

## **Planning and Zoning Commission Minutes**

**March 13, 2023**

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, Craig Hystad, John Irwin, Kathy Skarda, Lance Renville, Tim Transtrom

**Members Remote:** Eva Hepper

**Members Absent:** Cody Knetzger, Matt Beard

**Staff Present:** Planning and Zoning Director Sandee Kimpel, Code Enforcement Officer Andrew Steck

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

**Meeting was not live-streamed due to server maintenance.**

### **APPROVE AGENDA**

**Motion to approve agenda as presented. Motion by Craig Hystad; second by Kathy Skarda; voice votes: all ayes**

**Motion to approve agenda as presented passes.**

### **APPROVE PREVIOUS MEETING MINUTES**

**Motion to approve February 13, 2023 meeting minutes. Motion by Kathy Skarda; second by Lance Renville; voice votes: all ayes.**

**Motion to approve February 13, 2023 meeting minutes passes.**

### **CODE ENFORCEMENT**

No code enforcement business was presented at this time.

### **UNFINISHED BUSINESS**

**Director Kimpel** stated we have no unfinished business.

### **PUBLIC HEARINGS**

**#01-23CUP Matt Dugay home on fewer than forty acres – #01-23 Conditional Use Permit – Matt Dugay - T147N, R100W, S25 NE ¼; PID #440003650; IT 3281**

A brief discussion was held regarding the need for the conditional use permit. There were no questions or public comments.

**Motion to Approve Matt Dugay #01-23CUP – #01-23 Conditional Use Permit – Matt Dugay home on fewer than forty acres; - T147N, R100W, S25 NE ¼; PID #440003650; IT 3281**

**Motion by Craig Hvstad; second by Tim Transtrom; voice votes:all ayes**

**Motion to approve passes**

**DISCUSSION ITEMS**

**Administrative Permits**

A discussion was held regarding permits that were administratively approved.

**Steve Rolla** from the audience asked is that routine to these lay flat lines that they are using for fracs? **Director Kimpel** stated yes. **Rolla** stated his concerns regarding a company was planning on coming through his property and then finding out they did not have the permits. Another company with a Surface Use Agreement for part of the land thought this gave them the Right-Of-Way to do this and he had heard they came to Planning & Zoning with a big list of projects.

**Director Kimpel** stated no. They tried to come to me with big list of projects. I am aware of the issues on your property, so I held up his permit until I was told by the attorneys involved that it was OK with you. So no, they did not. They wanted to but I did not allow them. He did think that he was going to in the beginning and he said that he was going to line his permits out for eight months in advance. The permits are only good for six months so this would not help him.

**Steve Rolla** stated the company asked him to sign a 5-Year Agreement and he was advised not to sign. Then the company called to say the snow had been plowed off and equipment was being placed. They would have a line in there without an easement.

**Steve Rolla** stated his concern that when they crossed underneath the County Road in Section 16, that will restrict any runoff from this spring, and this might flood him out. **Kathy Skarda** stated this has happened previously in the same area.

**Director Kimpel** stated if they lay in line and do not have a line permit, Road & Bridge Permitting can find them.

**Steve Rolla** stated the line was laid out, and wasn't permitted. Many things were lost in translation from the person filling out the permit paperwork to those putting the lines in.

**Butch Fleck** asked don't they have to get permission from the county to cross go through the culverts? **Kathy Skarda** stated yes, they do. **Fleck** asked and if it is already laid, that they have to have a permit? **Director Kimpel** stated yes, it got held up for a couple of days. **Fleck** asked they've got a permit now? **Director Kimpel** stated yes, they do.

**Kathy Skarda** asked did we approve it to go through the culverts and stuff?

**Director Kimpel** stated that is the Road Department, but I would have to look. Permits for section line crossings and through culverts must be approved and signed by the Road Department before I will give them permission and approval for the permit.

**Kathy Skarda** stated I would like to see that documentation. **Director Kimpel** stated OK.

**Craig Hystad** stated at times approaches are approved that should have never been approved.

**Director Kimpel** stated I cannot answer to that. I do not sign any of these things until those permits are approved. I did hold these guys up for a couple of days until I knew that you were [okay].

**Kathy Skarda** stated we don't want to hold up their progress, but we want them to do this right and be responsible.

**Steve Rolla** stated I am just trying to make sure you are aware.

### **AGRICULTURE DISTRICT ZONING ORDINANCE**

A transcript of the zoning ordinance discussion can be found [here](#).

### **ADJOURNMENT**

**The Meeting Adjourned at 6:30pm. Motion to adjourn by Craig Hystad; second by Tim Transtrom.**

**Voice votes: all ayes**

**Motion to Adjourn Passes**

The next meeting of the McKenzie County Planning and Zoning Board will be held on April 10, 2023 at the McKenzie County Courthouse, 201 5th Street NW, County Commission Boardroom at 5:00 PM

# McKenzie County Ordinance Revision Meeting

3/13/2023, 5:00 PM

McKenzie County Courthouse, Boardroom

**Scott Harmstead (Consultant, SRF Consulting):** Scott Harmstead from SRF Consulting. We're starting on the ordinance update project and the first part we wanted to look at [is] the agricultural district. There's been a lot of discussion about it recently. Some frustration from different sides. A lot of amendments since it was first adopted and the ordinance was first adopted back in 2013.

But it has been amended a lot to where it's a lot different than it originally was. I think a lot of feelings [are] that it's not serving the purpose that it maybe should be at this point. Some of this goes back to the comprehensive plan that was adopted in 2016. So, [the goals for the agricultural district are] listed here, but really the end goal is to preserve agricultural land that's useful and allow for this county's heritage of farming to continue as well, farming and ranching. Of course, supporting the economy, but how can we provide flexibility for residential development or some form of limited non-farm development. There's obviously been a pressure for it to an extent. What I'm going to walk you through is some different options. We'll start with what the current practice is today and I'd like to get comments. This is meant to be informal, so comment as we go through this.

