#03-20COMP/ZC GARY NOTTESTAD

<table>
<thead>
<tr>
<th>Reason for Request</th>
<th>Comprehensive Plan Amendment from Transition Area to Residential Low Density and Zone Change from Agriculture to Residential 1 for lots 1-11.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hearing Date:</td>
<td>January 11, 2021</td>
</tr>
<tr>
<td>Location</td>
<td>Parcel #030000750 T150N,R100W,S2,S1/2SE1/4</td>
</tr>
<tr>
<td>Owner(s)/Applicant</td>
<td>Gary Nottestad</td>
</tr>
</tbody>
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<thead>
<tr>
<th>Existing:</th>
<th>Proposed:</th>
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<tbody>
<tr>
<td><strong>CP Land Use:</strong> Transition Area</td>
<td><strong>CP Land Use:</strong> Rural Residential</td>
</tr>
<tr>
<td><strong>Zoning:</strong> Agriculture</td>
<td><strong>Zoning:</strong> Low Density (R-1)</td>
</tr>
<tr>
<td><strong>Setbacks:</strong> Front 25' Sides 25' Back 25'</td>
<td><strong>Setbacks:</strong> Front 30' Sides 10' Back 25'</td>
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<tr>
<td><strong>Lot Area:</strong></td>
<td><strong>Lot Area:</strong> 1 acre</td>
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Finding of Fact:
1. The applicant's property is currently designated as a Transition Area on the McKenzie County Comprehensive Plan and is currently Agriculture on the McKenzie County Zoning Map.
2. The applicant wants to gain approval to establish a residential subdivision after this Comprehensive Plan Amendment and Zone Change.
3. All requirements for public notification have been satisfied.
4. Staff has not received any phone or written comments on the proposal.
5. Approximately one quarter mile to the west of this location, a subdivision of lots at least one acre in size was developed before 2013 zoning.
6. Several lots adjacent to the north and west of this location were recorded as irregular tracts in 2011 and 2012, and are transferable.
7. Transition Areas in the Comp Plan are clusters of light industrial and workforce housing. The existing surrounding residential use is permanent single family dwellings and light industrial. This Comp Plan Amendment will allow consistency with the surrounding lots usage.
8. Lots to the north approximately three quarters of a mile. are zoned Light Industrial with a Comp Plan of Transition Area.

Growth Management Plan Consistency
Subject parcel's Comprehensive Plan Consistency is located within a Transition Area.

Suggested Motion:
Staff recommends Approval of Comprehensive Plan Amendment and Zone Change #03-20COMP/ZC, Gary Notestad, to the County Commission to Amend the Comprehensive Plan to Residential Low Density and Amend the Zone to Residential 1. Adopt the findings as provided in the staff report.
#03-20COMP/ZC Gary Nottestad

PID#030000750
T150N,R100W,S2, S1/2SE1/4

Vicinity Map
#03-20COMP/ZC Gary Nottestad
PID#030000750
T150N,R100W,S2, S1/2SE1/4

Comprehensive Plan Map-Transition Area

=Transition Area
#03-20COMP/ZC Gary Nottestad

PID#030000750

T150N,R100W,S2, S1/2SE1/4

Zoning Map - Agriculture
#03-20COMP/ZC Gary Nottestad
PID#030000750
T150N,R100W,S2, S1/2SE1/4

Site Map
#03-20COMP/ZC Gary Nottestad
PID#030000750
T150N,R100W,S2, S1/2SE1/4

Nearest Land Owners

Roger Cutshall
NW Housing Solutions
Northwest Housing Solutions
Stratagem Home Builders
Roughrider Well Service
Sue & Cameron Arnegard
#03-20COMP/ZC Gary Nottestad

PID#030000750

T150N,R100W,S2, S1/2SE1/4

Plat
I, the undersigned, being the soil hereby voluntarily consent to the and public grounds as shown he lines, sidewalk grounds, and exist public use forever.

