

## Planning and Zoning Commission Minutes

December 12, 2022

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

### **PLEDGE OF ALLEGIANCE AND ROLL CALL**

**Members Present:** Butch Fleck, Eva Hepper, John Irwin, Kathy Skarda, Lance Renville, Matt Beard

**Members Absent:** Cody Knetzger, Craig Hystad, Tim Transtrom

**Staff Present:** Planning and Zoning Director Sandee Kimpel, Planner Candy Lundgren, Code Enforcement Officer Andrew Steck, Administrative Assistant Cindy Jensen

**For others, see sign in sheet at end of minutes.**

**Meeting was not live streamed due to technical issues.**

### **APPROVE AGENDA**

**Motion to Approve Agenda as Presented; Motion by Kathy Skarda; Second by Lance Renville; Voice Votes: All Ayes**

**Motion to Approve Agenda as Presented Passes**

### **APPROVE PREVIOUS MEETING MINUTES**

**Kathy Skarda** stated I was not present at the November 7, 2022 meeting and would like more information included on the topics discussed. I read the November 7, 2022 meeting minute topics and they do not state what was or was not discussed and the reasons for the decisions made. The only thing stated was that Butch Fleck recused himself. I'd like to see it with the information included along with a discussion was held.

**Director Kimpel** stated I can do that.

**Motion to **POSTPONE** November 7, 2022 Meeting Minutes until January 9, 2023 so that more information regarding the different topics can be included in the minutes. Motion by Kathy Skarda; Second by Eva; Voice Votes: All Ayes.**

**Motion to **POSTPONE** November 7, 2022 Meeting Minutes until January 9, 2023 Passes.**

### **CODE ENFORCEMENT**

No Code Enforcement business was presented at this time.

### **UNFINISHED BUSINESS**

**Director Kimpel** stated we have no Unfinished Business.

## **PUBLIC HEARINGS**

### **#02-22COMP/ZC Roseholm and Coulee Man LLC - #02-22 Comprehensive Plan Amendment and Zone Change - Roseholm and Coulee Man LLC – T150N, R98W, S5 N ½ of the NW ¼ (minus the well pad) and the SE ¼ of NW ¼; PID #200002700**

**Candy Lundgren** stated this is a Comprehensive Zone Amendment and Zone Change for Roseholm and Coulee Man. Applicant is requesting a Comprehensive Plan Amendment from Agricultural to Rural Residential which is 1-to-10 acre parcels with a density of 1 dwelling unit per acre and a single dwelling per parcel and a Zone Change from Agriculture to R1 (Residential Low Density) which is 1 dwelling unit per acre and a single dwelling per parcel for a future residential subdivision. The parcel number is 200002700, it's Township 150 range 98 Section 5, that's north of town. The existing Comprehensive Plan Amendment calls for Agriculture proposed as rural residential. The existing zone is Agriculture. The proposed is Residential Low Density.

**Candy Lundgren** read the Findings of Fact and Growth Management Plan Consistency. They are attached to the end of these Minutes.

**Candy Lundgren** stated Staff recommends Approval of the Comprehensive Plan Amendment and Zone Change, #02-22COMP Zone Change submitted by Roseholm, LLC and Coulee Man, LLC to the County Commission to amend the Comprehensive Plan to Rural Residential and change the Zone to Residential Low Density, one housing unit per acre and one dwelling per parcel.

## **BOARD COMMENTS**

**Kathy Skarda** stated Fact Finding #5 says “The Watford City approved a Zone Change to residents on August 1, 2022.” However, with that Zone Change, some stipulations were included in the approvals are not listed on our [Finding of Fact]. It says “Upon final approval of the Zone Change, the applicant has one year to gain approval of the preliminary plat map for the meets and bounds described in the ETA portion of the parcel. If there is no preliminary division plat approval by that date, the property will revert to the previous district of A-2”. They did approve it. However, there are stipulations to that approval, and that information we do need to know when we're making our decision as well, because we are actually making a change to our Comprehensive Plan, which I believe was Denied last year.