**Kathy Skarda (Planning and Zoning Board Member):** I just have one comment. I have somebody that wants to watch it. So they just go to what...?

**Sandee Kimpel (Director, Planning and Zoning):** Not tonight. They're about to do a system update and it's going to shut off in the middle of it.

**Kathy Skarda:** OK, OK. OK. I just wanted to check, no worries.

**Scott Harmstead:** So the current practice talks about allowing one residence for residents per quarter-quarter section for 40 acres and then there's these different deviations or exceptions you could call them. One is an exception for previously applied sub subdivisions that are smaller than 40. There's also a variance that allows for parcels at least 40 acres to be subdivided into three additional parcels for direct family members and then the other one is what we just talked about a little earlier was a conditional use permit that allows residence[s] on a lot less than 40 acres.

So there's like these different loopholes. The original intent, this is very common in North Dakota, was we want to keep [landownership] to a certain size. The comp plan went through forty years and then this is what the practice is now, so it's not quite the same obviously. A lot of this involves a lot of administrative work too, on the part of the part of staff and your board. You have to hear these variances, you have to hear these conditional use permits. Are they really necessary? How can we make this a little bit easier for people that farm and ranch, but also make it so we're still preserving AG land to a reasonable extent so we're not having subdivisions everywhere? We also have to look long term, where in 30-40 years that we're still preserving our AG land, and that [it] can be ranched and farmed in a reasonable way [so that] it's not just homes. So, go to the next slide.

We look at some options here. So one option, probably the simplest option, would modify the current practice to allow two dwelling units by right. No distinction if it's a farm residence or non-farm. Just two residences by right on a quarter-quarter section. This is not a crazy proposal here. A number of places do this. This would eliminate the variance provision though. So all that would go and the conditional use permit [for residences on fewer than 40 acres] could go too. So you just simply have allow 2 units on a 40 acre or quarter-quarter section, so you can have the whole 40 acre[s] that can have a principal like the first dwelling or residence and another one, or it can be subdivided once. So you can have a 30 acre tract and then that's it. You could add another minimum lot size if you want, maybe it's 10 acres.

**Kathy Skarda:** Or you could make it 5 acres or two acres or whatever the...?

**Scott Harmstead:** It could be 5 acres, yeah. The whole overall idea is to limit density at some point, but to make it a little bit easier.

**Ariston Johnson (Planning and Zoning Departmental Legal Counsel):** I have a question for you. Are you proposing that we would have a way to subdivide out a parcel without going through the subdivision process? Because the problem we've run into is people cannot get a home loan mortgage unless their parcel is separate from the other parcel. That's why we have so many exceptions, because we've spent years hearing all the reasons why our rule doesn't work and I just want to get out ahead of that.

**Scott Harmstead:** That's a great point, I was going to get to that. We'll be looking at the subdivision ordinance later, but we would need to have a subdivision allowance to allow that. So people would carve out in their lot to do that whether...

**Ariston Johnson:** It's so would be an irregular tract if they don't?

**Scott Harmstead:** Then yes, and it would ideally be like a minor subdivision process so you have one final plat that goes through rather than the two-step process.

**Ariston Johnson:** We've had people say they cannot go through any subdivision process with our board, that it's unreasonable to ask them to do that, so that's why I'm bringing this up. We've had people stand in this room and tell us that they will not, cannot do this. They need to have a way that they can build a house and have a mortgage just on that house without going through any process.

**Scott Harmstead:** We'll get more into the details of how to work that out, but the direction you would go is to have some type of provision in the subdivision ordinance to allow [building a residence on forty acres] if that's the direction this board wants to go.

**Kathy Skarda:** Well, OK, that's if you require a loan. If you don't require a loan, you can do something really simple and just have your kids build their house. All you [would] need is a building permit, right? Or if you had a nephew who wanted to build the house or Uncle Johnny that needs a home or whatever.

**Craig Hystad (Planning and Zoning Board Member):** Only if you're going to put no more than two on forty acres.

**Kathy Skarda:** Right now we have the option to do 3 or 4.

**Craig Hystad:** With this you have two.

**Butch Fleck (Planning and Zoning Board Chair):** Is that going to be that? Family members then or well.

**Scott Harmstead:** So that can be a sticky term legally. Some counties still do it, but it can get complicated, so we would recommend actually going away from that and just making it whoever. Because I know there's some places that they need more farm workers, right? They're carving out allowances for farm workers, so we thought we'd just make it simple.

**Butch Fleck:** Well, what concerns me if the family breaks up or something, what are they going to do with that house if it has to be a direct family member?

**Scott Harmstead:** Well, then they if they break it up, they would probably want to subdivide it. Or something like that. Sell the house.

But good question Ari on the subdivision part, because I know in today's financial world, there's a lot for banks to do loans and it's not necessarily a house involved, but to carve out another piece of land to-

**Ariston Johnson:** To clarify, I'm not saying what people actually need. I'm saying what people have spent hours telling us they need, whether or not they've actually needed or used it, but we've added these exceptions over the years because of numerous public hearings to amend the ordinance and I don't want to find ourselves crafting a great new system that then we have to spend years adding exceptions to all over again.

**Scott Harmstead:** And that's one good reason that we will revisit the subdivision ordinance and look for another way that is hopefully a little bit smoother and more acceptable for people to do that. Some counties call it outlots?

