

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON OCTOBER 20, 2014 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.

Boyeff called the meeting to order at 5:30pm. Roll Call was taken. A Quorum was present.

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

MEMBERS ABSENT: Fleck

OTHERS PRESENT: Kent Jarcik, Planning Director; Donald Kress, Principal Planner; Rachel Ressler, Staff Planner; Samantha Neil, Staff Planner; Kelsey Vlamis, Planner/Code Compliance; Christine Edwards (Administrative Assistant); Bob Hanson, City Engineer; Jordon Evert, Assist. City Attorney; Kelly Aberly, Building Dept.

DISPOSITION OF MINUTES:

- Minutes were approved for September 15, 2014 regular meeting. MOTION BY CHRISTENSEN SECOND BY HAUGEN. MOTION CARRIED ON VOICE VOTE.

COMMUNICATION:

- a. Boyeff stated that there were a couple of items that have been requested, by applicants, to be removed from the agenda and that Kress would quickly address those when they were up.

PUBLIC HEARINGS:

- a. Preliminary plat of Code Estates, proposed 57 lot single-family, duplex and townhouse subdivision on 11.08 acres located at 917 42nd Street East, City of Williston – Code Estates, LLC/Sanderson Stewart

Boyeff introduced the first public hearing (as above) and asked Ressler to present. Ressler reminded the Commission of the vicinity of the property known as Code Estates and stated that the plat is for 11.08 acres of property in the SE ¼ of Section 1, T154N R101W, currently with one dwelling unit on it. Ressler explained that the plat also includes Lot 49 of Block 1, currently owned by David Benth, in order to facilitate a lot line adjustment for Mr. Benth; however, Mr. Benth's lot will not change zoning from A: Agricultural, and the area of his lot is not included in the area of the zone change. Ressler said that the zone change requested is from A: Agricultural to R-3: Low Rise Multifamily and Townhouse Residential.

The concept plan was presented by Ressler showing 7 buildings of 3-8 townhouses, for 38 townhouse units total, 2 twinhomes (4 units total), and 14 single family homes, not including the Code house, making a total 15 single family homes on the project. Ressler added that the townhouse lots range from 21 to 29 feet wide. The concept plat includes a private street running along the back of most properties, as well as a public street that allows access to the development at 45th St and 42nd St.

Ressler stated that the proposed layout seems to be an appropriate step down from the R-4 zoning to the east and gave a brief reminder of access to and from the project adding that access has not changed since the first time this project was in front of the Commission.

- Access from 42nd St through an existing driveway that will become a north/south dedicated public street
- 45th St on the north side of the development although it is unable to be fully developed due to not being able to acquire the full right of way width. The developer will develop the south 38' feet of road, they will install full curb and gutter, boulevard and sidewalks on the south side of that temporary access road
- There will also be no parking allowed on 45th St within this property

Ressler further stated that water and sewer will access the property from the west through the North Gate Subdivision.

Storm drainage is important for the overall water system since a large area of the city drains into Code Estates. Ressler said it will travel across Northgate, into a drainage ditch on the Scheele property, there is currently no specific easement on the Code property and that if the drain system is overwhelmed, it will flow into the drainage overflow pond proposed with Code Estates, then flowing into the system.

The fire chief was asked, at the October ad hoc meeting, if fire trucks and emergency vehicles could fit through the alley; he said the 24' width met code, though he does have concerns. He asked that the alley be signed for no parking.

Ressler explained that snow removal was also a discussion at ad hoc and added that the alley is to be signed no parking, and if snow removal in the alley will not fit in the 8 ft. to the west of the townhomes, then the Homeowners Association would need to remove it from the property completely.

Ressler said that she recently spoke to neighboring property owner, Lois Scheele, who indicated that she was ok with the new proposal as the building height did not go above 2 stories.

Aafedt asked Ressler about an email from Kathy Harger who owns the property to the north. Ressler states that Ms. Harger asked about 45th St. and whether or not that was a standard street size; Ressler answered that it is a standard street width but reminded that only the south half would be paved and built with curb, gutter, sidewalk, boulevard and street trees. Ms. Harger's email inquired about boulevard and set back from her property; Ressler stated neither of those things existed and clarified that the street is built to the edge of her property. Short discussion was had concerning the remaining items of the email: happy to see more single family homes; continued concern about oil-field workers living in the subdivision; concern about accessibility by emergency services within that subdivision.

Ressler concluded her presentation and Boyeff asked for any public comment on this project. After asking three times and hearing no public input he closed the public hearing and asked for the wishes of the board.