**Director Kimpel** stated it was Denied July 20, 2021 because of several [reasons]. It bounced back and forth several times. We had concerns about the pipeline and this being spot zoning. Butch Fleck had stated ‘it should not be approved because of all the problems there’.

**Kathy Skarda** stated #10 Fact states it's in Agriculture and with that I would think that if we ever do approve it, we need to include the ‘Right to Farm and Ranch’ here. **Candy Lundgren** stated we can't do that on a Zone Change. **Director Kimpel** stated that is included in the Subdivision Application.

**Kathy Skarda** stated #11 states ‘the nearest R1 development is approximately 3 miles to the northwest’. Is it still considered spot zoning at the County Level, because it doesn't matter what the ETA does with their stuff? **Director Kimpel** stated we're just telling you the facts.

**Kathy Skarda** stated so, that has not changed then. **Candy Lundgren** stated except you just said that we had to take into consideration that the city put a condition on theirs.

**Kathy Skarda** stated but that's in the ETA and that's their jurisdiction. That's not ours. So, the reason why I said we had to take into effect about what they did for their approval, is if we go ahead and approve this, because Watford City approved it and in one year, they don't do anything, then it's not allowed and it's

disapproved we are actually basing our approval on information that may not be complete or factually correct. #14 states 'the property is not in the growth focus area of the Comprehensive Plan'. That is telling me right there that it's spot zoning. Also, #16 talks about twenty R1 zones in the county with less than 1/2 being fully occupied. I do not know if we want to continue to go with that sort of plan when they're not being occupied right now.

**Butch Fleck** stated we had a similar one by Williams County. It was unquestionable if it was in good enough area, but they had a lot of unoccupied places too and the Township was against it, so of course we didn't want to go against the Township anyway, but we denied that one too. My thoughts still haven't changed on the condition of this land with all those pipelines, I just can't see putting houses in there. **Kathy Skarda** stated with the pipelines and we have all those easements. All the easements for pipelines take extra acreage and if we have anything that goes boom, I'm pretty sure they won't sue anybody in that part of the County.

### **PUBLIC COMMENTS**

**Brady Bertram, Brosz Engineering, Representative for the Applicant** stated a lot of these concerns are redundant. One of the real concerns was the spot zoning. We understood that and we took the opportunity to work with the City of Watford to rezone an area just South of this. It would be part of this development if it were ever to [be approved]. One of the reasons for the conditions on that 12-month time frame approval of the city zone, they didn't want this just hanging out there. There's a lot of moving parts with this, whether it's just a just a small city development with 5 or 6 lots there or something that's incorporated into something larger with 100 hundred acres here whatever it ends up being again. One of the concerns the city had was what does this look like? It will be in a little bit in city jurisdiction a little bit and a little bit in the County jurisdiction. Again, that was one of the reasons for the deadline on there to submit a preliminary plat. One of the items that I asked, with the city and their consideration, is you're really not approving anything to be built out there yet and there is a lot of work to be done. We would like that opportunity to be at least able to work with County Planning & Zoning and the Engineering group there. Same with the City. Maybe come up with a plan out there that might be might be conducive. This isn't helping the case Mr. Sanford over here, but it is a well-traveled area out there in 36th and 8th road, its brand new. Our main access would come off of that. There would have to be secondary access off 130<sup>th</sup> or pretty close to it with your other approaches. The intent here is to build a nice subdivision. They're hoping to model it off Watford Landing, which is just to the north. I live out there and I don't know if there's a handful of lots left out there.

**Kathy Skarda** asked so you're saying you want to have 2.5 acres minimum for the portion that was approved by Watford City? **Brady Bertram** stated yes. **Skarda** stated the portion that you want the county to take and approve, it is listed as R-1. R-1, I believe has one per acre with limited acres and one unit per acre and one dwelling per parcel and we're going to change this, which just seem like that's across the entire plan, to Rural residential. We're going to change the zoning from Residential Low-Density R-1, one housing unit per one acre and 1 dwelling parcel. So, does that stay in your grand scheme of the plan of the number of houses and how big new houses are going to be? Because I was told by the wealthy that we want to have more land so people can have farm animals and be able to have \$600 to \$800,000 houses. Would this suggested plan that the county has given with 'one house per acre and one dwelling per parcel', complement what you guys have approved and wish to build upon? **Candy Lundgren** stated it does.