**Ariston Johnson:** We don't have an outlot system in our county.

**Scott Harmstead:** Yeah. So there are ways to do that. But that would be the one of the next steps for sure.

**Craig Hystad:** I guess everything we've had comes down to five acres, 5 acres, 5 acres.

So why would we make it ten? Might as well just be ten.

**Scott Harmstead:** Yeah, it could be. If you want to set a minimum you could do that. It sounds like five is kind of where and why that's happening. Is that right?

**Butch Fleck:** Well, we set it at 40 and we've had a lot of complaints that people couldn't afford it. That's why we actually ended up going to five.

**Kathy Skarda:** Yeah. And then you had people that couldn't control the weeds, couldn't control everything so.

**Butch Fleck:** If we didn't have to come and get a CUP for five acres, then that would be great.

As long as it ain't none, 5 acres. 5 acres, 5 acres.

**Kathy Skarda:** And now subdivision before you know it, yeah. Then they want streets and all those city services. That's what happens.

**Scott Harmstead:** So there's other ways to do this under the exceptions. A lot of these ideas come from experience in other counties, like Williams County, Mountrail County, other places.

**Kathy Skarda:** Sorry, sorry. Would you guys have, would you guys have comments? [directed to Sandee Kimpel and Ariston Johnson]

**Ariston Johnson:** I'm trying to figure out the volume of how many people have actually got a building permit under our existing exceptions. You'd have to do some research. Never mind.

**Scott Harmstead:** Can figure that out too.

So this is another another way to do it you could do it.

You can have a density limit, so for example here if you're looking at the quarter or just a quarter section, you can limit it to say 8 dwellings per quarter section. It's another way to look at it. So it could look like something like this [example on slide 3], or maybe there's some 5 acres, not 10, right? It could look kind of like [slide 3] at the end of the day, when someone has maximized their allowance under that provision. So if the county wanted to do it on 1/4 section basis, it could look like that. The next option, I think this is what Morton County does. This is more of a policy in their comprehensive plan that they apply in their subdivision ordinance. A certain percentage of the whole tract. So Morton County does 25% of a quarter-quarter, or 10 acres, can be developed. You could have up to four lots and those lots could be any size. So this is probably the most restrictive of [the options].

**Ariston Johnson:** Question. Under that, what's to stop someone who owns the east half of that section, from building four houses and locking me out when I own the West half, as long as they beat me to the punch? Because that's the concern I have is that you have one landowner controlling what happens on another landowner's land, without even going through the zoning board.

**Scott Harmstead:** Well, so this this would require subdivision.

**Ariston Johnson:** OK, so they have to go through a subdivision plat process. Some form of that. Understood. Thank you.

**Craig Hystad:** Wouldn't that be just on the line if you don't own the land, you could-

**Ariston Johnson:** Well, no, what I'm saying is that if we say you can have four houses in a set. And you own the east half and I own the West half. You get your four houses built faster than I do. I can't build any houses now.

**Craig Hystad:** But you don't own that section.

**Ariston Johnson:** I own the West half of it and I can't build any houses, but you own the east half. You can have four houses in a section, and if you have to own the whole section to build 4 houses then we're back to the 40 acre rule problem.

The main problem we have had is people saying that they can't afford to own enough land to build the house on 40 acres.

**Craig Hystad:** You'd have to have ownership of the section.

**Ariston Johnson:** Yeah, which you know, no one's going to do that. They're going to complain about it rather.

**Scott Harmstead:** These are the initial ideas and just taking from other practices that other counties do in western parts.

**Ariston Johnson:** And I just want to know how they've solved the problems that we've seen, if they've had the problems that we've seen, I don't think Morton County has.

**Scott Harmstead:** Mountrail County has a lot of these meetings.

**John Irwin (Planning and Zoning Board Member):** So does any section adjoining that, have any bearing on that then?

**Scott Harmstead:** Well, the way that the staff would look at this is that they would look at the actual section of land. It would go by each section of land or actual quarter section of land. So the adjoining sections would be separate.

**John Irwin:** They would have no bearing on it.

**Scott Harmstead:** They would have no bearing.

**Kathy Skarda:** So with that being said, Scott, if we have, you know, we have the right to farm language in our current old ordinance, how does that affect everything? Do we still make sure and maintain that? I'm just asking because it has the right to farm act and that those homes and the subdivisions and stuff like that, so that if Kathy Skarda's cows, get out and go wreck Tim's yard, you know?

**Scott Harmstead:** Picture is getting to what you're talking about, Kathy. So say these are all five acres. This is getting to look almost like a subdivision. So on right to farm, that's a good question. The state constitution is very strong on that. However, I've had clients that are still concerned about that. So, you could require the planning process that there'd be like a right to farm notice recorded with the plat.

**Kathy Skarda:** And we have it in our ordinance already.

**Scott Harmstead:** That's another reason why platting could be helpful: you could require them to record a right to farm notice with that. So when other people buy those lots, it would be recorded on their property agreement. And it's reinforced by the state century code, but it's helpful to have. It could be helpful to have it recorded in the property.

**Kathy Skarda:** It's just notification. That's all it is.

**Scott Harmstead:** So those are the different options we've looked at so far. Seeing that this is probably the biggest issue that the board has dealt with in the last 10 or so years when it comes to AG areas is to what extent you allow homes to be developed.

**Tim Transtrom (Planning and Zoning Board Member):** So, I have a question.

**Scott Harmstead:** No, go ahead.

**Tim Transtrom:** Scott, have you guys looked at taking away the stupid 40 acre rule. Sorry, the 40 acre rule, and just have five acres?



