 resident in regards to the landowner and the location. I recall part of the discussion was that the property owner that lived there had part of the access control or monitoring.

Jason Gressman stated he lives on the access road and he does not want the shooting range. He said he has small children and a variety of animals on the 6 acres he owns. He is concerned about the noise and said the range is exactly 622 yards from his front door as well as the traffic to and from the range. He stated that even if someone has access to it, what about the friends they bring. Jason said they have been fixing up their home and redoing certain rooms, he is worried about the value of his home going down and causing a low resale value, will someone buy his property if it sits next to a shooting range he asked. He said he has been a competitive shooter for over 20 years so he does know what this is going to bring. There is no fence or tree high enough that I can put in to prevent people seeing into his yard, and I have 5 children and my wife and I am concerned about them.

I just built a deck on the back of the house for family BBQ, it doesn't matter what you are going to shoot, every shot will break the sound barrier 850 feet a second which automatically makes it loud enough to hear. I would go to this facility because it is going to be amazing, but to have it that close to our home will rob our peace. The road is hard to maintain now with the dust and the range will just bring more issues. I am in the process of tearing down a wall, laying floor and doing a new kitchen and to all of a sudden just sell now, it's not in the condition to sell now, so do we just throw it out there and take a hit on the money to sell it, or do we have a house that we fight with for the rest of our lives. I may find someone to buy it and pay me what I want for it but I'm not willing to roll the dice and take a loss because it sits next to a shooting range. I am not about telling people what to do with their land, I hate that aspect of it and I m a shooter, I would love to be a part of this range, but for us it's just not what we want that close to our home. We wanted to be heard on the safety, access, noise, shooting range issues.

Director Talbert stated that access and safety can be addressed the other 2 issues are much more challenging. Jeff Prince and I have talked about traffic and on certain events it will bring more traffic. County road 37 will be paved so that will cut down on the dust as well.

Andrea Gressman explained that she has 5 children she was told that the range would be open from 8 am to 8 pm 7 days a week, that's 84 hours a week. This is their home that they have worked hard for, and for the safety of her children she will not live next to a shooting range.

Vawnita Best asked if there had been any mediation in regards to buying the Gressmans home and encouraged everyone to visit the location and how this proposal intercepts with this.

Eric Kirby said they will take it back to their board and that the Gressmans have been heard.

**Motion to adjourn : Butch Fleck, Second Kenny Liebel. Voice Voters: All Ayes**

**Meeting was adjourned at approximately 6:00 PM**

**September 2018**

## Planning and Zoning Commission Minutes

September 10, 2018

Meeting was held at the McKenzie County Courthouse Commissioner Room in Watford City, ND and called to order at approximately 5:00pm

Members present: Vawnta Best, Kris Mrachek, Kenny Liebel, Jeremy Olson, Gene Veeder, Bethany Devlin,  
Members absent: Paul Wisness, Butch Fleck, Les Haugen.

Staff present: Planning and Zoning Director Jim Talbert, Planner Peyman Kadir, Administrative Assistant Cindy Mecham, GIS Bonnie Foster, Planning Attorney Ari Johnson.

Others: See sign in sheet

Minutes from the August 13<sup>th</sup>, 2018 meeting:

**Motion to Approve minutes: Jeremy Olson, second: Vawnta Best, Voice Vote: All Ayes.**

### **Unfinished Business:**

NONE

### **Public Hearings: NONE**

### **Item 1: 0027-18 CUP PM Water Hoffman Pond**

**Located at Section 14, Township 148-N, Range 98-W. Parcel Number 630006500**

Peyman Kadir stated this was approved last month however there was an error in the application with the Township, so we are bringing it back before the board.

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Gene Veeder, Second: Vawnta Best , Voice Vote: All Ayes.**

### **Item 2: 0017-18 CUP PM Martin Construction Nelson Pit**

**Located at NW1/4 of Section 12, Township 150N, Range 97-W, East of Watford City on ND Highway 23 to 116<sup>th</sup> Ave NW to Northfork Road.**

Director Talbert stated that an added requirement would be that the company needs to provide dust control down to Highway 23 twice a year and provide receipts, along with the other requirements in the permit.

Kenny Liebel asked if it was normal practice to make the company provide dust control the whole road into the site.

Director Talbert stated we have a general rule of ¼ mile in both directions. The biggest complaint we have in this county is dust, we are just requiring south on Hwy 23 from the site to have mag.

Vawnta Best commented that it brings good discussion and I wonder if our board should not discuss the topic outside of a specific application at some point in time because I do think sometimes the parameters are inconsistent and often times it has to do more with the location of the application. From a nuisance stand point we deal with gravel pits allot and I think there may be more robust policies to put into place and I think what people

don't know is that from a property taxing standpoint is the burden of taxation is light compared to the impact when you look at it, so we may have opportunities to bring forth some additional guidelines on future applications.

Director Talbert stated we will certainly welcome that as we are moving in the slower part of our season, maybe we could put it on our agenda in November and discuss it.

Audience, Representative, Committee and Board Comments: None

**Motion to APPROVE: Jeremy Olson, Second: Gene Veeder, Voice Vote: All Ayes.**

**Item 3: 0029-18 CUP Belle Fourche Pipeline Company.**

**Description Township 147-N Range 101-W, Sections 4, 5 & 8 Township 148-N 101-W, Sections 23, 24, 26, 33 & 34 Township 148-N, Range 100-W, Sections 4, 17, 19 & 20 Township 149-N, Range 100-W Section 36 Township 149-N, Range 99-W, Sections 31, 32 33, 34, 35 & 36 Township 149-N, Range 99-W, Section 6.**

Planner Kadir stated that this is a conversion line that's been in the ground for 20 years.

