

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON OCTOBER 19, 2015 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.

Vice-Chairman Maristuen called the meeting to order at 5:30pm. Roll Call was taken. A Quorum was present.

MEMBERS PRESENT: Maristuen, Christensen, Boyeff, Haugen, Long.

MEMBERS ABSENT: (one vacant seat)

OTHERS PRESENT: Kent Jarcik, Planning Director; Donald Kress, Principal Planner; Rachel Ressler, Senior Planner; Samantha Neill, Staff Planner; Josephine Ching, Staff Planner, Christine Edwards Administrative Assistant; David Tuan, Public Works Director; Bob Hanson, City Engineer; Jordon Evert, Assist. City Attorney.

DISPOSITION OF MINUTES:

- Minutes were approved for September 21, 2015 regular meeting. MOTION BY LONG, SECOND BY HAUGEN. CARRIED ON VOICE CALL.

COMMUNICATION:

PUBLIC HEARINGS:

- A. Proposed Ordinance 1026, an amendment to Ordinance 613, regarding temporary workforce housing – Staff

Maristuen introduced Item A of Public Hearings and asked Assistant City Attorney Evert to present. Evert said that Ordinance 1026 governs and concerns temporary workforce housing. The City Commission on September 22, 2015, made a motion to amend the ordinance to enable certain crew camp housing that wasn't otherwise permitted by special use permit (SPU) through the City. As background Evert stated that Ordinance 925 was the only enabling ordinance to allow temporary workforce housing in the City through a special permitted use (SPU) in M-2:Heavy Industrial zones only.

Evert stated that proposed Ordinance 1026 addresses temporary workforce housing that is not otherwise approved under Ordinance 925; temporary workforce housing per County conditional use permit (CUP) that has either been annexed or now subject to City ordinance within the extra-territorial jurisdiction (ETJ) would not have been able to continue as the City has no ordinance to allow it in any zone other than M-2. City Commission on September 22, 2015 requested that City go through and amend the applicable zoning districts to allow for temporary workforce housing to continue through July 1, 2016 to be completely vacated and that each of those crew camps must be demobilized, removed and the grounds reclaimed by September 1, 2016. Evert added that there are certain provisions of resolution 13-127 to be incorporated into this ordinance. If a camp is not able to meet the criteria they would not be eligible for the extension to July 1, 2016.

Ordinance 1026 requires an amendment to three zoning districts to allow temporary work-force housing in order incorporate and effectuate the City Commissions motion; Agriculture, Light Industrial and Heavy Industrial.

Evert then went over proposed Ordinance 1026.

Limited Permitted Use for Temporary Workforce Housing

1) Definitions:

- a. Temporary Workforce Housing shall mean one or all of the following meanings:
 - 1) employee housing, which may or may not be located on a principal heavy industrial parcel to be occupied by employees of a requesting business which use is temporary and having received approval pursuant to City of Williston Ordinance No. 925;
 - 2) employee housing, which consists of one or more workforce lodging units, ordinarily designed for human living quarters which may or may not be real property as defined in Section 57-02-04, N.D.C.C., and this type of employee housing has been granted by a conditional use permit by Williams County; and/or
 - 3) employee housing which is not otherwise permitted without receiving a special grant by the City of Williston through the applicable special permitted use process or by Williams County through the applicable conditional use permit process Zoning Ordinance.
 - b. Limited Permitted Use: a use of land in conformity with the uses temporarily permitted under a zoning classification which use is expressly subject to expire and terminate at the end of a fixed period. The intent of a limited permitted use is to allow a use of land for a temporary basis which is in conformity with a zoning classification but otherwise subject to what is known as a sunset law with such use becoming a non-permitted use at the end of a fixed period.
- 2) City of Williston Approved Temporary Workforce Housing. Existing temporary workforce housing approved under and in accordance with City of Williston Ordinance No. 925 whose special permitted use permit expired on or before December 31, 2015, shall be considered a conforming limited permitted use with said use being permitted until July 1, 2016, so long as the temporary workforce housing meets and complies with all requirements provided in Subsections (4), (5), (6), (7), and (10) below.
 - 3) Williams County Approved Temporary Workforce Housing. Existing temporary workforce housing approved under and in accordance with the applicable Williams County Zoning ordinance and Williams County's designated permit process resulting in a valid conditional use permit being issued by Williams County with said existing temporary workforce housing then becoming subject to the requirements of City of Williston Resolution 13-127 upon being annexed into the City of Williston corporate boundary or subject to the extra-territorial jurisdiction of the City of Williston shall be considered a conforming limited permitted use within the applicable zoning district until July 1, 2016, so long as the temporary workforce housing meets and complies with all requirements in provided in Subsections (4), (5), (6), (7), and (10) below. Williams County Approved Temporary Workforce Housing, as described herein, shall be subject to the limited exceptions described in Subsection (9) herein.