**Scott Harmstead:** Yeah you could do that, I think. I want to keep going back to the comprehensive plan because this ordinance is supposed to be legally consistent with and follow the comprehensive plan. That talks [about] maintaining agricultural practice and and farmable, ranchable land. So that's where we're concerned more about the overall density of an area and not allowing subdivisions to happen without going through the full subdivision process. That they have the right provisions for a subdivision, like the right improvements and that type of thing.

**Tim Transtrom:** The problem I've seen with the subdivision so far is [that] they fill about halfway and then nobody maintains the rest of the acreages. You've got Canadian thistle blowing everywhere on one acre lots. I've seen more people put five-acre type places together and they actually take care of them. Nobody does maintenance on roads on any of the subdivisions I'm aware of in our part [of the county]. They don't move snow, they don't do anything. So none of that was written into the original subdivisions, evidently. I don't see where our subdivisions have helped us at all. For the way things look and the way it's taken care of. You just hear belly-aching because they're mad at the county because the county doesn't come clean their stone well. That little plat there of a bunch of houses should have had [maintenance] planned in and they should be paying an HOA or something like that. Whereas on the five acre deal, you're on your own. You're not sharing septic tanks with people, you're not sharing wells. It's yours and yours alone.

**Butch Fleck:** I think a lot of those subdivisions went in before we had the zoning to control it.

**Tim Transtrom:** It could be.

**Kathy Skarda:** Or they didn't get the right paperwork done and was not carried forth directly.

**Scott Harmstead:** So like I said, the idea is that you can have a five-acre lot size minimum, but the overall idea is that at some level, the density is limited. From helping prepare the [McKenzie County] comprehensive plan, the idea is that you don't want this entire section or this entire quarter-section to all be, say, 5 acres, because that's essentially creating a community over time in the middle of ranch land, which has its own issues, right? It brings the traffic issues, you know, people complaining about cattle, complaining about spraying, whatever it is. That's one of the main reasons of trying to limit the overall density, but still allowing flexibility and happiness.

**Kathy Skarda:** And then, you know, well, people always want to live in the country, but most of the time they get tired of living in the country and want their city amenities. They want their sewer, they want garbage taken and they want their highway road nice and paved or whatever. Then we're left with the subdivision most of the time, not even half full. Which we'd like to get them full.

**Scott Harmstead:** If folks want to do a five acre subdivision, that's great, but it'd be great that they follow all the different county requirements to do a 5 acre subdivision. Hopefully maybe have county right-of-way, so there's some responsibility over, say, an access road.

So any thoughts on this? I appreciate your comments, Ari. Sorry that will be a subdivision mechanism of this, that that is workable for.

**Ariston Johnson:** I like this. I like solutions that have to go through at least Sandee's office, if not also this board. We've had people push back against needing to get a building permit for a house because that's too much to ask for. So I'm concerned that we'll get a lot of pushback on anything that requires

people to file a subdivision plat, which requires that they hire an engineer to do the plat in the first place. So other than pushback, I mean the solution here is going to depend on what the board wants to do. My preference is that we require some kind of a permit or a platting process.

**Scott Harmstead:** I do not recommend a variance, but another way to manage it could be a conditional use permit. You could continue to do that, to manage it that way.

**Ariston Johnson:** And the main reason for that is loopholes. When you say direct family member and things like that, I can come up with loopholes and I'm sure that smarter people than I will come up with more loopholes because they're more motivated to do it and we'll have really no rule at all because there will be too many loopholes. When people have to go through the decision-making board, there's at least some, like, 'OK, you're here for a conditional use permit and it's meant for this, but you want to do this, we're going to say no.' If we have no chance to review what they're doing, then there's a chance that they'll exploit a loophole faster than we can plug it.

**Tim Transtrom:** But our conditional use permits revocable for a house like so if I get a five acre-

**Ariston Johnson:** And we have an exception to our conditional use permits, which are not automatically revocable, but we have an exception written in the existing conditional use permits that if it's for a residential house, a dwelling as a single family dwelling, it cannot be revoked, even in a violation.

**Scott Harmstead:** It's really just a tool to manage what's going on there.

**Ariston Johnson:** There's no one-size-fits-all solution. That's part of the problem.

**John Irwin:** There's really two separate issues. There's the farmer/rancher landowner that wants to allow a dwelling for a kid, siblings, whatever. Then there's the subdivision that's kind of plotting in somebody's back of their mind that might start out as a five acres for the sibling, but [a subdivision] is the end goal. How do you manage those things?

**Scott Harmstead:** That's what I'm talking, what's that balance that is right for you and the county, to what extent do you want to allow non-farm development? Development that could eventually become non-farm development in the county. What are you comfortable with?

**Kathy Skarda:** And we still maintaining this guide that we have.

**Scott Harmstead:** Yes, and still trying to follow the ideas that are in your comprehensive plan. You just, at some point, you have to set a limit, right? This example is 8 dwellings per quarter section. That's one idea and this is similar to what other counties have done? Some counties don't even-

**Kathy Skarda:** You don't have to make a decision tonight. We don't have any.

**Scott Harmstead:** We don't need a decision tonight. The other extreme is some counties don't even worry about this, but some of those maybe haven't had a comp plan in a long time, haven't had a good discussion about-

**Kathy Skarda:** Haven't had an oil boom.

**Scott Harmstead:** Haven't had [an] oil [boom]. Haven't had a good discussion about the importance of farming and ranching to them. So I guess-

**Craig Hystad:** Like this 8 dwellings and this quarter section that would be considered a subdivision?

**Scott Harmstead:** Well, in this case it would not be, because you could do them one at a time and there could be a process to allow that to happen.

**Andrew Steck (McKenzie County Code Enforcement Officer):** So far as our office is concerned, it's only a subdivision if they file it as a subdivision. Otherwise you're just lot-splitting.