**Kathy Skarda** stated I just wanted to make sure it did because it wasn't disclosed on here and I want to make sure it's comparable. I don't want to have you have grand really wonderful mansions that are right [next to] houses with their little barns, and things for their horses.

There was a discussion held regarding what the Ordinance states about the number and size of animals allowed in R-1.

**Director Kimpel** stated ‘dwelling unit’ means one house on one acre, so we don't have two or three houses on one acre. **Kathy Skarda** stated I just wanted to make sure that it was comparable to what they were wanting to see developed because it wouldn't be good to approve something that wasn't comparable and be able to complement each other. **Brady Bertram** stated we had something conceptually that we provided to the city. I mean, this is it's a little more than sketches on paper, but it's what we showed to the city. I think the smallest parcel is 1.3 acres. Most of them we are looking at two to five acres.

**Director Kimpel** stated R1 makes it so the smallest they could go is 1 acre. They can go larger in that area; they just can't go smaller than one acre.

**Butch Fleck** asked when you take into consideration the pipelines, how much land is actually there? Can't build on the pipelines. **Brady Bertram** stated the easements and pipelines that we showed on [our master plan to the city] shows the pipelines are going in there, right or wrong the way that they built better, but the land owners, the property owners reserve the right to build infrastructure over top of the pipelines. When I say ‘infrastructure,’ I'm talking roads, not houses. We wouldn't put a house over a pipeline. The way we've got this conceptualized, it's working around the pipelines in place. You can't dig a foundation over a pipeline. What we would try to do is work with those pipeline companies and make sure the easements are being satisfied. But there's verbiage right on there that that they're allowed to. You can't go lower, but you will be held accountable. **Kathy Skarda** stated but if you have something that goes boom, you don't want to have families in there.

**Brady Bertram** stated long and short, there's a lot of work to do. Even if this is going, there would be a lot of work before roads. We're planning on Rural Water. There was some talk about the easement, meetings between the city and the County. Depending on how this fills in between Watford City and this area, I guess there's not a lot out there. McKenzie Rural Water district has explored the option of, like a sewer district out there, and that would be a lift station back into town, or some sort of treatment center out there. But more than likely they have they will have treatment systems.

**Kathy Skarda** stated so you are asking us to change our comprehensive plan, which we very, very rarely do, complete Zone Change so you can do your subdivision. **Brady Bertram** stated at least explore what that would look like.

**Kathy Skarda** stated I would like to say yes, but this has too many problems in my opinion. What I would like to do, is you guys complete everything, get it approved by Watford City and have your Preliminary Plan. You have everything ready to go, get it approved and done by August 2023 like you said you're going to. Get everything done, have your funding, figure out how you're going to get your paved roads completed and paid for and how you're going to do your sewer and other utilities. After you get all that, you bring everything into Planning and Zoning and look through the Ordinance. Then I'd give it a really good look at it. But right now, the way it is, there are too many questions, so I am opposed to it.

**Brady Bertram** asked what you're asking is to go through a whole Engineering set of documents for this. **Matt Beard** stated I would just add to that comment. For people looking to invest and develop, these are the first steps they need for people in favor of looking at changing land use, to move forward because you need these little things to justify investing that money.

**Kathy Skarda** stated but you're asking us to change a spot zoning situation, which still is a spot zoning situation with our Comprehensive Plan and I take that quite seriously as well. **Matt Beard** stated I think that's just a separate topic. But back to that, I think that's another reason why the city included the one-year

expiration. We'll give somebody the opportunity, but if they don't do anything, they don't move forward with project.