- 4) Application requirements: Evert explained that the list of requirements is identical with small modifications to what was approved in Resolution 13-127. Evert did not go through the list but directed the Commission to see the list in the draft ordinance in their packets and said he would be happy to answer any questions on it. He said that these are very standard requirements.
- 5) The temporary workforce housing operator shall sign a written a written agreement with the City of Williston acknowledging and accepting:
 - a) The Applicant is not in violation of any federal, state, or local law;
 - b) The occupancy for temporary workforce housing shall cease on or before July 1, 2016;
 - c) The removal of the temporary workforce housing facility shall occur on or before September 1, 2016; and
 - d) The site reclamation of the temporary workforce housing facility shall occur on or before September 1, 2016.
- 6) Failure to meet the requirements described in Subsection (5) above and execute the agreement described Subsection (6) above prior to December 31, 2015, shall result in termination of the approval process for the temporary workforce housing facility as provided herein, and the temporary workforce housing shall cease occupancy on or before December 31, 2015, and removal and reclamation of the facility shall occur on or before May 1, 2016.
- 7) Unoccupied temporary workforce housing facilities shall be stored only in areas zoned to allow outdoor storage and must meet the development standards of such zones for outdoor storage.
- 9) Exception to Subsection 3. The following Williams County Approved Temporary Workforce Housing, currently located in the extra-territorial jurisdiction for the City of Williston and have properly obtained a valid conditional use permit from Williams County through Williams County's designated process shall not be subject to provisions of Subsection 3 herein, but are subject to all other provisions of this Ordinance. The Williams County Approved Temporary Workforce Housing (as enumerated in the ordinance) shall be permitted to continue the use until the Applicant's conditional use permit expires. Upon expiration of the conditional use permit use of Temporary Workforce Housing shall become a non-permitted use.

Evert explained the proposed ordinance 1026 is really just to effectuate the motion adopted by the City Commission on September 22, 2015 and that he is asking the Planning Commission for a recommendation to the City Commission.

Maristuen opened the public hearing. Appearing by phone were Lance Leibole (?) of C&J Energy Services, Orlando Romero of Nabors Drilling and City Commissioner Deanette Piesik.

Orlando Romero stated that closing Nabors' crew camp would be detrimental to their business. Nabors does not offer per diem and their employees would not be able to stay in the Bakken. With the industry market right now being unstable employees are not willing to enter into long term leases. Their camp is closed to only Nabors employees. Any trouble by employee within the community terminates their employment and housing. Leibole of C&J Energy Services stated he would echo and support all comments made by Romero.

City Commissioner Piesik stated that she was concerned that the decisions to close the crew camps was based on faulty information from studies done by people with no understanding of the industry. She said she does not believe this is the right time to end workforce housing stating that it would discourage experienced workers from coming to our community. Staff stated that they are unaware of any such studies; nothing has been done through the Planning Department or to their knowledge the City's Economic Development Department.

Lonnie Brannin, representing Blackhawk Energy, spoke from the audience said they would have a very hard time getting skilled employees if they had no place to offer them to stay. Their crew camp is very close to the business itself. It provides a good community, protection and support to their employees. He added that Blackhawk had about two million dollars into their crew camp community. While there has been some downturn in the industry in recent months they fully expect an upturn in activity coming again soon and they are able to accommodate that if they are allowed to stay open. Brannin said in short if there is no housing there will be no employees, no business, and no financial support to the community.

Tom Lynch, representing Anderson Wood, stated that they are here to build crucial infrastructure for Williston. They are working with Mountrail Williams Electric Cooperative to provide power and with the City of Williston to provide water to the growing community. Their employees are seasonal and are here based on the skill set needed at any given time. Lynch said they have only a few year around employees and they have to have housing for the rest. Commissioner Boyeff asked Lynch to clarify if their housing was a closed camp and Lynch stated that it was.

Jim Trull, representing Knife River, also spoke from the audience and stated that their business is much like that of Anderson Wood. Their employees are largely seasonal, temporary employees who can't enter into a long term lease or home purchase. Commission Long asked what Knife River does in other communities for housing. Trull stated that other than one place in Alaska they do not offer crew camp housing. Long then asked where employees from other areas such as Dickenson go during the "off season" and Trull said they go back home or to work in a warmer climate until they are needed back again.

A Halliburton representative spoke from the audience and started that they are the largest employer in the County and 4th largest in the State. They believe that they have contributed \$100 million to the housing market here in single family, townhouse and apartments sales and rents and for two years they kept three hotels full. However now with the market fluctuating they still need to be able to provide temporary housing.

Evert clarified that proposed Ordinance 1026 does not repeal Ordinance 925 in any way. Evert would recommend a moratorium be placed on Ordinance 925 for a period of time in order to give the City time to decide whether to keep, modify or repeal Ordinance 925 in the future. This would mean that during the period of moratorium the City would not accept applications for crew camp facilities.

Commissioner Boyeff asked about where seasonal work-force housing would be addressed in the Ordinance. Evert stated that it is all tied into and considered under Ordinance 925 and proposed Ordinance 1026 and could also be dealt with more definitively during the period of recommended moratorium. He also reminded that at any time the Commission can come back with requests for changes by way of an ordinance amendment.

