

Planning and Zoning Commission Minutes

September 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, Tim Transtrom, Cody Knetzger, Craig Hystad, Matt Beard

Members Remote: None

Members Absent: None

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

Others see sign in sheet at end of minutes.

APPROVE AGENDA

Amendments to Agenda

Kathy Skarda stated #04-22CUP Wochos is **POSTPONED** until the October 10, 2022 Planning & Zoning Board Meeting.

Motion to Approve Agenda as Amended; Motion by Kathy Skarda; Second by Craig Hystad; Voice Votes All Ayes

Motion to Approve Agenda as Amended Passes

APPROVE PREVIOUS MEETING MINUTES

Motion to Approve August 8, 2022 Meeting Minutes as Presented; Motion by Eva Hepper; Second by John Irwin; Voice Votes: All Ayes.

Motion to Approve August 8, 2022 Meeting Minutes as Presented Passes.

UNFINISHED BUSINESS

#04-22CUP John Wochos – Motion to **POSTPONE – Motion by Kathy Skarda; Second by Tim Transtrom; Voice Votes: All Ayes**

Motion to POSTPONE Passes

#07-22CUP Steve Sharp Crane Rigging- #07-22 Conditional Use–12590 23rd ST NW, Watford City, ND 58854 T149N, R98W, S7 – IT 1982 PT OF N1/2W1/4 EX 3.86 A ROW; Parcel #630003150

Candy Lundgren stated this is #07-22CUP for Steve Sharp, Crane and Rigging LLC. The original meeting was for August 8, 2022. It was postponed until today. They are at 12590 23rd St Northwest in Watford City. The Applicant is requesting the continued on-site use of a 12,000-gallon diesel tank located on their property, which is zoned Heavy Industrial. Gas storage is a Conditional Use within the Heavy Industrial Zoning category. The Comprehensive Plan Land Use is Transitional. Zoning is Heavy Industrial.

Candy Lundgren read the Findings of Fact and Conditional Use Permit Criteria, Comprehensive Plan Consistency. They are highlighted and attached to the end of the Minutes.

Candy Lundgren stated Staff recommends Approval for this Conditional Use Permit. “Recommend Approval of Conditional Use Permit #07-22 Steve Sharp Crane & Rigging, on the condition that Approval is received from the State Fire Marshall, to the County Commission to allow a 12,000-gallon Diesel tank for fueling heavy equipment. Adopt the findings and conditions as provided in the staff report.”

A discussion was held regarding Steve Sharp Crane & Rigging.

Motion to Approve #07-22CUP Steve Sharp Crane& Rigging - #07-22 Conditional Use–12590 23rd ST NW, Watford City, ND 58854 T149N, R98W, S7 – IT 1982 PT OF N1/2W1/4 EX 3.86 A ROW; Parcel #630003150; Motion by Craig Hystad; Second by Kathy Skarda; Voice Votes: All Ayes

Motion to Approve Passes

PUBLIC HEARINGS

#007-22ZC Sandton Fund III Holdings VII LLC - #007-11 Zone Change – Sandton Fund III Holdings VII LLC– T149N, R99W, S12 SE ¼ of the SE ¼; PID #650006735; 12621 22nd ST NW, Watford City, ND 588564

Candy Lundgren stated this is for #007-22 Zone Change for Sandton Fund III Holdings. Applicant wishes to change the zoning of the property to Light Industrial to be consistent with its historical use and to accommodate a current Light Industrial business. A 12,750 square foot shop is located on the property and has been used for Light Industrial since 2012. The location is 12621 22nd St Northwest in Watford City, ND. The owners are Sandton Fund III Holdings. The

Comprehensive Plan Use is Transitional, Proposed is Transitional, Zoning is currently Agriculture, Proposed is Light Industrial. This lot has 37.02 acres.

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

Candy Lundgren stated Planning and Zoning see no issues that would recommend denial of this Zone Change. There we have a recommendation of Approval of #007-22ZC for Sandton Fund Holdings to the County Commission. Adopt the Findings as provided in the Staff Report.