**Scott Harmstead:** Yes, you could. You could do multiple lot splits overtime and the county I used to work for calls it 4-by-4ing. Eventually you get 4 or 5 lots together and it becomes what should have gone through the more extensive subdivision process.

**Kathy Skarda:** We don't see something that addressed that I didn't think that was...

**Sandee Kimpel:** Lot splits? We have the mechanism for lot splits and lot mergers and stuff. We typically don't see a whole lot of those. But we do have an application to split a lot.

**Kathy Skarda:** Like we did down at Grassy Butte. When we remapped or rezoned Grassy Butte? Did we do something with lots down there?

**Sandee Kimpel:** No, we rezoned all of Grassy Butte, [but] we didn't do anything with splitting lots.

**Butch Fleck:** We rezoned some of the lots the way that people wanted them.

**Sandee Kimpel:** Yeah, but we didn't split lots at all. We just we went down, we drove through Grassy Butte, looked at the existing lots, and what their uses were. Then we came back and looked at the map and the sizes of the lots to try to decipher what zoning would be appropriate for that area. So we didn't split any lots or anything down there.

**Scott Harmstead:** So you know, if you go back to the couple of slides back to the existing practice, I mean right now you're essentially allowing 40 acres to be subdivided three times, right? So you're allowing three homes right now on 40 acres, essentially. You could do something similar, if that's what you're comfortable with, cause that's essentially what your existing practice allows right now.

**Craig Hystad:** You do what, 12 homes and then? I mean, if you did, you could do 12 homes worth. The other one only letting you do 8.

**Scott Harmstead:** The easiest way to administer it though is to look at the map and do it by 1/4 section. That's the easiest way to track it. So that might put some land owners at a disadvantage if their land crosses [section lines], if they own parts of two sections, but I'm thinking for the most part people own a good part of the section or their land is within a certain section.

**Butch Fleck:** I think we kind of solved a lot of our problems when we went to the five acres. We've been working on this for so long, we went to 40 [acres] and I was kind of a staunch supporter of 40, but people can't get enough money to buy 40 and people don't want to split that much out.

Then we went to five, worked pretty well, so I don't know. I thought it solved our problems quite a bit.

**Scott Harmstead:** If that's the direction, then the question is, well, how many 5 acre lots per quarter? Probably easiest.

**Craig Hystad:** Because right now we got, what, one per forty?

**Butch Fleck:** And we've had trouble, actually the five acres even got to be too much when people found out how much work it was to take care of five acres, I mean, it's kind of unreal, they come out from the city, where everything's taken care of, and they come out here and you figure out they got to take care of weeds and everything else only to find out it's not that much fun.

But it seems like it's solved lots [of things]. We haven't had a lot of trouble since we went to [five acres].

**Scott Harmstead:** And part of that's an education thing, right? So when you buy this property, this is what you were buying.

**Butch Fleck:** And if they want to put that many houses on, then you have to go to the subdivision. We haven't carried those more, but we haven't had a whole lot of troubles.

**Scott Harmstead:** A certain point if they want if they want several lots, then you probably want them to rezone it or consider changing the [comprehensive] plan.

**Butch Fleck:** There's been questions on the CUP. I actually think that's good. We have a little bit of control that we start doing that and they then they got all the conditions, so they know where they stand too when it gets all done.

**John Irwin:** So how would things have to proceed to get 12 homes in 1/4.

**Scott Harmstead:** You would have to ask for three different variances.

**John Irwin:** But I mean on the way we do it right now.

**Scott Harmstead:** They'd have to ask for three separate variances. You have to come here three times to get those variances. So that's a lot of work on owners. It's a lot of work on staff, the board.

Variances are really intended to be for things like setbacks and height issues, like towers, not for this. When we see things like this, you'd rather just be allowed some way, or through a different mechanism, maybe through a conditional use permit if you want a little bit more oversight of variances. That is very unusual, to do it that way. Part of this is to make things a little bit easier for everybody involved. Understanding what everyone's comfortable with and then making that happen as easy as possible.

So I do have a couple more sections to go over. Probably not expecting as much discussion or feedback for those other ones, but how you want to do this if you want folks and the public to comment on this as well maybe this is a good time or...?

**Sandee Kimpel:** I'd like the board to decide how they'd like.

**Butch Fleck:** There's anybody from the audience have any questions on this part of discussion so far? Before we move on.

**Kathy Skarda:** Thoughts. Concerns. Later you can call us.

**Craig Hystad:** I guess I miss here- if you load the three homes per 40 acres, fine, but I think it should be the five acre, because like you said, the 40 acres has not been a good number since.

**Tim Transtrom:** And with five acres, a lot of people that want to live outside of town want to have 20 chickens, a horse, whatever.

**Sandee Kimpel:** And neighbors not so close.

**Tim Transtrom:** And isn't it written where they can only have one animal unit per acre equivalent?

**Kathy Skarda:** Because that's what we've had disapproved.

**Tim Transtrom:** And so the five acres of houses still have some livestock, it's not prohibiting them.

**Butch Fleck:** Yeah, right now just a discussion and we'll be talking about it until this fall before we finish up with it?

**Scott Harmstead:** We'd like to get some type of agreement around this issue in particular as soon as we can, so that we can come back with a more specific proposal that you could compare against what you currently have.

**Kathy Skarda:** I would really, really like that. Let's weigh the pros and cons, and then we can also add any pros and cons to it too, because I really need to see it side by side.

**Scott Harmstead:** I just wanted your initial thoughts though on how many homes are you comfortable with allowing first of all.