**Matt Beard** stated I would assume Mr. Sanford is probably still opposed. The last time we looked at this must have been last year. What I remember is that Mr. Sanford showed up and that was probably a significant factor, why I voted against it, but would ask, is there a way, to make him happy or have you guys added some well, they've made, with the applicant

**Ken Sanford** stated I live across the street from there. They've made lots of money on their pipelines and that one is 300 feet from my house and they got paid dearly for those pipelines. That's why they let them go there. It's all about money with these guys, and that's what they're trying to do and they'll never have enough money to develop that stuff for Watford because it has to be paved and it's got to be paid for. Somebody has to pay for it. They're going to try to get it approved and sell it to a developer that will come in. Some developers are good, some are bad. Is that the chance you want to take? They've already sold oil locations for \$400,000 per location. They've made a lot of money off that land, so why do they got to keep making more troubles for me. I didn't build out there to have 100 houses right across the road from me and I'm against it. **Butch Fleck** stated we're saying we're having that all over the county.

**Ken Sanford** stated horses have suffered out there because some people don't know who to properly care for them and I don't want to go through all this again? **Butch Fleck** stated my question is they're saying it's just out there nowhere are they farming it now or what's the land? **Ken Sanford** stated there are cows running on it right now.

**Matt Beard** stated the point I was getting at is you have this neighbor consistently. That is what I remember was a significant factor last time. **Ken Sanford** stated none of us could understand how it got annexed into the city without them even knowing. Some people were never notified that it was annexed into the city. **Beard** stated I just wanted to say that this project, if they get their neighbors on board, if there was a way they could make you happy, for me it would be an easy yes, because I want to support at least starting a project.

**Kathy Skarda** stated I appreciate development and things like that, but you need to have a good thought that you can do it. I don't want to have us all go through this and have it have the easements, pipeline and a bunch of other things. It is going against our Comprehensive Plan. Did anybody ask you guys to go against your plan? So, no.

**Matt Beard** stated maybe it is a good spot for the reasons at the end of your talk about with the paved road and with the water. We have both of those out there right now.

**Kathy Skarda** stated they're expanding the city's ETA. I'm just talking about that's what you're doing if you change the Comprehensive Plan. Because you're building houses out there and making the city go out across the Comprehensive Plan, and we have a chance to take and change the Comprehensive Plan and do amendments and we're starting that footwork now. But that's not what our Comprehensive Plan says right now. That's what we're supposed to go by, and very seldom are we supposed to change that Comprehensive Plan, that's my understanding of it. We're not supposed to change the Comprehensive Plan whenever. **Matt Beard** stated how long has that been around and how much does it really fit? I'm just saying it should have some flexibility if it makes sense. Because these pipelines we're going to keep running into this. Every other mile there's a pipeline corridor. **Butch Fleck** stated but we don't have to put a subdivision over one.

**John Irwin** stated the pipeline thing, I agree. They're here and I guess you'll have to work around the two things that jump out to me. Since I've been on this board, we've been trying to stay away from spot zoning. We've turned down some very good applicants because we just had to honor the spot zoning that we're trying to

clean up. The other thing is it was brought out that there are twenty subdivisions with less than half being fully occupied, it makes me, as just a county resident, say maybe the need isn't here. When twenty [subdivisions] aren't half full, do we need to bend the rules or change the rules to make another one?

**Brady Bertram** stated understood and that's that was surprising to me, just knowing the environment here in McKenzie County.

**Director Kimpel** stated I think what happens, is some of these subdivisions came in, got approved and then just couldn't afford to build them. I think a huge concern of the Board is if they approve this, it gets planned and nothing happens. Or they put the roads out there and then a huge concern in the County for sure, is definitely the fact that the roads don't get built to County standard requirements. **Kathy Skarda** stated then we end up catching the brunt of it, we've said that in many meetings. **Director Kimpel** stated I think that is a huge concern of the Board.

**Brady Bertram** stated understood and a big concern with the city was, what these roads going to look like. Completely understandable. Again, it comes back to how much money you invest in that coordination, figuring out what might work, in this instance, without a change. If we can't get it rezoned, there's no use spending \$150,000 dollars.

**Kathy Skarda** stated that's a true statement. **Director Kimpel** stated those are things that would be addressed at the subdivision application level when the application comes through. Right now, we're only here to talk about and dealing with the Zone Change, Comprehensive Plan Amendment tonight. Everything that we're talking about tonight would again come back at the subdivision application as well, so this would be the first time that we're hearing this, and then it would just disappear or go away.