Zack Peterson explained that yes there are some smaller stretches, connecting to well pads that the majority of the line has been in the ground about 20 years, there is no new construction. The plan basically according to the PFC Regulations, since it has been connected to an additional line that goes around the Johnsons Corner area, PFC requires that it needs to be classified as a transmission line instead of being classified what it is now which is called a gathering line.

Director Talbert added that in 2016 PFC changed how pipelines are to be handled by the counties, and it has taken us awhile to fully understand what we were supposed to do or what we weren't supposed to do. The last meeting I attended with the PFC Board is that pipelines that are PFC regulated should not be brought before this board. If the county commissioners have any issues with any of it we are to submit a letter to the PFC that will be read into their hearings. This does not apply to the PFC facilities, so if it's a gas compressor building we would still zone that part. Technically this should not be before this board, and I will myself make a report to the county commissioners and if they want to make comments, I would go to the PFC hearing and move it forward that would be the proper procedure at this time. There is nothing wrong with voting on this at this time however this will be the last time that one of these will be brought to this board.

Kit James stated that he owned land that this pipeline went through and he wanted to know if any new construction would happen.

Jeremy Olson answered no this company was just reclassifying it they are going from a gathering line to a transmission line. Nothing is going to get dug up.

Audience, Representative, Committee and Board Comments: None

**Motion to APPROVE: Kenny Liebel, Second: Gene Veeder, Voice Vote: All Ayes.**

**Item 4: 0008-18 ZC Timothy J. Smith**

**Location IT # 2557 PT SE1/4 Section 25, Township 150-N, Range 100-W. Parcel ID 030010138**

Planner Kadir stated that this would be a zone change from agriculture to light industrial this would be a place for the trucking company employees to go and take a shower and do laundry. The company is based out of Bismarck.

Jeremy Olson asked if this had gone through the Arnegard Township.

Planner Kadir stated yes, it was emailed and approved a couple months ago however the applicant wasn't ready to proceed with the application at that time.

Kris Mrachek asked if there would be housing.

Planner Kadir stated no, this would just be a lounge area for his drivers to get cleaned up and do laundry.

Director Talbert commented this would not be a place for overnight parking.

Planner Kadir stated the owner has had a fence and gate surrounding the area for a couple of years.

Audience, Representative, Committee and Board Comments: None

Vawnita Best asked if there was a sewer service required.

Planner Kadir answered that there was sewer and rural water in place and has been there for a while.

Director Talbert stated that the sewer system would go through the Upper Missouri District and be required through the state.

Gene Veeder stated he would like to know if the sewer system was going to be septic, lagoon or sewer.

Planner Kadir stated she would call the applicant and have an answer before the coming commissioner board meeting.

Jeremy Olson stated that is what CUP's are for not Zone changes.

Director Talbert stated he would put a stipulation in the agreement that they have to provide whether the sewer was going into a lagoon or the septic permit from the Upper Missouri Health District. However, I believe we should table this due to the fact we don't put conditions on a zone change, so when a few of our questions are answered we will then bring it back before the board.

**Motion to APPROVE: Vawnita Best, Second: Jeremy Olson, Voice Vote: All Ayes. TABLED**

**Item 5: 0005-18 CP, ZC Custom Energy Construction Inc.**

**Location: Parcel # 690001500 approximately 147 acres in the SE1/4 of Section 3, Township 150-N, Range 96-W.**

Director Talbert stated on the aerial photo we have colored in that ¼ section yellow, that have an aversion to doing parcels in 2 different zones even though Highway 23 splits this parcel, it has never been changed either to an IT where we have 2 different designations. It was my comment to the applicant to either separate out and create separate parcels or do entire property of 160 acres. The landowner is Greg Tank and he also signed off on the application. That is why you'll see it on both sides of Hwy 23, which is a fairly industrial area. This particular site which actually has 2 different leases and uses on it is an area that has been used and abused overtime. The requirement which is really more of the CUP aspect of it is to clean up the area because there is allot of garbage.

Jeremy Olson asked so the CUPS are coming after this item.

Director Talbert explained that we would be changing to industrial on the comprehensive plan, light industrial on the zoning, and CUP for the fractionators. I did explain to the applicants that comprehensive plan changes are

something we are very careful on doing, this particular property has been used for industrial uses and changing the plan would be in harmony with the uses going on there.

Vawnita Best asked what is the adjacent property just north to this area, as it looks like a farmstead.

Director Talbert said it is also and has been a very industrial area as well.

Mr. Signalness owner of the farm asked what do they want to do here.

Director Talbert stated that the company is asking for a CUP for a fractionator that is taking gas and separating it into propane, butane, and liquid gas. 2 different fractionators would go on this site. Some of the larger gas plants like Targa and ONEOK have fractionators as well.

Mr. Boyer stated that he was president of Custom Energy and the object is natural gas liquid (flare gas), and with various locations they would like to bring it to this point to sell. Last year pipelines got full and there was nowhere to take the butane, propane and condensate to local markets, hopefully we can solve this problem.

Vawnita Best asked if there was a reason he chose this location vs other locations and what would the sound impact be considering the proximity to residential homes in the area.

Mr. Boyer said we plan on having 6 trucks a day coming and going.

Jeremy Olson asked if there would be a flare.

Mr. Boyer said we are putting in an incinerator, the goal is the methane that we recover with the NGL, we will be able to burn this fuel with heaters on the side. We are locating it on the far west corner of the property.

Mr. Sigalness stated that he has the lease on all this property and is concerned about fractionators and the sound they produce.

Mr. Boyer explained there will be 1 electric driven compressor, and 1 small 20 horse gas powered compressor.