Public Comment Support Letters:

Candy Lundgren read the Comment Email from Daniel D. Richmond of Wolverine LLC,

To Whom it may concern:

We are reaching out over the issue on the property that shares our southern property line at our location, Wolverine 12602 22M St NW Watford City, ND 58854. We would like to show support for the continued use of industrial or commercial use of this property. This area has many businesses like ours, residential and ag properties. This has been mixed use for over a decade that we have been at this location. We would like to support this continued use. On a second note, as a disabled veteran I support people utilizing their own land as they choose as long as it does not impede their neighbors use. This facility has been next to us many years and has never impacted our utilization of our own property. As a final note we are concerned that if this is not approved it will only be a matter of time before my other two properties Telluride Lodge and Wolverine will be targeted for our current uses.

Best Regards

Danial D. Richmond, MBA

Wolverine Construction, LLC

A Service Disabled Veteran owned small business and Certified Minority owned Business
12602 22M Street NW Watford City, ND 58854

Candy Lundgren read the Comment Email from Dan Rost:

Hi Candy,

As the closest adjacent property, I don't have a problem with the zone change request, as long as they continue to keep the place from smelling and keep garbage from coming into my place.

-Dan Rost-

Candy Lundgren read the Comment Email from MICHAEL DESMOND
CHIEF EXECUTIVE OFFICER | G&G Garbage, LLC:

Dear Ms, Lundgren and Ms. Kimpel,

My name is Michael Desmond, and I am the CEO of G&G Garbage, LLC. We are the current tenant at 12621 22nd Street NW, Watford City, ND. The property is owned by Sandton Fund III Holdings VII, LLC. It has come to our attention that there is a request for the zoning for this

property to be changed from Agricultural to Light Industrial. I am writing to express my support for Sandton's request for a zoning change. When our lease expired on our prior space in Arnegard, it was nearly impossible to find an alternative location in McKenzie County. We were fortunate to find our current space, which, based on our understanding, was used as to house an oilfield service business prior to our occupancy. The use of the property and the surrounding properties is mostly, if not all, light industrial uses. Without this location from which to operate, it would severely inhibit, if not prevent, our ability to do business in McKenzie County, as a location with a shop and space to store unused roll-off dumpsters is critical. To be clear, we do not store garbage or other waste on this property. It is used to store roll-off dumpsters and other equipment when not located at a customer's facility or location. Our use of the property is confined to the area that was previously used for the oilfield service business, specifically, the South end of the property, near 22nd Street NW. Further, that portion of the property is already taxed as commercial property, consistent with its historical use.

I respectfully ask that Sandton's application to change the zoning be approved, as light industrial is the highest, best use of this property, and is consistent with surrounding uses.

MICHAEL DESMOND

CHIEF EXECUTIVE OFFICER | G&G Garbage, LLC

A Discussion was held regarding the Sandton Fund III Holdings Zone Change Request. Concerns that were brought up by the surrounding neighbors were odor coming from the property, the possibility of a decrease in property values, and the property being an eyesore. It was also stated that the Industrial Use of the property was there prior to most of the neighbors moving in. Neighbors and property owners in attendance were Jennifer Sorenson, Curt Sorenson, Richard Beane, Ed Schilke and Charlotte Schilke.

Board members discussed dust control, property values, and the possible need for more Light Industrial within the County.

Motion to Approve #007-22ZC Sandton - #007-11 Zone Change – T149N, R99W, S12 SE ¼ of the SE ¼; PID #650006735; 12621 22nd ST NW, Watford City, ND 588564; Motion by Craig Hystad; Second by Matt Beard; Roll Call Vote: Butch Fleck – Aye; Cody Knetzger – Nay; Craig Hystad – Aye; Eva Hepper – Nay; John Irwin – Aye; Kathy Skarda – Nay; Lance Renville – Aye; Matt Beard – Aye; Tim Transtrom – Aye;

Roll Call Vote: 6 Aye, 3 Nay; Motion Passes.

#01-22CUP-RBW Hugelen - #01-22 Conditional Use Permit-Reclamation Bond Waiver – Corey Hugelen, NE ¼ T-146N, R98W, S-17; Parcel ID #390005300; 12440 4th ST NW, Grassy Butte, ND 58634

Candy Lundgren stated this is for #01-22 Conditional Use Permit-Reclamation Bond Waiver for Corey Hugelen in Grassy Butte. On May 17, 2022, Applicant Corey Hugelen was granted #01-22CUP Conditional Use Permit for the property included a Reclamation Bond Requirement. Applicant is requesting waiver of the Reclamation Bond Requirement based on McKenzie County Zoning Ordinance 4.10 Regulation of Freshwater Depots, Pipelines, and Ponds (Findings of Fact #11). The Comprehensive Plan is Agriculture, Zoning is Agriculture.