After a third and final call for public input and hearing none, Maristuen closed the public hearing and asked for the wishes of the Commission. A third crew camp representative came in via phone, Maristuen told him the public hearing had closed but that there would be another opportunity to address his concerns at the City Commission level. The caller indicated that he just wanted to concur with the statements of the Mr. Romero and Mr. Leibole earlier and that he had no problem waiting for further comment until the City Commission.

Boyeff asked about crew camp bed counts. Kress explained that staff does not have a daily count of beds in use only a number of beds permitted and referred the question to crew camp operators in attendance. Kevin Jefferies answered for Sunwell Services stating that they have 115 beds with 75-80 full currently and Lonnie Brannin of Blackhawk there are 80 beds with about 60 full. Anderson Wood has 68 beds with 5 beds unassigned; they also have 48 camper trailer spaces with only about 15 being used at this time. All three camps are closed camps meaning that only employees are allowed to stay.

Boyeff clarified with staff and attorney Evert that proposed Ordinance 1026 does not repeal Ordinance 925 and that Ordinance 925 would still be available for future use if needed. Evert stated that is correct but for his recommendation that a temporary moratorium would not allow the application for any crew camp during that time so that that the City could decide how they want to handle them going forward which could include further amendments to or even repealing Ordinance 925.

MOTION BY LONG, SECOND BY CHRISTENSEN, to recommend approval to the City Commission of Ordinance 1026 as presented. **DISCUSSION: Evert stated that Commissioner Aafedt had comments prior to this meeting (she was unable to attend) that he thought should be relayed to the Commission. Aafedt said she would like to see it made that no random, overnight guests could come in and stay at open crew camp facilities (those that are not restricted to employees of one company); only persons working a type of job or with a company associated with the oil industry be allowed to keep in line with the intent of Ordinance 925. City Commissioner Piesik, via phone, asked who had made the motion at hand and who had seconded it and added that she knows the crew camps in city limits and in the ETJ do not allow random guests so that concern does not address the groups at hand tonight. Commissioner Long answered Piesik's question by stating that she made the motion and Commissioner Christensen stated that he had seconded it. Long added that the reason she did so was that she has sat through many of the application presentations for workforce housing and that they all knew from the beginning that the intent was that workforce housing was to be temporary during a time there was extreme housing shortage. Long said she doesn't believe that the extreme housing shortage is an issue now. Boyeff stated that when he was involved in working with crew camps that they were all to be closed camps not allowing random overnight guests; the camp was located on land owned by the employers for housing their employees. Piesik finally stated that a time of slowdown in the industry is the wrong time to shut down crew camps. She said that if the city wants the industry to work, and she was confident it would, it isn't the time to ban housing when they are not making any money anyhow because it will only make it harder on the employers. AYES: Haugen, Christensen, Boyeff, Long. NAYS: Maristuen. ABSENT/NOT VOTING: Aafedt (one vacant seat). ABSTAINED: None.

Maristuen reminded that the City Attorney had recommended a moratorium on Ordinance 925 and asked if the Commission would like to act on that.

MOTION BY HAUGEN, SECOND BY CHRISTENSEN to recommend that a moratorium be placed on Ordinance 925. **DISCUSSION: Long asked if a specific time is required for the motion, Kress said that the draft says one-year and Evert said it could be left open for the City Commission to decide. Boyeff asked if it was necessary to go along with Ordinance 1026 and Evert stated he felt it was necessary to effect the motion adopted by the City Commission on September 22, 2015. Boyeff said he believed there was a moratorium already on Ordinance 925. Evert stated that Resolution 13-127 included no expansion or creation of new camps but does not prohibit application; he proposes the moratorium to temporarily prohibit application. Kress stated that 13-127 did state that no more applications for crew camps would be taken and there was no sunset clause on that. Evert stated he would still feel more comfortable having the moratorium so that the direction is clear. Should there be a spike in oil industry activity again and the City chose to use Ordinance 925 again it could; if nothing is done by the end of the moratorium then applications could again be submitted. AYES: Haugen, Christensen, Boyeff, Long, Maristuen. NAYS: None. ABSENT/NOT VOTING: Aafedt (one vacant seat). ABSTAINED: None.

B. Zone Change from C-2:General Commercial to M-1:Light Industrial for Lot 8, Block 6 Sloulin Field Addition, City of Williston – Interstate Power Systems

Maristuen introduced Item B of Public Hearings and asked Kress to present. Kress stated that this property is adjacent on the south and east to the Interstate Power truck repair shop and is under the same ownership. This use is not a permitted use in the C-2 zone. Rezoning this lot to M-1 will resolve this zoning violation, as truck storage is a permitted use in M-1.

The lot takes access from 6th Avenue West. Kress said there are no habitable structures on this lot and it is currently being used for storage of vehicles awaiting repair.