Ari Johnson stated the lease is the agreement between the land owner and tenant, nothing we can do will affect that. It would still be under that lease whatever the terms are. The concern I have is we spent allot of time developing and updating the comprehensive plan, a large part of that discussion was that we are not changing this lightly, we will make zone changes consistent to the comprehensive plan but changes to the comprehensive plan needs to be a part of a comprehensive plan for the county so anytime you see a ¼ of land being changed in the comprehensive plan, you should immediately go back into that discussion and how does this fit into the comprehensive plan for the county. A large part of what we are doing here is addressing the spot development that we suffered through the early part of the boom and so it seems like we are talking a ¼ piece of land to change the comprehensive plan, a portion of which is under lease for agriculture uses, ultimately we are talking changing the comprehensive plan on a small 160 acre parcel so that we can change the use to industrial for an even smaller portion that happens to be in an agricultural area. That's a political decision to be made by the county commissioners by the advice of this board. We can't do anything about the lease Larry can keep farming if it's a violation of his lease that's between him and his landlord and that's out of our control.

Vawnita Best asked Mr. Boyer is there something about this parcel that makes it adventitious to your business as opposed to all the other parcels that exist in already industrial designated land in the county.

Mr. Boyer answered, I live in Casper Wyoming, I am aware of all the other locations and this one is close to production lines. The reason I selected it was because it is in a central area.

Director Talbert stated that it is in the Johnsons Corner location which has quite a few of industrial operations.

Jeremy Olson asked could something like this be done as a CUP in an agricultural zone.

Director Talbert stated we actually looked at that and I did not feel it was addressed well in the ordinance to be a CUP in the agricultural zone.

Ari Johnson we can amend the ordinance to fix that but again that's a political decision.

Director Talbert said I would say include things like that in a CUP, however we can do that in a few months.

Ari Johnson explained before we made those changes we were regularly seeing comprehensive plan changes and zone changes in the same application all the time. We hire a demographic consultant and we put allot of effort and resources into changing that approach to zoning to a more comprehensive plan. I do not want to see all that effort go away.

Audience, Representative, Committee and Board Comments: None

Kris Mrachek commented that the landowner Greg Tank was his uncle and he would not vote on this item.

Director Talbert stated there is no reason to move forward on the 2 following agenda items as a CUP would not be allowed in that area due to the zone.

Ari Johnson stated that his incrimination since this is a recommendation to the county commission and the county commission could reject the recommendation and do the zone change, you may want to weigh in on the CUPs on that contingency. You can also table them until the next month meeting and they will have decided the zone change before you have to have that decision. I don't want to see the situation where the county commission does a zone change and we haven't made a recommendation on the conditional use permit.

Director Talbert stated I would make a recommendation that this board either table it or deny it.

Audience, Representative, Committee and Board Comments: None

**Motion to DENY: Jeremy Olson, Second: Kenny Liebel, Voice Vote: All Ayes.**

**Item 6: 0030-18 CUP Custom Energy Construction, Inc**

**Location: The area for this CUP is about 8 acres of the approximately 147 acre parcel number 690001500, Section3, Township 151-N, Range 96-W.**

This was denied due to their zone change Item# 5 being denied, however they can reapply once the county has amended their zoning ordinance to include such facilities as a condition in agriculture.

Kris Mrachek commented that the landowner Greg Tank was his uncle and he would not vote on this item.

Audience, Representative, Committee and Board Comments: None

Recall Voice Votes: Vawnita Best: Nay, Jeremy Olson, Kenny Liebel, Bethany Devlin, Gene Veeder all Ayes.

**Motion to Deny: Jeremy Olson, Second: Kenny Liebel, Voice Vote: 4 Ayes, 1 Nay. Condition the applicant can reapply.**

**Item 7: 0039-18 CUP Montana-Dakota Services**

**Location: Area for this CUP is about 20 acres of the approximately 147 acre parcel, #690001500, Section 3, Township 151-N, Range 96-W.**

This was denied due to their zone change Item# 5 being denied, however they can reapply once the county has amended their zoning ordinance to include such facilities as a condition in agriculture.

Kris Mrachek commented that the landowner Greg Tank was his uncle and he would not vote on this item.

Audience, Representative, Committee and Board Comments: None

**Motion to DENY: Vawnita Best, Second: Jeremy Olson , Voice Vote: All Ayes. With the condition the applicant can reapply.**

**Item 8: CUP Camel Butte L. Signalness LLC**

**Location: SE1/4 of the NE1/4 Section 4, Township 150-N, Range 96-W**

Kris Mrachek asked applicant Larry Signalness if he was ok with all conditions.

Larry Signalness stated yes.

Audience, Representative, Committee and Board Comments: None

**Motion to APPROVE: Gene Veeder, Second: Kenny Liebel, Voice Vote: All Ayes.**

**Item 9: 0034-18 CUP Elkan Inc. Wolff Steel Tank**

**Location: NW1/4NE1/4 Section 23, Township 149-N, Range 98-W.**

Audience, Representative, Committee and Board Comments: None

**Motion to APPROVE: Gene Veeder, Second: Vawnita Best, Voice Vote: All Ayes.**

**Motion to adjourn : Vawnita Best , Second . Voice Voters: All Ayes**

**Meeting was adjourned at approximately 6:54 PM**

## Planning and Zoning Commission Minutes

September 26, 2018

Meeting was held at the McKenzie County Courthouse Commissioner Room in Watford City, ND and called to order at approximately 5:00pm

Members present: Vawnita Best, Kris Mrachek, Kenny Liebel, Jeremy Olson, Gene Veeder, Bethany Devlin, Butch Fleck, Les Haugen.

Members absent: Paul Wisness

Staff present: Planning and Zoning Director Jim Talbert, Planner Peyman Kadir, Administrative Assistant Cindy Mecham, Senior Code Enforcement Officer Todd Foster, GIS Bonnie Foster, Planning Attorney Ari Johnson.

Others: See sign in sheet

### Unfinished Business:

**NONE**

### Public Hearings: NONE

### Item 1: 01-18 Firearms Facility Overlay District

Location: Approximately 146 acres in the S1/2NW1/2SW1/4 of Section 35, Township 150-N, Range 98-W McKenzie County Sportmen's Club.