**Brady Bertram** stated if you don't want to consider this, because you call it spot zoning or we would we want to keep it good with the local land owners, I'm fine with that. But all this other stuff we could work it if there was an opportunity. That's where it comes to the point the city was worried about it so they put a year deadline on it. Let us have a year. Now we're here seeing if we can do anything with the County. Give us till August 23rd to come up with the plan. If you don't like the plan, if we can't come up with something that the pipe plans are for an easement, we've got more land owners that are against it, the roads aren't going to work.

**Kathy Skarda** stated I spoke to two people that are land owners they're Mark Johnsrud is opposed to it as well. I think we could probably talk for an hour on the same thing and go around because there's good and there's bad and my whole position is on changing the Comprehensive Plan and having it be spot zoning, and at this point I'm not ready for it

**Motion to Deny #02-22COMP/ZC Roseholm and Coulee Man LLC - #02-22 Comprehensive Plan Amendment and Zone Change - Roseholm and Coulee Man LLC – T150N, R98W, S5 N ½ of the NW ¼ (minus the well pad) and the SE ¼ of NW ¼; PID #200002700**

**Motion by Kathy Skarda; Second by John Irwin; Voice Votes: All Ayes**

**Motion to Deny Passes**

**DISCUSSION ITEMS**

**Administrative Permits**

A Discussion was held regarding Administrative Permits.

Director Kimpel presented a tentative Planning & Zoning Board Meeting Schedule for 2023 and that due to a scheduling conflict, the August meeting would be rescheduled for Tuesday, August 8, 2023.

There was a discussion to put on the January Agenda to adopt an Inclement Weather Policy to Postpone a meeting rather than cancelling it. Some previous meetings had to be cancelled this year due to weather or a lack of quorum. Having one Commissioner present and four on the phone still counts as a quorum. It would be beneficial for everybody, to have a set policy in order to keep things moving forward and so people are not delayed for an entire month.

## **ADJOURNMENT**

**The Meeting Adjourned at 5:40pm. Motion to Adjourn by Matt Beard; Second by Eva Hepper; Voice Votes: All Ayes**

### **Motion to Adjourn Passes**

The next meeting of the McKenzie County Planning and Zoning Board will be held on January 9, 2023 at the McKenzie County Courthouse, 201 5th Street NW, County Commission Boardroom at 5:00 PM





# McKENZIE COUNTY

**Finding of Fact:**

1. All requirements for Public Notification have been satisfied.
2. Staff has not received Comment on the requested change.
3. Applicant is the property owner.
4. The property for the requested Zone Change borders the Watford City ETA on the Western and Southern Borders
5. Watford City approved a Zone change to Residential on August 1st, 2022 for the SW 1/4 of the NW 1/4 within the City ETA.
6. Requested Zone Change does not include the well pad or the area in the ETA.
7. A Zone Change and Comprehensive Plan Amendment to residential were applied for previously in 2021, which was consequently denied.
8. Property is not located within an organized township.
9. Property is adjacent to CR36(125th Ave NW) on the west and 30th ST NW on the north
10. The property is currently zoned agriculture in the Comprehensive Plan and on the McKenzie County Zoning Map.
11. The Nearest R-1 Development is approximately 3 miles to the NW.
12. The 2015 Comprehensive plan has RR across 30th St NW.
13. The property does not have an approved approach on file.
14. The property is not in the Growth Focus Area of the Comprehensive Plan.
15. There are 3 other R-1 properties within 2 miles of The ETA.
16. There are approximately 20 R-1 Zones in the County with less than 1/2 being fully occupied.

**Growth Management Plan Consistency**

R-1 is consistent with Rural Residential in the Comprehensive Plan. The parcel in question is located within the Agriculture Zone Per the County Zoning and the 2015 Comprehensive Plan, however there are 2 parcels to the north of 30th St NW that are slated to be RR in the Comp Plan and on Aug 1st 2022, The Watford City City Council approved a Zone Change from Agriculture to Rural Residential 2.5 for its ETA.