**Tim Transtrom:** So, say I have a 5 acre piece that I bought to build a house and it was approved. Say we're not using the CUP. Well, that's approved under agriculture use still, right. That house can still be under agriculture, correct? Just for a house. No, I'm not a farmer. I'm just- well, what I'm wondering is if they build a commercial shop and a business out there without the CUP, they're going to be out of compliance anyway the way it is, right? Or am I wrong?

**Sandee Kimpel:** Right, so do they have CUP for the house in this scenario?

**Tim Transtrom:** Let's say they don't. Let's say no CUP, no CUP required.

I got a building permit, you let me buy 5 acres and put a house on it. Then I sell it to Scott and Scott says, well, this be great for my tire shop. So I'm going to build a tire shop there and I have a commercial business. They'd be out of compliance already because they changed-

**Sandee Kimpel:** Yes, if it's not an allowed use within the agricultural district under our list of allowed uses in Ag, yes.

**Tim Transtrom:** So what good does this CUP do us, is what I'm asking.

**Sandee Kimpel:** For the house?

**Tim Transtrom:** For any of that part to get the five acres, because whether they have a CUP or not, they're not in compliance if they build a commercial business or start-

**Scott Harmstead:** That's a good question. I think in my ideal planning world, to make things as easy as possible, we'd like to stick to, say, a section or quarter section simply allow, if it's this way, 33 lots per 40 acres. Just three lots per 40 acres and you don't get a conditional use permit, you don't get a variance, but you require them to go through some type of lot-split process so you know what they're doing.

**Tim Transtrom:** So my question for you, would be is that 40 acres within one section? If I only own 20 acres like back to the other question he was asking and somebody else owns the 20 acres, they could put 4 houses on their 20 acres within that quarter-quarter and then I can...?

**Scott Harmstead:** But they can only do a percentage rate that would be by each quarter-quarter. So quarter-quarter of Section 5 can have those three lots. That's it. And then you go to the next quarter that can have three lots.

**Andrew Steck:** If you own twenty of those 40 acres, you would get to do it once. You'd have two and then the other [twenty acres] would have the other two.

And your point about the shop- I would go visit you then and tell you that you need to get this cleaned up. If you don't, I say cool, well, I've got this best friend over here [indicates departmental counsel] and he's going to make you stop. And if you still don't stop, then we get a court order and, I dunno, the US Marshals are going to come out and they're going to make you stop. So the CUP gives us a legal mechanism for starting that process.

**Craig Hystad:** But they should get a permit to build that shop.

**Scott Harmstead:** Well, we have to get a building permit.

**Craig Hystad:** Building permit. That's what I mean and that's when you say no, this is not-

**Scott Harmstead:** And of course then if they say it's just a residential shop and then they change it, then it's Code Enforcement later on.

**Craig Hystad:** And Andrew would have something to talk about.

**Kathy Skarda:** And then I'm just wondering about code enforcement. You know how do you do code enforcement and make sure it's all the same for everybody. You know, if I had something wrong with my house, I bet you everybody had something wrong with their place. You know, I don't know, how do you delegate or dictate who and what, and how many people get code enforcement, because that's been an issue too. How do you do that?

**Scott Harmstead:** That's a good question, but I think that's another discussion. That we talked about that a year or so, two years ago, whatever it was. But that gets back to the county policy: is it reactive and complaint-based or is it not?

**John Irwin:** If it's Ag and we're allowing these additional homes for direct family members, that all sounds fine, but down the road, there's a divorce or falling out and the son leaves. Then all of a sudden, that's where the trucking company moves in. You've got to make sure that code enforcement can still manage this and have a handle on it, because they're out in the country.

**Scott Harmstead:** I mean, again, if there's that concern, you could have a conditional use permit or it could be some type of other permit. Just so you have a little bit more of a hook to make sure that-

**John Irwin:** CUP kind of gets your foot in the door where otherwise it's [difficult]...

**Scott Harmstead:** Yeah, it does. One of my jobs as a consultant is to make everybody's jobs easier too.

We try to reduce the amount of permitting and whatnot, but at some point, it's required. I understand that, but I think there's there might be ways of making [the permitting process] a little bit more straightforward.

So what I'm hearing is that you're comfortable with 3 [parcels] per 40 quarter-quarter section. And three parcels that are 5 acres

**Kathy Skarda:** And it doesn't have to be a direct family member

**Scott Harmstead:** We would remove that provision and then we look at having a conditional use permit requirement or something similar to that.

What I will come back with later too is a way to look at the changing the subdivision ordinance to make that process easier for folks. We'll probably visit with staff and Ari a little bit more to understand some of that history.

**Kathy Skarda:** So with our code enforcement, do we have a listing of what's happened in the years before that we've had more issues with? You know, like with building permits or whatever, do we have something that has come up in the past more?

**Andrew Steck:** So, I have access to all of the past code enforcement files and I have access to all the previous meeting minutes. And I have over the last year or so, read most of those meeting minutes in the course of doing research. So yes, I have access to all of that information.

**Kathy Skarda:** What has come up as maybe one or two things that consistently may need to be addressed?

**Andrew Steck:** I think the biggest couple of the biggest things as related to the AG District are mostly related to people officially subdividing their land. They'll go to the Recorder's office and they'll record that split, but they won't have a permit or [followed the lot split process]. Or I got one call saying 'well, I don't think that's actually their daughter.' OK, well, I can't do anything about that, unless you want to do DNA swabs, which I don't want to do.

**Scott Harmstead:** Yeah, we'd like to get staff out of the business of trying to determine who's a family member.

I should mention, it's not part of this project, but it's not hard to do. When this is adopted and done, or maybe before, it would be nice to have some promotional process of just getting information about the changes or proposed changes. Maybe it's out with the tax information, you know, so you know, everybody's getting it at their home in the mail, but that would be good so everyone understands.