**Kris Mrachek** started the meeting stating we need to establish some ground rules here, 2-5 minutes for comments, be respectful of everyone, we do have law enforcement here you will be removed if you get out of line.

**Director Talbert** stated I'm going through the staff report and the various comments that we received from agencies and individuals, and afterwards I'd be happy to take any questions. This firearm facility is located in Section 35, Township 150 Range 98. The property is owned by Brooks Kummer and is presently zoned agricultural. The shooting ranges are permitted two ways in the county, either by conditional use permit with in appropriate zoned district or through the newly created firearms overlay district. Conditional use permits are reviewed annually to make sure the conditions are being met. If there are violations the permit may be revoked or modified, this particular applicant has expressed concern that the CUP would not fit with their needs, they are looking to borrow or use a fair amount of money and the concern that some later commission could revoke the caused concern, they are presently being moved from their current location because of conflicts with surrounding land uses.

In reviewing the application the applicant had stated that the preeminent source for outdoor/indoor range design is in the NRA source book guide for planning and constructions, that's what we have used also accepting them as the experts. The source book provides both basic planning and design, emphasis is given to safety. " Safety is twofold: (1) ensuring the health and safety of its participants and spectators, and (2) the safety of surrounding inhabitants."

The application was originally submitted and there seems to be some misunderstanding that the staff was trying to prevent it from coming forward, the facts of the matter are the applicant was incomplete and did not have the information that we needed to review, subsequently they submitted which was deemed complete on September 7, 2018, we have scheduled this special hearing to accommodate their needs. They are up for grant money and

they have to have that in by the 15<sup>th</sup> of October. The physical site is accessed off county road 37, has a shared driveway which is used by the Gressman family, Jeff Prince, McKenzie Electric, and the proposed firearms facility. The Gressman's have expressed opposition to the project with 4 reasons of concern: (1) Safety of their children from errant bullets, (2) Noise from the range, (3) The facility will share driveway access with the Gressman's and Mr. Prince, and (4) Reduced property value. The Gressman's have 5 acres to the west of their home also. Also across County Road 37 is a gas compressor station and an oil pad.

Sound has been raised as an issue the applicant states that the sound continuation and mitigation will be a design focus for this facility, the applicant states the physical location and orientation of the ranges location and building shielding will be utilizing topographical layout and overall engineering design will allow for sound continuation. This may or may not be the fact but there was no sound study provided that would demonstrate that one way or the other. The range itself is elevated approximately 45 feet from the homes there is a natural fill with a backdrop being kind of high area, rifle range is oriented east to west shooting East, pistol range also east to west shooting to the west shotgun range shooting to the north. The shooting lines are 48-45 elevation which is higher than the two homes, 30 foot higher than county road 37 the two homes are approximately 1800 feet from the shooting lines which is approximately 1/3 of a mile. The NRA source book states no set distance eliminates noise complaints entirely however studies conducted from the Environmental Protection Agency indicates noise complaints are likely when noise inhabitants with dwellings exist less than 1/2 mile from the facility. Beyond that distance chance of generating noise complaints is reduced.

I will be reading a letter from McKenzie Electric concerning that access and also a letter from the Gressmans in regards to the access. The project proposes to realign the existing entry which goes directly onto the homes of the Gressmans and Mr. Prince. Here we have county road 37, the Gressmans, Jeff Prince, the electric substation, presently the driveway enters and comes into the homes. The proposal and access to the facility would be to realign that slightly and permit that traffic to come directly off county road 37 and go up to the site, the homes would have a T intersection and would reduce the amount of traffic. No trespassing signs would be posted at the private drives.

The overlay area I have said should include 2 homes, electric, gas plant, oil pad. I think they all have potential adverse effects utilities they are planning on providing water, septic, electric, telephone. I have stated in my report that porta potties would normally not be accepted other than special occasions where there is a competition with 100 people on a week-end, they would be allowed that.

They have stated that technology to control access to the site by using cameras, coded gates and kiosk that ensure users have previewed the safety video. The safety system is programmed to be monitored and alert of any unauthorized access. I have stated that these measures for the road seem adequate to staff. Safety I have every belief the applicant has every intent on running a safe facility but there are always unattended consequences. Accidents do happen and does cause some concern for the homes that are nearby more than it does than the lands that extend out from the facility. Just as a point of reference I have a chart which came from the NRA, a 22 long rifle travels 1 1/2 miles, a 36-06 travels 3.1 miles, and a shotgun typically travels 7 1/2 shot 209 yards or 627 feet. The shock fall zone deals with that track range, fire lines are less than 350 feet from the northern border of in the shooting directions as they are shooting the guns, they are typically pointed upwards which would allow travel off site is a concern. According to the NRA Source book most track and speed ranges limit shot size 7 1/2 range 209 yards or 627 feet.

Besides the Gressmans the North Dakota State Trust Land has expressed concerns about the overlay district and how it could affect their potential leases the way that the gun range has been designed and shooting into sides during normal operations there wouldn't be bullets flying their way. However, there are bullets from hunters that could fly in adjacent fields.

Recommendations: From the offset of this project my concerns have been centered on safety for participants, staff, observers and neighbors. I feel the site has limitations that cannot be fully addressed and resolved. The

intent of overlay district is to set forth guidelines to insure the facility is safe and surrounding uses are not adversely affected.