At the October 5, 2015 ad hoc committee meeting discussion included:

LOT 7, BLOCK 1: The proposed zone change is on Lot 8, Block 6 Sloulin Field 1st Addition. However, the applicant owns Lot 7, Block 1, Sloulin Field 1st Addition that is also part of this business enterprise of Interstate Power. The zoning and nature of the use on Lot 7, Block 1 came to the ad hoc committee's attention during the review of the proposed zone change for Lot 8, Block 6 and was also discussed. NOTE: Lot 7, Block 1 is simply a parking area for trucks that are in line to go into the shop. The applicant here has submitted an application for a Special Permitted Use for this lot to be used solely as a parking lots; this application will be presented at the November 2015 Planning Commission Meeting.

HISTORY OF LOT 8, BLOCK 6: This lot was originally zoned M-1. It was later rezoned to C-2: General Commercial at the request of the property owner to accommodate a mobile home dealership.

FUTURE OF DEVELOPMENT IN THIS AREA: The committee noted that, as the city continues to expand and develop, the area around Interstate Power will continue to be impacted, such as at such time when the North Dakota Department of Transportation relinquishes control of US Highway 2/85 to the City.

SURFACING: The committee discussed the appropriate surface for Lot 8, Block 6.

Kress explained that subsequent to the ad hoc meeting, Planning staff contacted the applicant to advised the applicant of the screening and landscaping requirements for Lot 8, Block 6 and Lot 7, Block 1, and also that the applicant must apply a special permitted use (SPU) for a parking lot in the C-2 zone if he wished to continue that use (as noted above this has been done).

Kress said that staff also inspected the properties and had a discussion with the applicant regarding landscaping, screening, and surfacing requirements for Lot 8, Block 6 as follows:

NORTHERN PROPERTY LINE: Existing slatted chain link fence to remain. No additional fencing or screening required.

WESTERN PROPERTY LINE

- **FENCING:** Six foot high fence with metal panels and pilasters. Existing slatted chain link gates may remain. Fence must be installed entirely outside of the public right of way.
- **BOULEVARD (Public Right of Way):** Street trees installed every 35 feet in the boulevard; boulevard planted with grass. It is the property owner's responsibility to maintain this landscaping even though the landscaping is in the public right of way.
- **SURFACE:** Fenced truck and equipment storage lots in the M-1 zone must have a dust-free, mud-free surface. Please submit a proposal for such a surface to the City Engineer's office for review.

Kress concluded his presentation and stated that the applicants were in the audience and available to address any questions from the Commission.

Commissioner Maristuen opened the public hearing and asked for any public input. Vince Story, representing the applicant, addressed the Commission and stated that he has been with Interstate power systems for 40 plus years and for the last 15 years has been in Williston. Story said he has seen the ups and downs of this area and has seen expansion all around them. Interstate Power requests to make all their adjoining properties a contiguous M-1:Light Industrial Zoning and agrees to work with the Fire Marshal to make all lots secure. Story said that Interstate Power would make staged proposal for fencing and landscaping as the current gates to not align with City curb cuts and there is currently no neighbors to the west of them. Story further stated that they are concerned about surfacing and the potential financial hardship it might place on them until there is a better understanding as what it happening around them.

Commission Haugen asked Story if the trucks that are being worked on are empty or loaded, referencing hazardous materials. Story stated that they require all trucks to be emptied before they are brought in for repair but occasionally a tow truck will drop a loaded truck during off hours.

Kress referred the Commission back to the discussion of surface requirements for the lots and said that staff is not asking for paving or hot-mix asphalt just that it be a dust-free, mud-free surface. City Engineer Hanson stated that he had done some (inexact) cost estimates on surface paving of the lots and stated that hot-mix asphalt could cost around \$250 thousand dollars whereas recycled asphalt could be \$100 thousand; Interstate currently has recycled asphalt surfaces.

Mike Ferguson, also with Interstate Power, addressed Commissioner Haugen's concern of hazardous materials on the trucks and said the Department of Transportation requires that any truck with any amount of hazardous material be placarded as such until certified clean. Ferguson stated that these trucks would be placed in secured fence and would not be worked on until emptied. Kress stated that the Fire Chief will be working on the secured storage of these trucks with Interstate Power.

After making a second and third call for public input and hearing none, Maristuen closed the public hearing and asked for the wishes of the Commission.

MOTION BY HAUGEN, SECOND BY BOYEFF, to recommend approval of the Zone Change from C-2:General Commercial to M-1: Light Industrial for Lot 8, Block 6, Sloulin Field 1st Addition, City of Williston, contingent on addressing all staff and ad hoc comments. AYES: Haugen, Christensen, Boyeff, Long, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt (one vacant seat). ABSTAINED: None.

C. Short Plat to create two lots, Sublot 5, Section 36, T155N, R101W (Frontier Museum east of Spring Lake), City of Williston – Mondak Humane Society

Maristuen introduced Item C of Public Hearings and asked Ressler to present. Ressler stated that this short plat is to rearrange Sublot 5 into Sublots 14 and 15. Sublot 14 is the southern lot, intended to be transferred to the MonDak Humane Society, and includes 2.49 acres. The north lot, Sublot 15, will retain the Frontier Museum and cell tower that are currently on the lot, and is 5.79 acres. Current zoning of Sublot 5 is P:Parks and Open spaces and is surrounding by Parks and Open Spaces on the South and east, Agricultural to the west and C-2:General Commercial to the north.