I agree not to vacate any portion Commission. I also hereby dedicate electric, telephone, or other public land designated herein as "Utilit..."
Hi Dana,

Let’s discuss inclusion of this email and map into the staff report for Nottestad.

Thanks!

Curt Huus, PE/LS
Planning and Zoning Director
(701) 444-7167
1300 12th St SE, Ste 214
Watford City, ND 58854

From: Curt Huus  
Sent: Thursday, June 11, 2020 3:19 PM  
To: ‘Leah DeLisle’ <leah4home@gmail.com>  
Cc: Dana Roff <droff@co.mckenzie.nd.us>; Ariston Johnson <ari@dakotalawdogs.com>; Katie Paulson <kpaulson@co.mckenzie.nd.us>  
Subject: RE: Solid Rock/Gary Nottestad

Hi Leah,

Sorry I didn’t get back to you sooner. This has been a difficult one to track down the history, filing of documents, and previous correspondence exchanges.

My research has found that in 2011 Mr. Nottestad presented his idea of subdividing his property located north of Arnegard to the Board of County Commissioners (BOCC). According to BOCC minutes from May and October 2011 meetings, discussions were had regarding the Solid Rock subdivision but no motion was made to approve. There was a motion and approval for access and utility permits but not the subdivision.

The method that followed the October 2011 BOCC meeting was to record separate Irregular Tract (IT) surveys for several of the lots given in the Solid Rock Preliminary Plat that we have on file in our office. I have attached an exhibit showing the Solid Rock Preliminary Plat and outlined and checked the corresponding recorded IT’s. Several of the IT’s have been sold, transferred, and recorded throughout the years. This method of recording IT surveys was the practice prior to the adoption of the Zoning Ordinance in 2013.

In addition to this research, you produced a letter from Jim Talbert that he wrote to Mr. Nottestad in March 2019 indicating that he reviewed the surveys from 2012 and he would be allowed building permits on those IT surveys.

My conclusion as to the “grandfather” status of Mr. Nottestad’s property is that the IT’s recorded prior to 2013 that you or the owner will be able transfer the property and submit for residential building permits. As Jim indicated in his letter, this property is zoned Agricultural District and setbacks will have to follow that district designation.
As you will notice from the attached exhibit the current proposed lot sale for “Lot 2 Block 6” was not recorded and therefore is not a part of this “grandfather” clause. In order to obtain building permits on the unrecorded IT surveys, a rezone and subdivision plat would need to be applied for and approved by the BOCC.

Please forward this information to Mr. Nottestad. I consider this issue closed unless overturned by the BOCC. Please contact one of our planners if you would like to proceed with a rezone and subdivision permit application.

Thanks!

Curt Huus, PE/LS
Planning and Zoning Director
(701) 444-7167
1300 12th St SE, Ste 214
Watford City, ND 58854

From: Leah DeLisle <leah4home@gmail.com>
Sent: Thursday, June 11, 2020 10:45 AM
To: Curt Huus <chuus@co.mckenzie.nd.us>
Subject: Solid Rock/Gary Nottestad

Hi Curt,

Checking in to see if we are still grandfathered in without issue or if we will need to do something else to market and sell Mr. Nottestad’s land. I’m afraid anything else other then our current mode of operation is going to be a financial hardship on him. I’m also leaving soon and don’t want to leave him in a bind.

Please let me know as soon as you can.

Sincerely,

Leah DeLisle
928-503-0434
#17-20CUP - Cameron Dodge - Aboveground Storage Tank

**Application:** December 10, 2020 Conditional Use Permit

**Hearing Date:** January 11, 2021

**Description:** T-149N, R-96W, Sec 2 Parcel ID # 040012400

**Owner(s)/Applicant:** Cameron Dodge - Owner and Applicant

**Reason for Request:** The applicant would like to put up a 60K Aboveground Storage Tank (AST) adjacent to their stock pond so they can store water and sell it for FRACS. They anticipate the tank will be up for several years. The AST will not be used as a truck depot nor will trucks fill from the tank. Layflat pipe will be used to transport the water. There will be no building and the tank will be 12' tall.

