Planning and Zoning Commission Minutes
March 11, 2019

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

Members present: Butch Fleck, Jeremy Olson, Les Haugen, Kathy Skarda, Gene Veeder.

Members absent: Paul Wisness, 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 Todd Foster.

Motion to Approve: February 11, 2018 minutes. Motion: Les Haugen, Second: Kathy Skarda Voice Vote: All Ayes.

Code Enforcement: Todd Foster stated there were several open cases he has been working on, these include:

Violations

Sondrol Scoria Pit

- Set back violation.
  - Mitch Sondrol has 3 CUP’s for scoria pits located near HWY 85 and Spring Creek Rd. The one that is located next to HWY 85 has been mining to close to the HWY. Set back requires 100 feet from the road easement line, they have been mining within 15 feet from the easement line.
  - Letter has been sent asking that someone contact me by 3/25.

Raven Drilling / Abraxas

- No permit for current operation
  - Currently has 4 skid shacks being lived in several RV’s and oilfield service equipment.
  - No one available onsite during a site visit, a letter has been sent asking them to contact me
Jason Lund / Storage Yard

- **Unpermitted pipeline storage yard / Anhydrous tank storage on HWY 23**
  - Currently has several miles worth of poly pipe, and other assorted pipeline construction material set up.
  - At time of visit, there were 36 Anhydrous trailers being stored on site as well.
  - Letter has been sent asking them to contact me

Big Mountain Homes

- **Operating without a CUP / RV set up to live in Corner of County RD 31 and HWY 85**
  - Broke Grandfather status by expanding operations
  - RV in front yard appears to be connected to utility’s and is skirted for winter weather
  - Operating a business without a permit.
  - Letter was sent back in January asking to contact us.

Steve Connell

- **8 Unoccupied mobile homes and 4 abandoned vehicles**
  - Property is located on 133rd south of CR 30. 10 acres currently zoned Agricultural
  - Letter was sent on 2/04/2019 asking them to contact us
    - Sent a second notice letter out today

Benz Oil

There has been no attempt thus far by Benz to remove the tanks that are in violation or contact us letting us know a plan of action.

- Letter was sent on 3-7-19 asking Mark Benz to contact me by 4-01-2019 so we can discuss removing the tanks from the property.
Bakken Water Exchange

- We have moved forward with legal action

Bakken Base Camp

- Estimating the cost to have everything moved

Others see sign in sheet:

**Unfinished Business:**

A. Republic EES, LLC TABLED

**Public Hearings:**

**Item#1, 004-19 CUP April Szostak TABLED**

**Item#2, CUP 005-19 Northwinds Of Wyoming, Location: IT 930-PT NE1/4 12.47 Acres Section 12, Township 149-N, Range 99-W. 12612 23rd St, NW McKenzie County, ND**

Audience, Representative, Committee and Board comments:

Director Talbert read a letter from the neighbor, Joel and Emily Brown who directly border the property of Northwinds on the south side. Their concerns were (1) if any employees would be convicted sexual offenders how would they know. (2) Dogs that reside with potential employees particularly breeds with higher tendencies towards aggression because of the proximity of the RV’s and my property I anticipate would trespass on their property and potentially endangering life or property. (3) Accurate counting during the 2020 census.

David Gunter representative of Northwinds stated the company does do background checks on all employees and there will be no dogs there. The employees are on a schedule of 1 week on 1 week off.

Planner Kadir stated that in the conditions it does state that if they have dogs they will need to put up a fence.

Jeremy Olson asked if Mr. Gunter was okay with the conditions on the CUP, Mr. Gunter stated yes.

**Motion to Approve: Gene Veeder, Second: Kathy Skarda, Voice Vote: All Ayes**
Item#3, COMP ZC Targa Badlands, LLC. Location: On the East side of the Highway 85 in Section 7, Township 149-N, Range 98-W.

Audience, Representative, Committee and Board comments: None

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

Discussion & Possible Vote:

1. Forty (40) contiguous acres or quarter section minimum to build a residential home in Agricultural District in McKenzie County.

Audience, Representative, Committee and Board comments: Jeff Prince, Lynn Hovde, Tim Transtrom, Craig Nelson, Nevin Dahl, Don Moberg, Jay Olson, Rick Lawlar, Leah DeLisle, Jerry Defoe, Jamey Jellesed.

Jeremy Olson said I see kind of a trend here to 2013-2014 when the 40 acres was implemented we did what we thought was right at the time. The situation is different now than it was then, I’m not opposed to lowering it we did the right thing with what we had at the time.

Director Talbert stated we have a very balanced mix, with everyone here in agreement with 10 acres, 5 acres and 1 acre. Does this board have a feeling of the size you think is better or worse.

Ari Johnson commented in the agricultural section 3.4.3 Item#1is for a conditional use so far a single family dwelling and accessory structures that are not allowed under the 40 acre requirement what that means is you can have 1/3 of an acre or any parcel what so ever practically speaking it would never be less than 1 acre because you won’t have the city septic system. But to my knowledge we have never had a CUP application for a single family dwelling to be built on less than a 40 acre parcel. While this is an issue that remains important to the people of the county as they turn out and as the board knows we all tried to be fair and we have tried in the past to be fair, we have changed this requirement and we are at 40 acres and with this CUP as an option.

The smaller parcel CUP allows the board to have conditions such as access to fire trucks, having 911 on address assigned to the house before it is built. It allows you to look at each parcel to come before you to decide what level of service you can provide and what level of cooperation you need from the homeowners in order to provide necessary services. The fact that we did this, I can’t remember when but I do recall this exact same discussion at that time, and I do recall us adding the CUP opportunity as kind of a free for all and too restrictive of development restrictions. So when we have this in the book and no one has ever applied for it my question is are there actual instances in which our 40 acre requirement has prevented something from
happening or is this just a passionate issue from everyone but not a present and actual issue to be solved. Is there really a problem that we need to fix?

Jeremy Olson asked if Jay Olson wanted to buy 5 or 10 acres from Lawlar he could use this CUP as a method to get a 10 acre parcel.

Ari Johnson stated yes they could have a purchase agreement upon clearing the title and also clearing zoning to get the CUP. It’s a transaction cost to be sure as it could have a burden on the people pursuing these opportunities but at the time we added this CUP opportunity we discussed all zoning decisions are to strike a balance.

Jeremy Olson stated so we basically have a rule here not very well known.

Ari Johnson said we need to access the problems that exist and not create new problems. We are talking about using land that is zoned for agriculture but not being used for agriculture how to fairly and efficiently allow that use. We are talking about building a residential house on an agricultural district land and what requirements are fair to ensure orderly development and adequate provisions of public services without necessarily burdening the people that want to do that.

Gene Veeder stated we are a planning and zoning board the public has said they want a set of rules in some way because if we don’t have that then business owner will say I shouldn’t have to have rules for my business, so we have to be careful. There are a set of public accepted rules involved. I’d like to collect some information on this and if the homes can reasonably be mortgaged and I think we should have a full board before decisions are made. We are not going to walk away with no rules. I think that it is pretty clear that we want to reduce this 40 acre thing and if people don’t feel that way they should be getting in touch with the Commissioners.

Jeremy Olson I think we need a boiler plate full of conditions, what can be expected, what’s reasonable and with that knowledge can any one person go and purchase 10 acres. Also would an FHA loan be applicable or denied.

Meeting was adjourned at approximately: 6:54 PM