The Gressman's have expressed 4 concerns: (1) Safety of their children from errant bullets, (2) Noise from the range, (3) The facility will share driveway access with the Gressman's and Mr. Prince, and (4) Reduced property value. I feel the plan has only adequately addressed 1 of the 4 concerns. I feel the shared driveway with the proposed design changes and signage adequately address that issue, however, the plan fails to resolve the other three issues. From the beginning I have said that in order for me to give a favorable recommendation that the applicant had to come to an agreement with the Gressman's. It is obvious to me that it will pose a risk and safety for the kids, but I do think the way the driveway is designed that will eliminate that problem. There are safety concerns that linger for the surrounding uses. My recommendation is that the County should aggressively help the applicant find a site that is better suited.

If the planning commission decides to move forward with a favorable recommendation I would request that the following items be included as requirements to the applicant prior to the facility becoming operational. Each of these are outlined in the NRA Range Source Book.

1. **Prepare and submit for approval a complete Safety Plan** as outlined in the NRA Range Source Book, Section 1, Chapter 2. The plan must be clear and concise so this is it understood by all users and must continue throughout the life of the project. The safety plan is to include:
  - a. The document should be written on the sponsoring origination's letterhead or official stationary.
  - b. The document should indicate the date of adoption and bear the signatures of the current officers.
  - c. The document should include a preamble stating a specific purpose.
  - d. There should be terminology section to define clearly terms often loosely interpreted.
  - e. The safety plan should divide rules and regulations into categories
    - i. Gun Handling Rules; as found in section 1 chapter 2 subsection 2.03.2.1
    - ii. General Range Rules; as found in section 2 chapter 2 subsection 2.03.3.1
    - iii. Specific Range Rules; ( according to the type range ) as found in section1 chapter 2 subsection 2.03.4.1
    - iv. Administrative Rules and Regulations; as found in section 1 chapter 2 subsection 2.03.5
    - v. Range Procedures to be followed in the case of emergencies.
  - f. Any exceptions to the rules or regulations should be carefully defined to avoid confusion.
  - g. The conclusion of the safety plan spells out the consequences or action that will accompany any violation of the safety rules and regulations.
2. **Prepare and submit for approval an Operations Plan** as outlined in the NRA Source Book, Section 1, Chapter 5. The Operations Plan is to include:
  - a. Management Guidebook, see Section 1, Chapter 5, Subsection 2.01
  - b. Standard Operating Procedures, see Section 1, Chapter 5, Subsection 2.02
  - c. Range Security, see Section 1, Chapter 5, Subsection 3.02
  - d. Lead Maintenance, see Section 1, Chapter 5, Subsection 4.05
3. **Prepare Construction Plans and Specification for the Range.** Plans to be viewed and approved prior to construction. Plans shall include:
  - a. Site Plans as outlined in Section 1, Chapter 3, Subsection 3.01
  - b. Design Specifications as outlined in Section 1, Chapter 3, Subsection 3.03

**Jeremy Olson** asked if the applicant had been given those 3 recommendations.

**Director Talbert** stated yes everything that's in your book they also have and I'd like to add just a few things from their own report.

**Overview: Director Talbert**

The McKenzie County Sportsmen's Club (MCSC) is being established as a non-profit 501©(3) in order to provide a safe and much needed facility that includes firearm shooting ranges for its members, its guests and public. In order to maintain and expand recreational shooting and North Dakota's hunting heritage along with the economic impact those activities have, this project will increase opportunities for shooting in a safe environment within a reasonable travel distance for participants in a location that is allowed for recreational uses. The goals of this facility are to improve and increase public access to quality, safe shooting opportunities at a well-designed, safe range, decrease shooting at non-range sites.

The new facility is proposed on approximately 149 acres. It will be comprised of three-gun outdoor shooting ranges (rifle, shotgun and pistol), a building to house conferences and educational training sessions, restroom facilities, and indoor air-gun pistol, and /or archery. An interactive, outdoor 3D archery range is also planned. Currently, within the prescribed Game and Fish schedule, all local approvals must occur by October 15, 2018.

Features allow for the outdoor ranges to be excavated into the existing ridge, consisting mostly of coarse sand that provide not only safety berms but also sound attenuation. Once completed, the MCSC intends to apply for certification from the NRA. This facility will not be staffed at all times, currently all MCSC board of directors have been trained in either firearms safety, instruction, or both. Although shooting range incidents are not specifically reported in any available published statistics, accidents in the US in 2015 (the latest year available) involving firearms are approximately 460; of that 400 occurred within the home.

It would appear these statements are reflective of imposing "safety standards" on shooting ranges. This topic was posed to Connecticut legislative analyst in 2010 and we believe it will address the application requirements (evidence) stated in the Overlay District ordinance, Mr. Duke Chen states: Shooting ranges are more likely to be regulated by municipalities through zoning regulations or general municipal ordinances. For example, a zoning regulation may allow shooting ranges only in a specified area under a special permit, which is a land use tool for regulating a project that may create special problems for bordering properties unless given special attention.

The NRA's "safety performance standards" are specified in its Range Source Book. Landscaping will be provided to screen the road from the residences providing a level of privacy, also involving nearby property owners and residents in the planning and design process only helps to promote a positive attitude toward this community resource. The project proposes utilizing technology to control the basic range rules, in reading through the source book this probably is an area that needs to be flushed out a little further.

First and foremost I am not saying the shooting range shouldn't happen, I am emphasizing extreme safety as accidents do happen. I also have letters of concerns from opposing and supporting parties that I have provided in your packets. Everyone within the boundary was notified and some are here tonight.

**Kris Mrachek** asked anymore questions from our board? Would the applicant like to come up.

**Mr. Prince** stated I have been working for the past several months with the McKenzie County Sportsman's Club, for the planning and designing of this facility, first off I want to thank this board and especially staff for setting up this meeting, it helps out with the schedule that's in front of us because of the Federal Grant that's in front of us. It's a unique project one that doesn't come across our desk. The firearms facility overlay district is pretty cut and dried, its purpose of the district to minimize the risk of safety hazards intended with the facility where firearms or other weapons are regularly discharged. It has a list of items that need to be addressed and we believe that our application has addressed those.