**Comprehensive Plan Land Use:** Agricultural

**Zoning:** Agricultural

**Findings of Fact:**

1. All requirements for public notification have been satisfied.

2. Project is not in an organized township.

3. Elkan Inc. will be the operator of the AST and is in good standings with the North Dakota Secretary of State.

4. An Aboveground Storage Tank falls under the definition of a Temporary Water Facility which is Conditionally allowed in the Agricultural District with an Administrative Permit. This AST will be there longer than the 6 month period allowed to be considered temporary.

5. Per the project description submitted the tank will be up for an indefinite amount of time.

**Conditional Use Permit Criteria:**

No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

The tank is located in a rural, low population area. The height of the tank is twelve (12') feet tall therefore it will be unlikely that illegal entry into the tank will occur. It will not impede the public health, safety, comfort or the welfare of the surrounding area.
h. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The surrounding property is owned by the applicant.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The surrounding property is owned by the applicant.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

The Department of Environmental Quality (formerly part of the Dept. of Health) has been contacted and a SWPPP is not required.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

Ingress/egress for the site will be completed to the satisfaction of the County Engineering Department. Ingress/egress will not impede public roadway.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

An Aboveground Storage Tank falls under the definition of a Temporary Water Facility which is Conditionally allowed in the Agricultural District.

**Comprehensive Plan Consistency:**

The subject land area is designated in the land use plan as Agricultural.

**Staff Recommendation:**

Staff recommends Approval for this Conditional Use Permit.

Suggested motion: “Recommend approval of Conditional Use Permit #17-20 - Cameron Dodge - Aboveground Storage Tank, to the County Commission to allow the Aboveground Storage Tank. Adopt the findings and conditions as provided in the staff report.”

**Conditions:**

FINAL APPROVAL IS NOT VALID UNTIL AN INSPECTION OF THE SITE IS CONDUCTED AND APPROVAL OF THESE CONDITIONS UPON COMPLETION IS SIGNED OFF ON BY A PLANNING & ZONING STAFF MEMBER. PLEASE READ ALL CONDITIONS CAREFULLY.

1. The applicant shall mark the site with a (4’ x 8’) sign visible from the road per McKenzie County Ordinance Section 4.10 with the following information. Address/project identification, emergency contact name and phone number, this must be completed within thirty (30) days from County Commission approval.
2. The applicant shall adhere to the noxious weed containment plan as submitted to the County Weed Control Officer.

3. The applicant shall allow the local Fire Departments access to water in case of emergencies.

4. This site through this Conditional Use Permit shall not be used as a truck depot.

5. The applicant shall maintain a site free of garbage, from within the site and from outside sources, during and after construction.

6. Ingress/egress for the site will be completed to the satisfaction of the County Engineering Department. Ingress/egress will not impede public roadway.

7. Access on the private roadway into the site must be maintained for 911 purposes.

8. Any changes in area or volume will require an amendment to the existing Conditional Use Permit per Section 5.8.5 of the McKenzie County Zoning Ordinance.

9. Shall keep current the State Water Permit.

10. The applicant shall maintain the artificial liner of the storage tank containment system.

11. A RECLAMATION BOND SHALL BE PROVIDED TO THE PLANNING DEPARTMENT within sixty (60) days of Board of County Commissioners approval. The reclamation bond shall be per the standards set forth in section 2.13.2 of this Ordinance. The bond shall be for one hundred and fifty (150%) percent of a licensed engineer or the Planning Director estimate of the cost to remove all above ground structures, all underground structures to a depth of four (4’) feet, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a predevelopment appearance, and re-seed the site with native grasses and vegetation. Unless a waiver is applied for and granted.