Ressler said that both lots will utilize a rural water line in 1st Ave E, and the Humane Society will install a new septic/drainfield system for their lot; as there is no city sewer in that area and the lot is over 1 acre, this is allowed.

Access for the Humane Society Lot (Sublot 14) will be taken from 1st Ave E, with final location to be approved with building permits. Access to the Frontier Museum and the cell tower on the proposed Sublot 15 will remain as is.

Ressler reminded the commission that a special use permit (SPU) was granted for the MonDak Humane Society to operate an animal shelter on Sublot 5 in October of 2014.

Staff will record amendments to the findings of the SPU's for the cell tower and the animal shelter to indicate that the cell tower SPU will be associated with Sublot 15 and the animal shelter SPU will be associated with Sublot 14.

At the October 5, 2015, ad hoc committee meeting discussion was on the existing SPU's (as explained above).

Ressler concluded her presentation; Maristuen opened the public hearing and asked for public input. After calling three times for public input and hearing none, Maristuen closed the public hearing and asked for the wishes of the Commission.

MOTION BY HAUGEN, SECOND BY BOYEFF, to approve the short plat for Sublots 14 and 15, a rearrangement of Sublot 5, Section 36, T155 N R101W, City of Williston, contingent on addressing all staff and ad hoc comments. AYES: Haugen, Christensen, Boyeff, Long, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt (one vacant seat). ABSTAINED: None.

- D. Short Plat to create two lots in Sublot 3, Section 29, T154N, R101W in the extra-territorial jurisdiction to the City of Williston - one lot to be for railroad right-of-way for BNSF Railroad - Steven Everson/BNSF – Houston Engineering

Maristuen introduced Item D of Public Hearings and asked Neill to present. Neill stated that the applicant requests a Short Plat for the rearrangement of Lot 3 in the SW ¼ of the SE ¼ of Section 29. This lot is zoned A: Agriculture and is located in the Extra-Territorial Jurisdiction. Lot 3 is 12 acres. The approval of this short plat will create two lots; 9.468 acres will be owned by Mr. Stephen Everson and the other 1.827 acre lot will be owned by BNSF.

Neill said that the subplot that will be owned by BNSF will be for railroad purposes only. These sublots would be smaller than the minimum lot size required in agricultural zones (minimum of 10 acres). BNSF plans to expand the existing railroad track to three rails. To do this they must acquire approximately 50 sublots to allow for room to perform maintenance when necessary. This short plat (5D), item 5(E) and an item on the November agenda will be the only three properties that they will acquire in the City's jurisdiction. The owners have already signed contracts with BNSF.

Neill stated that this property is currently undeveloped. Although the 9.468 acre lot would be non-conforming in the Agricultural zone, any future development would still have to meet all the development standards of the Agricultural zone.

The proposed lot (owned by BNSF) will only have access from the railroad. It will not be accessed from a public street because it will only be used for railroad maintenance purposes.

This land cannot be added to the existing BNSF right-of-way due to a title issue that is associated with rail road right-of-way. The railroad owns a right of way to construct and operate the rail line, however, it does not own the area occupied by the right of way in fee simple. Thus, a plat could not merge a lot with the existing right of way, because the lot is a fee simple ownership and the right of way is akin to an easement.

Neill stated that it would be noted on the plat that this subplot will only be used for rail road purposes.

At the October 5, 2015, ad hoc meeting it was discussed that staff had requested to see a master plan for all BNSF sublots. *The Muscha property, Everson, and one on the November agenda will be the only plats that BNSF will be applying for in the City's jurisdiction.*

Neill stated that staff met with John Shockley, attorney, to discuss options for ways to add land to the already existing rail road right of way. Please see analysis portion of this factsheet for more information regarding merging land into the existing right of way as discussed above.

Maristuen opened the public hearing and asked for public input. After calling three times and hearing none he closed the public hearing and asked for the wishes of the Commission.

Commissioner Boyeff pointed out a small triangular section of the larger proposed subplot that sits at the NW end of the proposed BNSF subplot and why it is not included in the BNSF subplot. Neill explained that there is a slope issue with that small section and that BNSF would not be able to access through that area and they had decided they did not need it.

MOTION BY HAUGEN, SECOND BY BOYEFF, to approve the short plat for Lot 3 in the SW1/4 of the SE1/4 of Section 29, City of Williston, contingent on addressing all staff and ad hoc comments. AYES: Haugen, Christensen, Boyeff, Long, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt (one vacant seat). ABSTAINED: None.