I don't want to reiterate what Mr. Talbert went over but he covered what I was going to talk about tonight. I'll give just a brief overview where we stand with this project then I'll turn it over to Mr. Kirby the engineer of record, he can go through the site plan and details. We also have Brent Schwan the MCSC president who will be available to answer some questions as well as some other club board members.

**Mr. Kirby** engineer for the project stated as you can see we have a 100 yard range, 200 yard range. The only place rifles will be loaded is at the shooting range, when you stand at the firing line. We have 20 foot berms, roof over head, baffles out in front. If a bullet goes backwards it will go straight into a hill. The berms will have a sandy loam so the bullet won't stray out of there, so the overlay is more than is required per the NRA specifications. With the building locations, the directions of the shooting, it follows the NRA Guidelines for building ranges and operations so it will be a very safe site.

**Kris Mrachek** asked any questions from the audience or board members.

**Mr. Kummer** explained he was the landowner and that he and his wife started this thing, we wanted something for the kids to use. I do have a copy of North Dakota Laws we only need to have  $\frac{1}{4}$  of a mile without permission to shoot a gun.

**Mr. Talbert** stated that when the Mr. Prince and Mr. Kirby brought in the application it was a good  $\frac{1}{2}$  mile to 1 mile North and South of this area, I actually sat down with them and helped them whittle it down.

**Mr. Gressman** said they moved here in March 2016 when they purchased their home they were not invited to go see about a range until June of 2016. Mr. Kummer did discuss with me about being on the board however Peter Jost was not sure that was something that I could do because they already had enough board members. Our concerns are the same as they were last month as they are today. Safety, access, noise, value. This proposed place is too close to our home, but we did buy it first and we just need to be heard.

**Les Haugen** asked if they were able to come up with the money would you sell it.

**Mr. Gressman** stated yes that's why we offered it we were willing to work with them. We have no desire to live next to a range. With all my experience we know what this will bring.

**Mr. Kummer** stated he met with Clayton Monson and Ron Broaderson, we can get off that road with another easement from Ron who is willing to allow an additional 50 feet of his property using the same approach.

**Mr. Prince** stated we have met all the requirements that the county has asked. We have had a good working relationship with the county and we would like to continue that.

**Kris Mrachek** said anyone who is opposed to it please come up and then we will allow those in support to come forward.

**Mr. Monson** from McKenzie Electric stated that their main concern was the access road, that it does not hinder our staff or allow public entity to their substation. If we get around those obstacles we would be in favor of it but then again I cannot speak for the entire board.

**Butch Fleck** commented that the way the road is proposed tonight it should leave McKenzie Electric alone.

**Mr. Monson** stated yes it looks like it.

**Mr. Gressman** said I'd like to clarify one thing, we aren't looking to get rich or take advantage of the situation, but everywhere we have looked it's impossible for us to buy a place out right for that money when we are trying to be debt free and head the direction we are.

**Mr. Kirby** stated I have read the conditions here and I want to point out that these plans are preliminary to get through this process so item #3 there will be detailed plans along with operations safety plans submitted for review. This is not the final design and does not show all the details for the safety but they will be there.

**Kris Mrachek** explained we are going to close public comment and just so everyone knows our board gives recommendations to the County Commissioners, so if you have further comments please attend that meeting.

**Les Haugen** stated he agreed that it was the perfect site but he was concerned about the safety of the Gressmans and I realize I heard 1700 feet from their home but I am still struggling with that and that they the Gressmans have to have some rights too. If you can work with people and get them bought out I think this would have been a done deal 2 hours ago in my mind. But I am struggling with that and the devaluation of that property too. I guess the question I have for everyone here would you all want to buy his house and live next to the gun range. I guess I am thinking most of you wouldn't if you had a choice.

**Kris Mrachek** any comments from our board.

**Motion to Approve minutes: Gene Veeder, second: Jeremy Liebel, Voice Vote: All Ayes.**

**Meeting was adjourned at approximately 7:45 PM**

**October 2018**

## Planning and Zoning Commission Minutes

October 15, 2018

Meeting was held at the McKenzie County Courthouse Commissioner Room in Watford City, ND and called to order at approximately 5:00pm

Members present: Vawnita Best, Kris Mrachek, Gene Veeder, Butch Fleck, and Paul Wisness.

Members absent: Kenny Liebel, Bethany Devlin, Les Haugen, Jeremy Olson

Staff present: Planning and Zoning Director Jim Talbert, Planner Peyman Kadir, Administrative Assistant Cindy Mecham, Senior Code Enforcement Officer Todd Foster, GIS Bonnie Foster, Planning Attorney Ari Johnson.

Others: See sign in sheet

### **Unfinished Business:**

**NONE**

### **Public Hearings: NONE**

**Motion to Approve minutes: Butch Fleck, Second Vawnita Best, Voice Vote: All Ayes.**

### **Item 1: 0028-18 CUP Cherry Creek Water, LLC**

**Location: Township 150-N, Range 98-W, Sections 27, 34 & 35, Township 149-N Range 98-W, Sections 1 & 2, Township 149-N, Range 97-W, Sections 5,6, 8 &9.**

Director Talbert stated that we have been working with Cherry Creek for several months and now and we are comfortable with what they are proposing and staff recommends.

Vawnita Best asked the representative Grant Slick if he had any issues with the conditions.

Grant Slick stated no.

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Gene Veeder, Second Vawnita Best, Voice Vote: All Ayes.**

### **Item 2: 0035-18 CUP Cherry Creek Water, LLC-Johnson East Pond**

**Location: Section 5, Township 149-N, Range 97-W.**

Director Talbert stated these next three items on the agenda are ponds that are closely adjacent to this pipeline that we have just recommended for approval, because they are all real close I would ask that we discuss all of these at once and make a motion on all. There is not enough difference to warrant discussion beyond what we can do with one discussion.