12. The County reserves the right to inspect the property for compliance and will periodically inspect.

13. Failure to meet any of the above conditions shall be cause for revocation of this CUP #17-20CUP.
#17-20CUP – Cameron Dodge – Aboveground Storage Tank (AST)
T-149N, R-96W Sec 2
Parcel # 040012400
Vicinity Map
#17-20CUP – Cameron Dodge – Aboveground Storage Tank (AST)
T-149N, R-96W Sec 2
Parcel # 040012400
Site

Proposed 60K Aboveground Storage Tank

Dodge Property

Mathistad

Fraley

Dodge

Kirkland

Anderson

Bear Den Rd
#17-20CUP – Cameron Dodge – Aboveground Storage Tank (AST)

T-149N, R-96W Sec 2
Parcel # 040012400
Zoning - Agricultural

Proposed Tank
#17-20CUP – Cameron Dodge – Aboveground Storage Tank (AST)
T-149N, R-96W Sec 2
Parcel # 040012400
Comprehensive Plan - Agricultural

Proposed Tank Location
#17-20CUP – Cameron Dodge – Aboveground Storage Tank (AST)
T-149N, R-96W Sec 2
Parcel # 040012400
Site

Proposed 60K Aboveground Storage Tank

109th Ave NW

23rd Street NW
• WATER SOURCE – UNNAMED STOCK DAM
• PREVIOUS PERMIT – ND2020-20104
• WATER WILL BE CONVEYED THROUGH LAYFLAT HOSE TO VARIOUS WELL SITES
• S1/2, SEC 02, TWN 149, RNG 096
• AERIAL PHOTOGRAPHY – MCKENZIE COUNTY GIS
• LABELS BY ELKAN INC.

OWNER – CAMERON & JAN DODGE
2310 109TH AVE NW, KEENE ND 58847
Proposed 60k Tank
Layflat line between stock pond and tank

Tank to be placed more than 75’ from the centerline of 109th Ave.

½ Mile line
Planning and Zoning Commission

#18-20CUP GTO Services, LLC

<table>
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<tr>
<th>Application:</th>
<th>December 15, 2020</th>
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<tbody>
<tr>
<td>Hearing Date:</td>
<td>January 11, 2021</td>
</tr>
<tr>
<td>Description:</td>
<td>12205 31st ST NW Watford City, ND S34,T151,R98 Parcel #640013750</td>
</tr>
<tr>
<td>Owner(s)/Applicant:</td>
<td>GTO Services, LLC</td>
</tr>
<tr>
<td>Reason for Request:</td>
<td>Applicant is requesting a Conditional Use Permit to continue use as a water depot and erect a 36x48 foot storage facility for the fresh water depot to heat water. The storage will consist of housing two (2) frac tanks and a heater.</td>
</tr>
</tbody>
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Comprehensive Plan Land Use: Agriculture
Zoning: Agriculture

Findings of Fact:
1. All requirements for public notification have been satisfied.
2. Staff has not received any comments in regards to this application from the public.
3. Project is not in an organized township.
4. Site has been used as a water depot since 2011 and was in Grandfather status.
5. The addition of the 36x48 storage building will remove the Grandfather status from this property.
6. Usage is listed as a Conditional Use within the Agriculture Zone.
7. State of North Dakota Water Permit is held in the name of Thoral and Patricia Sax.

Conditional Use Permit Criteria:
No conditional use permit shall be recommended by the Planning Commission or approved by the County Commission unless the applicant shall have met all the following criteria:

a. The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.

The approximate length from the west entrance to the Depot and HWY 1806 is 160 feet which is adequate for trucks entering HWY 1806 off of 31st St NW. Approach permit for this access has been granted by McKenzie County. On HWY 1806 the nearest northern major ingress/egress from 31st St NW is approx .82 miles. HWY 1806 nearest southern major ingress/egress from 31st St NW is approx .35 miles. These distances allow for adequate line of site.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.
This facility has been on this location since 2011. Nearest home to the west is 2 miles. To the east across HWY 1806 is Oasis Petroleum Wild Bison Plant. Thoral & Patricia Sax own the lands to the north, south, east and west of this location.

c. The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The facility has been on this location since 2011 with no documented issues. The addition of a building for heating water should be of nominal disturbance.

d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.