- E. Short Plat to create two lots in the S1/2 SW1/4, Section 29, T154N, R101W in the extra-territorial jurisdiction to the City of Williston - one lot to be for railroad right-of-way for BNSF Railroad - Craig and Rita Muscha/BNSF – Houston Engineering

Maristuen introduced Item E of Public Hearings and asked Neill to present. Neill explained that this application requests a Short Plat for the rearrangement of land in the southwest ¼ of Section 29. This lot is zoned A: Agriculture and is located in the Extra-Territorial Jurisdiction. This parcel is 14 acres. Neill stated that the approval of this short plat would create two lots; 13.009 acres would be owned by Craig and Rita Muscha and the other 0.594 acre lot would be owned by BNSF as with the previous item for the purpose of railroad maintenance only.

Craig and Rita Muscha have a residence on the lot. There is also right-of-way grant tied to this property for access to oil pad on the property to the east. Creation of the BNSF lot will not include this road. This right-of-way will be called out on the plat.

The proposed lot (owned by BNSF) will only have access from the railroad. It will not be accessed from a public street because it will only be used for railroad maintenance purposes.

Neill stated that as with the previous item, this land cannot be added to the existing BNSF right-of-way due to a title issue that is associated with rail road right-of-way. The railroad owns a right of way to construct and operate the rail line, however, it does not own the area occupied by the right of way in fee simple. Thus, a plat could not merge a lot with the existing right of way, because the lot is a fee simple ownership and the right of way is akin to an easement.

It will be noted on the plat that this subplot will only be used for rail road purposes.

Maristuen opened the public hearing and call three times for public input. Hearing none he closed the public hearing and asked for the wishes of the Commission.

MOTION BY HAUGEN, SECOND BY CHRISTENSEN, to approve the short plat for the lot in the SW1/4 of Section 29, City of Williston, contingent on addressing all staff and ad hoc comments. AYES: Haugen, Christensen, Boyeff, Long, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt (one empty seat). ABSTAINED: None.

F. Short Plat to create 3 lots from a parcel in Section 7, T154N, R100W, (along 135gh Ave. NW), City of Williston – Scott and Jamie Ellis/Westrum’s Land Survey

Maristuen introduced Item F of Public Hearings and asked Kress to present. Kress explained the location of the land for this item and explained the surrounding zoning. Kress stated that his application is a request for a short plat to divide one 8.39 acre residential lot into three smaller residential lots as shown:

Lot Number	Size (acres)
1	5.4
2	1.5
3	1.2

There is an existing residence on Lot 1 that will remain. Lots 2 and 3 are undeveloped at this time. Kress said the property is zoned R-1E: Rural Estate. No zone change is requested. The proposed lots meet the one-acre minimum lot size requirement of that zone.

The lots will take access from 13th Avenue East, a dedicated public street.

As public sewer is not available in this area, and no sewer is planned for the immediate future, the lots will be served by individual septic systems. The lots meet the one-acre minimum requirement for septic systems which these lots meet. Water will be provided by an existing Rural Water line.

Discussion at the October 5, 2015 ad hoc meeting included:

ACCESS TO LOT 3: The City Engineer noted that a portion of the applicant’s property is separated from 13th Avenue East by a portion of another property that lies on both sides of 13th Avenue East, which may require revision of the access to proposed Lot 3. **NOTE:** Subsequent to the ad hoc meeting, staff researched this property and found that the portion of the adjacent property south and west of 13th Avenue East is a public easement, so access to Lot 3 will not need to be revised; the portion of the adjacent property can be crossed to provide access.

AVAILABILITY OF WATER: The applicant intends to use an existing Rural Water line to provide water. This water line already provides water to the existing residence on proposed Lot 1. The Public Works director noted that the water pressure in this water line is low, and can currently support only a limited number of connections until such time as it is connected to the future WAWS line. This WAWS line is an essential part of the WAWS infrastructure and is scheduled for completion in 2016, though there is no guaranteed date for completion at this time.

There was considerable discussion among the committee regarding the City’s obligation to insure that lots created in plats have access to a water supply, how to guarantee that, how to notify future buyers of the possibly uncertain water supply situation, and what the chances were that surrounding properties would consume the remaining available water in the Rural Water line before the lots proposed by this plat would be developed. The City Attorney recommended the staff get in touch with applicant Scott Ellis and discuss this water supply situation with him, and the committee approved that recommendation.

OCTOBER 9 PHONE MEETING WITH SCOTT ELLIS

On October 9, the City Attorney and Planning staff had a phone conversation with applicant Scott Ellis regarding the water supply situation discussed at ad hoc (noted above). The outcome of this conversation was that staff would create a short development agreement that explained the water supply situation. This development agreement would be recorded with the plat.

Kress read the draft Development Agreement:

Proposed Lots 2 and 3 are intended to be served by an existing Williams Rural Water line. This water line has limited capacity for future connections until such time as it is connected to a proposed Western Area Water Supply (WAWS) transmission line that is scheduled to run through this area.

Any development of Lots 2 and 3 must be served by a public water supply. Development of these lots cannot be approved unless a public water supply is available to Lots 2 and 3 of the JJ Ellis Subdivision.