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Vawnita Best, Second Paul Wisness , Voice Vote: All Ayes.**

**Item 3: 0036-18 Cherry Creek Water, LLC-Johnson Lone Tree Pond**

**Location: Parcel Number 58000150, Section 6, Township 149-N, Range 97-W**

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Vawnita Best , Second Paul Wisness , Voice Vote: All Ayes.**

**Item 4: 0037-CUP Cherry Creek Water, LLC-Johnson West Pond**

**Location: Parcel Number 580001650, in Section 6, Township 149-N, Range 97-W**

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Vawnita Best, Second Paul Wisness , Voice Vote: All Ayes.**

**Item 5: 0041-18 CUP Badlands Aggregate**

**Location: Lot 3, SE1/4NW1/4,NE1/4SW1/4 Section 6, Township 151-N, Range 97-W.**

Director Talbert said that he met with Mr. Holte about the dust control as there is only one house on the route and that the land owner's son lives there. We have put in the recommendations that they need to provide adequate dust control. Application shall be by magnesium chloride or other approved product all substitutions must be approved by the county Road Superintendent. Dust control must be applied a minimum of a quarter mile in each direction of the residence off of 120<sup>th</sup> Ave NW a minimum of two (2) times per year. The loaded trucks must also be covered when leaving the pit.

Vawnita Best asked Mr. Milo Holte if he had any issues with the 12 conditions.

Mr. Holte answered no except number six (6) which he explained there is not 6 inches of top soil there now. That's very typical of scoria pits and we always put everything back to its original order.

Director Talbert stated that our practice is that you don't bring in additional dirt that wasn't there, but we ask that you do bring it back to its original order for vegetation and erosion purposes.

Vawnita Best said Item six (6) should state that it must be applied of at least 6 inches or replace to its original depth. Will that work.

Mr. Holte said yes that would be fine.

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Butch Fleck, Second Vawnita Best, Voice Vote: All Ayes.**

**Item 6: Special Uses that are not enumerated above.**

**Uses that are not enumerated above but the following requirements: (a) The use is appropriate to a specific location due to access to existing infrastructure or specific geography or geology that supports the use; (b) The use is compatible with surrounding land uses that conform to this ordinance (specifically excluding nonconforming uses); (c) The use does not impose an unreasonable burden on surrounding lands or on government services; and (d) The use can readily be reclaimed to the native condition of the land. Conditional use permits issued under this category shall be reviewed Planning and Zoning Commissioners votes to terminate the use at an annual review.**

Director Talbert explained that this is coming up from our meeting last month in regards to the fractionators on Hwy 23, with the comp plan the desire was to come up with a way the zoning board could be a little flexible where we could look at these smaller facilities that are adjacent to highway infrastructure. Ari and I have been back and forth on this, what you have before you is the recommended verbiage for your consideration.

Ari Johnson stated situations like last month where we had this thing in a really good place or at least we thought that, but was debatable. We didn't want to change the comp plan or the zoning because that would be way too much. Jim and I went back and we don't want this to become a catch all. Our goal was to give the county commission board and this board a way to allow things like we had last month without making that what every meeting is always about is people applying for a CUP for everything under the sun in the agriculture district.

Director Talbert added that part of the responsibility will fall on our staff also and we can weed those out before they come before this board. But again this board is the safe guard to make that recommendation and the county commissioners to make the ultimate decision.

Ari Johnson said it will be up to the county commission to (a) adopt this and (b) how to apply it, along with this boards recommendations.

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Butch Fleck , second Gene Veeder, Voice Vote: All Ayes.**

**Meeting was adjourned at approximately 5:47 PM**

**November 2018**

## Planning and Zoning Commission Minutes

November 19, 2018

Meeting was held at the McKenzie County Courthouse Commissioner Room in Watford City, ND and called to order at approximately 5:00pm

Members present: Vawnita Best, Kris Mrachek, Gene Veeder, Butch Fleck, Paul Wisness, Jeremy Olson and Les Haugen.

Members absent: Kenny Liebel, Bethany Devlin.

Staff present: Planning and Zoning Director Jim Talbert, Planner Peyman Kadir, Administrative Assistant Cindy Mecham, Planning Attorney Ari Johnson.

Code Enforcement was not discussed as the Todd Foster could not be present.

Others: See sign in sheet

**Unfinished Business:**  
**NONE**

**Public Hearings: NONE**

**Motion to Approve minutes: Jeremy Olson , Second Gene Veeder , Voice Vote: All Ayes.**

**Item# 1 Timothy J Smith 0008-18ZC TABLED**

**Item 2: 0043-18 CUP Custom Energy Constructions Inc.**

**Location: Township 150-N, Range 96-W, Sections 3. The area for this CUP is approximately 8 acres of the 147 acre parcel.**

Kris Mrachek stated he would not vote on this Item as the property owner was his uncle.

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Jeremy Olson , Second Gene Veeder , Voice Vote: All Ayes.**

**Item 3: 0042-18 CUP Montana-Dakota Services**

**Location: Section 3, Township 150-N, Range 96-W. This area for the CUP is approximately 20 acres of the 147 acre parcel .**

Kris Mrachek stated he would not vote on this Item as the property owner was his uncle.

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Jeremy Olson , Second Gene Veeder , Voice Vote: All Ayes.**

**Item 4: 0068-18 Amended CUP Kinder Morgan**

**Location: IT 2908 portion of the SW1/4SE1/4 of Section 30, Township 149-N, Range 98-W**

Vawnita Best asked the Representative Steve Lindquist if he had any issues with the 14 conditions listed.

Steve Lindquist stated no.