**Kathy Skarda:** Well, our P/Z staff did a really nice brochure a year ago or two years ago, whenever that was, and I'm sure that may not be easy to update but it would be something worthwhile. They were having solid drafts.

**John Irwin:** You know, if you're truly wanting to preserve agriculture like your opening line, the eight homes on the quarter section is going to preserve a little more agriculture land than the 12. Subdivisions aren't the end of the world. Subdivisions, when done right, can be valuable tool to a community. I just kind of see where the twelve homes on 1/4. It gets kinda busy.

**Scott Harmstead:** It could, yeah. After 40-50 years you could have something that resembles a small community out there.

The next the information I have is on the industrial buffers and then I wanted to go over some of the formatting changes we're looking at, so I will get those get those. I don't have any slides on this stuff, but handouts were provided.

I'll just kind of give you some background on landscaping. We know the landscaping standards could be improved. When this becomes an issue, it's how do you provide the best buffer barrier between, say, a new industrial project and some homes next door? So we looked at that section of the ordinance and are suggesting some changes there.

One thing that we want to specify here is that we want to make sure that when people are picking plants, they're picking plants that are actually accustomed. That will have the best chance of surviving out here in the northwest part of the state. The best resource really is NDSU, the extension, so we actually cite that and there's a tool they have online that goes by climate zone and whatnot.

Right now, the requirement for these buffer yards is based on what use against what use? Industrial against housing, whatever it is. This proposes to do it a little differently, to do it by what is the adjacent zoning? So if your industrial up against, let's say R-2, R-3, do we want to have a heavy or a medium [next to residential]? This is just another way of doing it, of slicing the pie.

It kind of gets into what those mean: light, medium and heavy. We currently have those, but this provides some more flexibility for folks. So, the light [industrial], for example, you can do that in three different ways. You can do it more vegetation heavy or do it more on this wall or solid fence with [fewer] plantings. If someone says I don't want to plant all those bushes, they're all going to die, then OK, put your solid fence maybe with some trees. Then it's the same idea for all these other ones, they just have more items. Or maybe it's a masonry wall or, or, or... This provides more options than there currently are.

**Kathy Skarda:** I just have one question. It says here the minimum size at installation. So if I have a home and then a commercial business or an industrial business comes in that has dust, it has smell, or it has, it's not very welcoming to the residents who want to make it their home. Can't we increase the size? You know if we put in a tree at 5 foot, I'm probably going to be dead by the time that's 30 feet tall.

**Scott Harmstead:** What section are you looking at?

**Kathy Skarda:** Page 2.

Just because I don't want to look at that stuff, or maybe, I don't know, I'm just thinking maybe it needs to be taller, I don't know.

**Scott Harmstead:** Yeah, This is an initial cut. We definitely can look at changing that.

**Kathy Skarda:** Because, you know, I'm looking at my picture window and that's all I see. I'm just saying can be nice to have it a little bigger.

**John Irwin:** Is that something that would be to the owner's side of the line for the industrial?



**Scott Harmstead:** So this is on the developer, on the person who's putting in the development, whatever it is. If they're putting in an industrial project, that industrial developer would have to put this in on their property, not yours. It's on their property.

**John Irwin:** I understand, here's my thoughts. 5 acres just went down to 4. whatever you're giving up for the tree row to get rid of that eyesore that somebody else will...

**Scott Harmstead:** Good comment. So those are the biggest changes. We are working with Ari [departmental counsel] by the way on this and he's provided comments already.

**Andrew Steck:** How do you feel about plant covered walls? I had somebody ask me at one point if they could put up a trellis and then grow hops [for making beer] on the trellis, which I didn't have a problem with personally, but it's not allowed. I told him he couldn't do it because it's not in the ordinance.

**Scott Harmstead:** I don't see a problem with allowing it, I just think that you would want to be careful in terms of what qualifies as a buffer? You know, I wouldn't qualify that, but I wouldn't want to prohibit it. I would just stick to either the one that's more of a wall or one that's more just vegetation.

The existing standards already talked about, like exceptions to all this, which doesn't rule out, for example, if a hill provides the buffer. Then that's great, right? There's a topography change.

**Tim Transtrom:** Or say like next to a highway. What's the county set-back for trees.

**Sandee Kimpel:** The county right-of-way is 75 feet [from the road centerline].

**Craig Hystad:** That's the big problem on 1806 is trees. The highway cuts back the visibility.

**Butch Fleck:** I think they're 150 feet. I think.

**Tim Transtrom:** If we're going to require them to have trees next to a highway and then it bows inwards there.

**Craig Hystad:** But if it's a state highway, they got their own.

**Sandee Kimpel:** They have their own regulations, so if it's off of a state highway, they have to follow state regulations for that. The county doesn't make those determination.

**Tim Transtrom:** Even our county highways or county roads? I don't remember what the set back is.

**Sandee Kimpel:** The county right-of-way is 75 feet off the centerline.

**Tim Transtrom:** But can you plant a tree up to that?

**Scott Harmstead:** You can, and if that's an issue, I can address that. We can and we will be consulting with the road department.

**Sandee Kimpel:** We're consulting with everybody.

**Craig Hystad:** If they're in their range, you pull up there and you can't see what's coming.

**Tim Transtrom:** We're causing our own problem if we're requiring them to do something that causes this problem.

**Sandee Kimpel:** Well, yeah, but a lot of what we're discussing right now is between different properties and different property uses, right?

**Butch Fleck:** Excuse me, can you guys hear us back there? [audience nods and gives thumbs up] OK.

**Scott Harmstead:** Yeah, we will be running everything through them. Certain counties definitely have had those issues and requested more of a setback for trees and bushes.