Candy Lundgren read the Findings of Fact. They are highlighted and attached to the end of these Minutes.

Board Comment

John Irwin asked if the company was in Good Standing with the State? **Candy Lundgren** stated yes, he is. **Irwin** asked if they were in good standing with everything. **Lundgren** stated yes, he is.

Motion to Approve #01-22CUP-RBW Hugelen - #01-22 Conditional Use Permit-Reclamation Bond Waiver – NE ¼ T-146N, R98W, S-17; Parcel ID #390005300; 12440 4th ST NW, Grassy Butte, ND 58634. Motion by Cody Knetzger; Second by Kathy Skarda; Voice Votes: All Ayes

Motion to Approve Passes

DISCUSSION ITEMS

Administrative Permits

A discussion was held regarding permits that were Administratively Approved.

Adjournment

Motion to Adjourn by Tim Transtrom; Second by Craig Hystad; Voice Votes: All Ayes

Motion to Adjourn Passes.

The Meeting Adjourned at 6:15 PM.

The next meeting of the McKenzie County Planning and Zoning Board will be held on Monday, October 10, 2022, at the McKenzie County Courthouse, 201 5th Street NW, County Commission Boardroom at 5:00 PM.

MEETING SIGN-IN SHEET

Meeting Date: September 12, 2022

Name PLEASE PRINT NAME LEGIBLE	Phone #	Agenda Item #
Richard Beard	701 770 2561	H-1
Ed Schulte	701-842-2705	F
Erik Peterson	701-369-3949	H1
Evan Vettel	701-430-9435	H 2
Corey Hugelen	701-260-3098	H 2
Jeremie Vandersloot	406-696-1163	
Charlotte Schilke	701-842-3705	

MCKENZIE COUNTY

Planning and Zoning Commission

#07-22CUP Steve Sharp Crane & Rigging, LLC

Application:	July 7, 2022
Hearing Date:	Original meeting August 8, Postponed to September 12, 2022
Description:	12590 23rd St NW Watford City, ND 58854 PID # 630003150 -- T149N, R98W, S7 -- IT 1982 PT OF N1/2NW1/4 EX 0.86 A ROW
Owner(s)/Applicant:	Steve Sharp Crane & Rigging, LLC
Reason for Request:	Applicant is requesting the continued on-site location of a 12,000 gallon diesel tank on their property. The property is zoned Heavy Industrial. Gas storage is a Conditional Use within the Heavy Industrial zoning category.

Comprehensive Plan Land Use: Transitional
Zoning: Heavy Industrial

Findings of Fact:
<ol style="list-style-type: none"> 1. Public notification has been satisfied. 2. Staff have received no comments regarding this permit. 3. Project is not located within an organized township. 4. State Fire Marshall application is in process. Applicant is working on meeting the requirements set by the state Fire Marshall on 08-05-2022. 5. Oil and Gas Bulk Storage is a conditional use in Heavy Industrial 6. There are two current bonds for this site. 7. A Reclamation Bond Estimate for the tank site has been filed with this office. 8. There are 2 approved approaches to the site. 9. A Safety plan, spill response and polices regarding the fuel tank is in place.

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:
<ol style="list-style-type: none"> 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.

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007-22ZC Sandton Fund III Holdings VII LLC

Reason for Request	Applicant wishes to change the zoning of the property to Light Industrial to be consistent with its historical use, and to accommodate a current Light Industrial business. A 12,750 square foot shop is located on the property and has been used for Light Industrial since 2012.
Hearing Date:	September 12, 2022
Location	T149N, R99W,S12 SE1/4 of the SE1/4 PID # 650006735 12621 22nd ST NW Watford City, ND 58854
Owner(s)/Applicant:	Sandton Fund III Holdings VII LLC

Existing:		Proposed:	
CP Land Use:	Transitional	CP Land Use:	Transitional
Zoning:	Agriculture	Zoning:	Light Industrial
Setbacks:	Front 25 FT Side 25 FT Back 25 FT	Setbacks:	Front Yard 50 FT Side Yard 25 FT Back Yard 50 FT
Lot Area:	37.02 acres	Lot Area:	37.02 acres

The Business on the property has been in existence since November of 2020 and the tank has been onsite.

b. The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

The current use of the property will not change so will not diminish value or enjoyment of other property.