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Gene Veeder , Second Jeremy Olson , Voice Vote: All Ayes.**

**Item 5: 0044- 18 CUP, VAR M&M Park, LLC**

**Location: Killer B Subdivision parcel Number 633000500, Lot 5, Block 1, in Section 7, Township 149-N, Range 98-W.**

Director Talbert stated: Gary Pinkston is requesting a CUP for an existing RV Park to allow RV spots for Workforce Housing and a Variance from the required 15 feet separation between structures is 10 feet from corner to corner of RV's.

Gene Veeder asked Mr. Pinkston if he was happy with all the conditions, including 2 additional conditions to be added which are #17 to say "The applicant shall adhere to all Federal/State/Local laws, regulations and conditions for the operation of the proposed facility" and condition #18 to say "Applicant shall post signage through-out the RV Park to direct residents to shelter during storms".

Mr. Pinkston stated yes.

Audience, Representative, Committee and Board Comments: Eric Kirby representing Rusty Briggs stated that his client, who owns a RV Park in the area, did not want to have another RV Park go in since he felt the area wasn't in need.

**Motion to Approve: Butch Fleck, Second Jeremy Olson , Voice Vote: All Ayes.**

**Item 6: 0045-18 CUP Jerry Shae**

**Location: E1/2NW1/4 Section 25, Township 149-N, Range 100-W.**

Applicant Jerry Shae asked for an extension in building the fence that surrounds the construction of the earthen pond due to ground conditions.

Amendment to condition #6, "The applicant shall fence around the holding pond with a six (6) ft chain link fence to be completed no later than May 15, 2019".

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Jeremy Olson, Second Gene Veeder, Voice Vote: All Ayes.**

**Item 7: Discussion and possible motion on giving staff direction concerning inline heating and storage of freshwater on Temporary Freshwater line permits and Aboveground Storage Tanks (AST/Poseidon tanks) on and off well pad.**

Director Talbert stated that he was proceeding with the in-line heating with minimal storage/fresh water. And there was no decision made in regards to the above ground storage tanks with excess volume of 2000 barrels of water.

**H. Discussion: Arnegard Township Zoning**

Arnegard Township did a blanket zoning of agricultural including what they had previously zoned as rural commercial when they turned over the joint powers agreement.

**Meeting was adjourned at approximately 7:00 PM**

**December 2018**

## Planning and Zoning Commission Minutes

December 10, 2018

Meeting was held at the McKenzie County Courthouse Commissioner Room in Watford City, ND and called to order at approximately 5:00pm

**Members present:** Kathy Skarda, Kris Mrachek, Gene Veeder, Butch Fleck, Paul Wisness, Jeremy Olson, Kenny Liebel, Bethany Devlin and Les Haugen.

**Members absent:** None

**Staff present:** Planning and Zoning Director Jim Talbert, Planner Peyman Kadir, Administrative Assistant Cindy Mecham, Planning Attorney Ari Johnson, Code Enforcement Todd Foster, GIS Bonnie Foster.

Kris Mrachek stated they needed to establish the reorganization of the board upon his resignation, are there any nominations.

Gene Veeder stated he would like to nominate Jeremy Olson for chairman.

Les Haugen seconded the motion. All Ayes.

Kris Mrachek asked if there were any other nominations. None

**Motion to Approve November 19, 2018 minutes with the amendment to add Les Haugen as member present: Jeremy Olson, Second Butch Fleck , Voice Vote: All Ayes.**

**Code Enforcement:** Todd Foster stated there were several open cases he has been working on, these include:

1. Q's Kitchen with some fire suppression that we are working on, as well as building permits and the way they have been handling it, it has been a problem and it's time we go after that issue.
2. ElkRidge Subdivision (B5L6) New building being built, not up to code as far as fire suppression systems. The tenant was trying to install the wrong type of fuel storage for his daily use for his trucks. He tried to convince me that was legal.
3. The gas station in Cartwright is building a new bathroom on site it is built fairly close to the onsite fuel storage tanks. The building is a 10x10 building that is ¾ done and approximately 12 feet away from the fuel storage tanks. We are coming up with solutions to not have them demolish or move the building, but to protect it and the people that would use it. They have been very cooperative with us so we won't shut anything down. We can do a slow adjustment as to what the violations are, as it is still being constructed. It's best to be proactive in the community and move forward, there are some things we can do and some we can't, but it's a starting point.

Others: See sign in sheet

**Unfinished Business:**

**NONE**

**Public Hearings: NONE**

**Item# 0010-18 ZC Ray Hallford. Location: 12509 20H St NW Dixon Subdivision. Section 19, Township 149-N, Range 98-W.**

Audience, Representative, Committee and Board Comments: None

**Motion to Approve: Butch Fleck , Second Kathy Skarda , Voice Vote: All Ayes.**

**H. Discussion and possible motion for Aboveground Storage Tanks (AST/Poseidon tanks) on and off well pad sites.**

1. All temporary above ground structures including above ground tanks, pumps, booster pumps, heating units and layflat lines will be permitted as a part of the existing layflat line permit that you are currently doing with the County.
2. There will be no additional fee beside the current \$350.00 for the layflat permit.
3. These permits will continue to be done administratively so they can still be turned around very quickly for you.
4. On the plan or aerial photo that you submit in the permit application where you are showing the route of the layflat line you are asked also now to show the location of any other temporary above ground structure. Please indicate the size of the tanks.
5. There will be no bond required for reclamation, however, you will need to provide proof that your agreement with the landowner includes provision to reclaim and/or bring the property back to original condition when the above ground tank is removed. The exact provision for reclamation will be between you and the landowner.
6. You will still be required to pull any required permits from the Road and Bridge Dept. (Tim Pickering ) for any crossing of section lines or in ditches and culverts just as you do now.

2. Dust Control: Continue case by case including the distance of paved roads and homes on the route. All home owners as well as landowners would be sent notice of hearings.

**Meeting was adjourned at approximately 6:12 PM**