**Craig Hystad:** Does it mean [if] you put a fence up in certain lots, if you're on a corner lot where it comes to an intersection, you got to stay further back.

**Scott Harmstead:** Yeah, it's called a sight triangle.

**Sandee Kimpel:** Yeah, they're further back and they're shorter.

**Scott Harmstead:** And those are absolutely one of the main reasons we talked to the road department. To make sure that there's road safety.

**Butch Fleck:** Ha, but then you got five people piling snow up there and you can't see anyways. [audience laughter]

**Scott Harmstead:** So that's an overview of landscaping. Then the last item I have for you, we're looking at changing the formatting quite a bit. And why are we looking at that to [do that]? To make it a little bit easier to navigate this and to get through different sections. The biggest change we're looking at is for the zoning. Instead of having each district and then with each within each district listing all the different uses that are allowed, these are all the things [that are] allowed. We have a table in here that has the list of all the uses. Then it has the districts up here. So, in AG, you can't do any of these commercial [things], like start an excavation next door or whatever.

Then it says what's conditional with the C; what's allowed with the P; the A is administrative permit. So instead of having to go through all the different districts you go to this table to see what's allowed. And then we did the Same thing with all the set-back requirements.

**Kathy Skarda:** Did you do this with Montrail?

**Scott Harmstead:** We did. We did both. They wanted this and they wanted the list.

And we could do the same thing here. They kind of use this more, almost like marketing. Like a quick look, but if you really wanted to study it out, for those who really wanted to dig into it, they wanted like a full list of items in each district.

**Kathy Skarda:** If this is just a real quick synopsis that you can come to. That you really need to dig into it to get through the nuts.

**Scott Harmstead:** Especially if we have a conditional use, right? For mining, sand, gravel mining, scoria mining, whenever you know you might have more requirements than just what's shown in the list of uses, it would refer you to that other section that has all the different requirements. You have a lot of those uses that have special requirements that are somewhere else in the ordinance and now they have a reference in here as well. Yeah, and all this stuff would have links. If you're on your computer, reading the PDF, you click on it and it would take you to the right section.

And then we're also looking at the different districts you have. Over the years you've accumulated a lot of residential districts and I'm not sure how useful that's been for you. I know that back in 2014/2015/2016 you were still expecting that you might have a lot of residential development in different parts of the county, like larger subdivisions, the actual subdivisions that never really happened. So now that we're looking at things do you really need an urban residential district that was created back in, I think, 2015 for urban development, or is that really just more appropriate for Watford City or Arnegard, you know? Are there districts that you haven't even used? You might as well just get rid of [them]. That might be one, urban residential, [because] it really does a lot of the same things as your R-1.

**Scott Harmstead:** If someone wanted to do a subdivision with R-5. Go through the full subdivision process, have county roads going through it the whole deal, follow county drainage requirements.

**Kathy Skarda:** And that would be just underneath R-5.

**Scott Harmstead:** And they could do 10 lots and they could do it all through R5.

We could do more than ten, but that's ideally what you want them to do if they had ten or more lots, right? You'd want to make sure their drainage was up to [code], that the roads were properly designed, all those types of things, right? And that they have all property utilities.

**Kathy Skarda:** Sidewalks and all that.

**Scott Harmstead:** Well, not sidewalks necessarily, I mean, this can be county roads.

**Tim Transtrom:** I really like that, especially if it refers to the section to look in for deeper detail, that's really nice.

**Scott Harmstead:** Do you have any initial thoughts on that? If there's something that you have had questions on, you wanted to ask?

**Kathy Skarda:** I concur with Tim about having the links and there's people like me that like paper that I can just go through.

**Scott Harmstead:** We could put the list to each district.

**Tim Transtrom:** Well, with this, you'd be able to find the list. That's most people when they're wanting it. Well, I wonder if I can do this on a piece of property, well, they can look right there and see if it's [allowed]. And if they want to know a trickier side of it, or a loophole, they can look in the list in the [proper section].

**Scott Harmstead:** So, we'll look at possibly eliminating urban residential district- that district is set up for urban and residential development with like sidewalks and development really is probably more appropriate [for a] city area with cities. I don't think the county is expecting to have any developments like that anytime soon?

So that's where we're at. We'll be back in a couple of months. Some revisions and some more information. The next section is another fun one: it's wind energy and solar energy and so on.

**Kathy Skarda:** Thank you. But I do have one question. If we have members of the audience, or if we have people that want more information on this, Sandee, you'll have something that you can send to them to make comments on?

**Scott Harmstead:** Yeah, it depends on how you want to do that. They can just have comments come to me directly, if that's easiest since we're working on it. You want to post my information on your website?

**Sandee Kimpel:** I absolutely can.

**Butch Fleck:** Has anybody in the audience got any? Questions for him? No.

**(audience member):** This is all going to be online, right? Yeah, with people around town, they can go online and then look at what's talked about here, or is this just a private?

**Scott Harmstead:** We can certainly post drafts of what we discuss on the county website for people to look at and then [you can] provide whatever you call or provide e-mail comments what have you. We could do that.

One thing we could do is put [the information] on the website and then the minutes or the notes from the meeting.

**(audience member):** That's what I was referring to was specifically this presentation that you got here. Somebody asked us what would happen tonight. We take the online thing here and you can click on this and just follow along here and see what happened, what the proposed changes would look like once they're approved.

**Scott Harmstead:** We could certainly do that with this information. Plus the meeting notes and. All that.

**Butch Fleck:** Does anybody else have anything to come before the board tonight? Now we need a motion to adjourn.