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

The existing use will not change so it will not impede orderly development.

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

Utilities, road access and all other site improvements have been and/or are being provided.

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.

Adequate measures have been taken to provide ingress and egress to the property. There are no adverse effects on adjoining properties or traffic.

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

The proposed conditional use shall conform to all applicable regulations of the district.

Comprehensive Plan Consistency:
The subject land area is designated in the land use plan as Consistent with the Transitional Area.

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

Suggested motion: "Recommend approval of Conditional Use Permit #07-22 Steve Sharp Crane & Rigging, on the condition that Approval is received from the State Fire Marshall, to the County Commission to allow a 12,000 gallon Diesel tank for fueling heavy equipment. Adopt the findings and conditions as provided in the staff report."

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

McKENZIE COUNTY

Finding of Fact:

1. All requirements for public notification have been met.
2. Staff has received written comments from the public.
3. Property is located directly to the West of Hwy 85 in a mostly industrial area.
4. Property to the north is a commercial business, the properties to the south and east are oil pads. There are homes to the west. The only actively farmed Agriculture is to the NE on the East side of Highway 85. Staff anticipate no adverse impacts from the re-zone on nearby property owners.
5. Property has been used as Light Industrial since before Planning and Zoning.
6. The current building on the property was started in 2011 for a Light Industrial business.
7. If approved, property continue to comply with the Light Industrial District zoning requirements.
8. If changed to Light Industrial, no code violations would exist. The current building will comply with Light Industrial setbacks.
9. There is an approved approach to the property.
10. Ferrell Gas has continued to use the large propane tank on the property.
11. Applicant has provided a Certificate of Good Standing from the State of ND.
12. The nearest Light Industrial is 1/2 mile to the NW.
13. Owner has not expressed interest in changing anything after the re-zone.

Growth Management Plan Consistency

The subject land area to the West and North of this property is designated in the land use plan as a Transitional Area.

Suggested Motion:

Planning and Zoning see no issues that would recommend denial of this Zone Change. Therefore we have a recommendation of Approval of #007-22ZC for Sandton Fund Holdings to the County Commission. Adopt the Findings as provided in the Staff Report.

McKENZIE COUNTY

Planning and Zoning Commission

#01-22CUP-RBW Corey Hugelen Pond-Reclamation Bond Waiver

Application:	August 8, 2022
Hearing Date:	September 12, 2022
Description:	NE 1/4 T-146N, R-98W, S-17 Parcel ID #390005300, 12440 4th ST NW Grassy Butte ND 58634
Owner(s)/Applicant:	Corey Hugelen
Reason for Request:	"On May 17, 2022, applicant Corey Hugelen was granted #01-22CUP Conditional Use permit for the property at 12440 4th St NW, Grassy Butte ND. #01-22CUP included a Reclamation Bond Requirement. Applicant is requesting waiver of the Reclamation Bond Requirement based on McKenzie County Zoning Ordinance 4.10 Regulation of Freshwater Depots, Pipelines, and Ponds (11)."

Comprehensive Plan Land Use: Agriculture
Zoning: Agriculture

Findings of Fact:
<ol style="list-style-type: none"> 1. All requirements for public notification have been satisfied. 2. Staff have not received any public comments regarding this proposal. 3. Applicant is the property owner. All reclamation costs shall be the responsibility of the property owner. 4. Property is not in an organized township. 5. The pond is lined with a HDPE-40Mil liner with a 100 year lifespan. 6. Pond is used for industrial use as well as fire suppression. 7. Pond is fenced with at least a 4 strand barb wire fence. 8. Site is clean and weed free. 9. Local Fire Department has access to the pond in case of fire. 10. #01-22CUP was originally approved by the BOCC on May 17th, 2022. 11. All Conditions from the original Conditional Use Permit will remain in effect except the Requirement for a Reclamation Bond Waiver.