Storm Water Discharge permit #NDR11-0000 under the North Dakota Pollutant Discharge Elimination System is in effect with an expiration date of March 31, 2025. 31st St NW is an adequate road for trucks as is the ingress/egress and entrance onto HWY 1806. Electrical is onsite.

e. Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

The east entrance to the Depot is approximately 160 feet from HWY 1806. This distance is adequate for trucks entering onto HWY 1806. 31st St NW runs east/west through HWY 1806 at a place where HWY 1806 has a long straight section. The Depot has a Approach Permit through McKenzie County.

f. The proposed conditional use shall conform to all applicable regulations of the district within which it is located.

The proposed Conditional Use is allowed by permit within the Agriculture Zone.

Comprehensive Plan Consistency:
The subject land area is designated in the land use plan as Agriculture.

Staff Recommendation:
Staff recommends Approval for this Conditional Use Permit.

Suggested motion: “Recommend approval of Conditional Use Permit #18-20CUP, GTO Services LLC, to the County Commission to allow the current use as a water depot and to erect a 36x48 foot storage facility for the fresh water depot to heat water. The storage will consist of housing two (2) frac tanks and a heater. Adopt the findings and conditions as provided in the staff report.”

Conditions:
1. The applicant shall mark the site with address/project identification (4’x8’ sign) visible from the road and must be completed within thirty (30) days from County Commission approval per County Sign Ordinance #4.2-4.2.8.

2. The Applicant shall adhere to the noxious weed containment plan as submitted to the County Weed Control Officer.
3. The Applicant shall adhere to all Federal, State, and local laws, regulations and conditions for the operation of the proposed facility.

4. No RV's are allowed on the property.

5. Any changes in area or use shall require an amendment to the existing Conditional Use Permit per section 5.8.5 of the McKenzie County Zoning Ordinance.

6. The applicant shall provide a Reclamation Bond equaling 150% of an engineer's estimate to remediate/reclaim the site back to its natural state. The Bond shall be in to the McKenzie County Planning & Zoning Department within sixty (60) days after County Commission approval. Please reference #18-20CUP on the Bond and all annual renewals. Bond shall state renewal date and name McKenzie County as Obligee as follows: McKenzie County 1300 12th St SE Ste 214 Watford City, ND 58854. The bond is required for the extent of this CUP.

7. All setbacks are to be met: Front 25', Sides 25', Back 25', 133' from section lines.

8. All safety devices need to installed prior to operation.

9. The Applicant shall maintain adequate garbage control during and after construction.

10. Per the Highway Corridor Overlay District, a Light Buffer Yard per Ordinance 3.11 is to be installed between the property and paved roads.

11. Provide security lighting which shall be downward facing in the front of building to illuminate the parking area. This lighting shall not glare on adjacent property owners or the public travel ways.

12. All above-ground facilities, such as pipe valve stations, stand pipes or electrical and communication buildings shall be painted earth tone colors to better blend in with the surroundings.

11. This conditional use permit will remain in force but if there are violations or changes of the approved conditions this CUP will be placed before the County Commission for revocation. This Conditional Use Permit will be inspected periodically.

12. Inspection by Planning & Zoning is required to inspect all conditions before start of operation.
#18-20CUP GTO SERVICES LLC
PID#640013750
12205 31st ST NW
Vicinity Map
#18-20CUP GTO SERVICES LLC
PID#640013750
12205 31st ST NW

Comprehensive Plan Map-Agriculture
Nearest Ingress/Egress Locations

1.96 Miles

.82 mile

.35 Miles

35 Miles

1.96 Miles

.75 Miles

#18-20CUP GTO SERVICES LLC
PID#640013750
12205 31st ST NW

Jan Rolfson

Hiland Partners

Forland

Thoral Sax