MOTION BY CHRISTENSEN, SECOND BY BOYEFF, to approve the short plat to create three lots from Government Lot 4, T154N, City of Williston, contingent on addressing all staff and ad hoc comments on water and access, plus a development agreement addressing the water supply concerns. AYES: Christensen, Boyeff, Long, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt (one vacant seat). ABSTAINED: Haugen.

COMMITTEE REPORT: NONE

UNFINISHED BUSINESS:

- A. Short plat for rearrangement of an 11.91 acre parcel in the SW1/4NW1/4 of Section 22, T154N, R101W, into two sublots, north of Hwy 2/85 and east of 27th Ave W and a zone change for the entire property from A: Agricultural to C-2: General Commercial - Martin Reiger/Jeff Ames

Kress stated that this item continues to have access issues and at the request of the applicant's engineer, staff recommends this item be tabled for one more month. MOTION BY BOYEFF, SECOND BY CHRISTENSEN, to table this item until the November Planning Commission Meeting. CARRIED ON VOICE CALL

NEW BUSINESS:

- A. Parking reduction request for Block 1, Lot 6, Crouse Subdivision Rearrangement of Block 1 (16th Ave. W and West Dakota Parkway), City of Williston – Park Hill Properties, LLC/Wenck Associates

Maristuen introduced Item A of new business (as above) and asked Neill to present. Neill state that this application requests a reduced parking ratio for a health club. The applicant is requesting a modification of the required parking by reducing their parking ratio from 1 space per 100 square feet plus employees (which is the code's existing parking ratio) to a ratio of 1 space per 200 square feet for a health club use. Ordinance 963 provides for a reduced parking ratio for the principal use on the lot.

Currently, Anytime Fitness and a tanning salon occupy the building on Lot 5, Block 1 of the Crouse Subdivision. They are planning on expanding the existing 10,375 square foot building by adding 7,500 square feet of retail and 1,750 square feet onto the existing health club. The applicant is only requesting a parking ratio reduction for the health club portion of the building. The retail will still have to meet the required parking ratio of 1 space per 250 square feet.

With the existing parking ratio for health clubs, they would have to provide 122 parking spaces plus 30 spaces for retail with the addition to their building. With the applicant's proposed ratio modification (1 per 200) they would need to provide 61 parking spaces for the health club plus the 30 spaces for retail, totaling 91 parking spaces for the entire building.

Findings are listed below for the Commissioner's consideration:

(Ordinance 963 is attached for reference)

The parking lot will be accessed from 16th St W. 16th Ave W is being extended out to US Hwy 85 but lots 5 and 6 will not have access onto 16th Ave.

The applicant will have to follow the Landscaping Ordinance 1007 by providing street trees along 16th Ave W and U.S. Hwy 85. The street trees along U.S. Hwy 85 will be planted on the applicant's property and not in the highway boulevard. Parking lot screening will also have to be installed along Highway 85. Staff recommends not requiring boulevard trees and parking lot screening to be installed on 16th Street West since concrete has been installed in the entire boulevard.

Discussion at the October 5, 2015 ad hoc meeting included:

Applicant presented information of current usage of the health club (information on peak hours/amount of people are included in your packet).

West Side Drive: Applicant will have to contact Fire Chief and Public Works Director to work out possible issues with turning radius and garbage pick-up aisle on the west side of the lot. This lane might have to be a one-way. *Fire Chief and Public Works Director are OK with the plan that is attached.*

Staff Comments:

CITY PLANNING

1. The applicant will have to provide street trees (located on their property) along Hwy 2/85 along with parking lot screening. They will also have to provide street trees in the boulevard along 16th Avenue. They will not have to provide street trees along 16th Street due to the existing concrete.
2. The cities listed in the American Planning Association as examples for health club parking ratios are consistent with the applicant's proposed parking ratio.

ENGINEERING

1. City Engineer suggests 10'x20' parking spaces due to the amount of larger trucks in Williston. *Our current code requires 9.5'x 18.5' parking spaces which the applicant has shown on their site plan.*
2. City Engineer also wanted to point out that the applicant might face some difficult grade challenges along 16th Ave W.

Brian Zuroff, the project engineer, addressed the Commission and stated that currently the building provides parking at 1 space per 200 sq. ft. of building; 52 spaces. He said that right now the most cars in the parking lot at their peak time in the fitness center is 30, one for each person in the center at any given time and added that the fitness center parking lot provides some extra parking for Grandma Sharon's restaurant. Zuroff showed the Commission the architect images of the proposed building and parking lot.

Commissioner Haugen asked about parking stalls of 10ft. x 20ft. Zuroff stated that the city code only requires 9 ½ ft.x18 ½ ft. stalls which is provided for in their proposal and said the national average for parking stall size is only 8 ½ ft. x 17 ½ ft. For this project to provide stalls of 10 ft. x 20ft. would require an even greater reduction in the number of stalls. Zuroff stated that they are trying to maximize use of the space and provide some green space as well even though it is not required for the zone. He added that the property owners would like to provide a nicer look to the community.

Haugen stated that he does not like when a new development's first step is to ask for a parking reduction. He continued by saying that young people in this area drive big trucks that do not fit smaller parking stalls and that he has seen many times early in the mornings the fitness center parking lot overflowing with cars. Commissioner Christensen supported having also seen the lot packed in the mornings.

Dan Schmalz, property owner, spoke from the audience and said that if one would overlay the proposed lot with the current lot, they would see that there is actually more parking space being offered by the new design; it will increase parking availability by 44 stalls.

MOTION BY BOYEFF, SECOND BY LONG, to recommend approval of the request for a reduced parking space ratio for the health club located at 1542 16th St. W., City of Williston, contingent on addressing all staff and ad hoc comments. **DISCUSSION: Haugen asked about consideration for providing larger parking spaces (10ft. x20ft.) The applicant stated that they would restrict parking of larger vehicles to stalls nearest the roadway and mark that with appropriate signage. Commissioners agreed to that and Boyeff amended his motion to include, as a contingency: Providing designated parking for larger vehicles to a specific area to be fully signed. Long seconded the amendment. AYES: Haugen, Christensen, Boyeff, Long, Maristuen. NAYS: None. ABSENT/NOT VOTING: Aafedt (one vacant seat). ABSTAINED: None.

- B. Final Plat for 67.67 total acres for Iron Point Subdivision located in the SW1/4, Sec. 20, T154N, R101W, City of Williston – Iron Point West/CSC General Contractors, Inc.

Maristuen introduced Item B of new business (as above) and asked Ressler to present. Ressler stated that this is a final plat of Iron Point Park Subdivision and said that the preliminary plat and zone change were approved in September of 2015 by the Planning and Zoning Commission on October 13, 2015 by the City Commission.

Ressler reminded the Commission that it was agreed at an August 19, 2015, meeting that all parties were in agreement to support a signal placed at 140th St. At that same meeting, it was agreed that improvement and maintenance costs associated with 140th would be worked out through further discussions among the City, County, and Township (this is still in progress).

The signal would be placed at 140th at such time as warrants for a signal are met.

An entrance to the plat remains at the Schlumberger entrance, and that road, which will be 60th Ave W, continues to the north side of the plat. 60th Ave NW will need to be paved. There is a road which connects the gravel road behind Schlumberger to 140th. This will need to be paved and connected to the gravel road. Iron Point Avenue runs from 60th Ave W to 140th Ave NW on the south side of the plat. This will need to be paved as well.

The Developer will provide water and sewer to the entire plat.

Ressler explained access from individual lots onto 140th Ave NW would be as follows: Lots 2-5 of Block 2 will access 140th directly. Lots 1 and 6 of Block 2 will access Iron Point Ave and 4th St W, respectively. If those two lots need to access 140th, they would do so through a shared access agreement with Lot 2 and Lot 5.

Detention for the site will be through Lot 4, Block 1, which is an existing wetland. This site will need to be appropriately landscaped and maintained, as well any additional ponds, which is to be worked out with the City Engineer.

Road widths throughout the subdivision are as follows:
80' Right of Ways will be provided for Iron Point Ave, 4th St W, and 60th Ave W. 60th Ave W through the northern side of the intersection with Iron Point Ave, and Iron Point Ave will be constructed with a 42' wide back of curb street. 60th Ave W north of Iron Point Ave and 4th St W will be constructed to a standard 38' back of curb.

October 13, 2015 City Commission Discussion: The City Engineer has stated his approval for those private utilities to be placed in the right of way. The various utility companies have not made a comment. The project engineer has provided a phasing plan as requested by the City Engineer at this meeting.


Commissioner Haugen said that with the previous plat version and the light being placed at 139th, the cost of the traffic light installation was to be solely the responsibility of the developer and asked why now with the location changed to 140th is there discussion on who will pay for it. City Engineer Hanson stated that cost of the installation of the light on the state highway will be either entirely on the State or on the City. If the City has to make arrangements to pay for it they will have to look at special assessments to the people generating the traffic which could be a problem because it would involve people both in and outside of the city limits which comes up to 140th but does not include 140th thus the reason for ongoing communications. Hanson added that traffic warrants for this light will be different than the original plat for the light at 139th as there was to a gas station/convenience store on the lot at that point as the gas station/convenience store is no longer part of the plan.

Haugen then asked about the phasing plan in regard to paving. Ressler stated that the Development Agreement will specify that all improvements; water, sewer, and paving, are required to be in place before grading permit, building permits, certificates of occupancy can be issued. Paving for phase 1 would need to be done to support phase 1 and paving for phase 2 would need be done to support phase 2.

MOTION BY BOYEFF, SECOND BY CHRISTENSEN, to recommend approval of the final plat for Iron Point Park Subdivision, located in the SW1/4 of Section 20, T154N R101W, containing approximately 68.7 acres, contingent on a development agreement being signed and addressing all staff comments. AYES: Haugen, Christensen, Boyeff, Long and Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt and (one vacant seat). ABSTAINED: None.

DATE OF NEXT REGULAR MEETING: November 16, 2015

MEETING ADJOURNED.



Kent Jarcik, Williston Planning Director