MOTION BY MARISTUEN, SECOND BY CHRISTENSEN, to approve the preliminary plat of Code Estates, proposed 57 lot single-family, duplex and townhouse subdivision on 11.97 acres located at 917 42nd Street East, City of Williston, contingent upon addressing all staff and plat comments, CC&R's and Homeowner's Association documents being reviewed prior to filing, right of way dedication of 45th St. being documented and a Development Agreement being recorded. ****DISCUSSION** prior to vote Haugen stated that he had had discussion with Lois Scheele prior to the meeting and she asked if any changes made to the project when and if approved would be brought back in front of the Commission. Boyeff clarified with Ressler that his is a preliminary plat and that this plat would have to come back before the Commission for a

final approval of any changes that might be made. Haugen stated it is his wish that there are no more changes to this proposal. Maristuen asked if at the final plat stage the applicant could provide a rendering of what the twinhomes would look like for the benefit of the Commission.** Boyeff called for the vote. AYES: Long, Haugen, Aafedt, Maristuen, Christensen, Boyeff. NAYS: none ABSENT/NOT VOTING: Fleck. ABSTAINED: None.

MOTION BY LONG, to recommend to the City Commission approval of the zone change from A: Agricultural to R-3: Low Rise Multifamily and Townhouse Residential for 11.08 acres of property in the SE ¼ of Section 1, T154N R101W, City of Williston, contingent on approval of the final plat. **DISCUSSION, prior to a second, by about where to handle the issue of a height restriction. Planning staff reminded the Commission that the Zoning Code addresses building height rather than stories; the height restriction by Zoning Code is 45 ft. Comment is made that 35 ft. might be more acceptable and applicant felt that would not be a problem. It was decided that a height restriction would be best addressed in the development agreement.** LONG AMMENDED HER MOTION: to read "contingent on recordation of the final plat and approved Development Agreement". SECOND BY HAUGEN. AYES: Long, Christensen, Haugen, Aafedt, Maristuen, Boyeff. NAYS: none ABSENT/NOT VOTING: Fleck. ABSTAINED: None.

- b. Administrative Review plat, a rearrangement of Lots 2A and 2B, Block 31, Pheasant Run First Addition, City of Williston – Riggers Store 1, LLC/Alliance Consulting

Boyeff introduced the second item on the agenda (as above) stating that this would be a presentation of two separate agenda items that are tied together; he asked Kress to present. Kress stated this plat was originally submitted concurrently with a request for a zone change of one of the lots to be created from this plat from C-2: General Commercial to R-3: Lowrise Multifamily and Townhouse Residential. The applicant had requested that the zone change request be tabled. Kress explained that going forward with the Administrative Review both lots resulting from the plat would keep their current C-2 zoning. Kress pointed out the location of the property to the Commission.

Kress said that the applicant seeks to rearrange Lots 2A and 2B, Block 31, Pheasant Run Subdivision into Lots 2R and 3R. Lot 3R (1.19 acres) will include the Racer's Convenience store and would keep its two current accesses—from 26th Street West and from 27th Street West. Lot 2R (0.58 acres) does not have any development on it at this time, and would take access from 27th Street West.

Kress stated that the original Pheasant Run 1st Addition plat depicted a single large lot, Lot 2 of Block 31, on the corner now occupied by the Racer's property plus the lot occupied by the current Riviera Finance building. Water and sewer connections for the single large lot came from 26th Street West, as there are no water or sewer mains in 27th Street West. The existing two lots occupied by the Racer's property, plus the adjacent lot occupied by the Riviera Finance building, resulted from a replat of Lot 2, Block 31, Pheasant Run 1st Addition, in 1984. Kress said this replat led to a divided water and sewer service to serve these lots, no additional connections were made to 26th Street when Lot 2, Block 31 was divided into three lots. This divided service still exists.

For the proposed plat, water and sewer could be provided to Lot 2R through an easement through Lot 3R; it is possible to have separate shut-offs and meters for the water for each lot. Also, a maintenance agreement for the water and sewer line between all parties served by the single connection from 26th Street, designating how the parties would share the costs of repair and maintenance of the water and sewer lines, would be required to be created and recorded prior to recordation of this plat. Kress added that the City Engineer and the Fire Chief had both

noted that the development on Lot 2R is limited by the capacity of the water line, a 2-inch line. Staff recommended that Lot 2R be developed with a low-intensity commercial use.

Kress reminded the Commission that the property is zoned C-2: General Commercial and stated that there is no minimum required lot area for this zone. There is no zone change associated with this plat having been voluntarily removed from the agenda by the applicant.

Aafedt questioned that there had originally been an apartment building proposed on this property. Kress responded by saying that the zone change was requested to allow that but reminded the Commission that the applicant has chosen not to bring them forward at this time; apartments are not a consideration in this Administrative Review. Kress asked the applicant, Greg Bradford, if he intended to bring the zone change back. Bradford said he needed to re-evaluate things so would just ask that the zone change be removed from the agenda all together.

Boyeff called three times for public input, hearing none he closed the public hearing and asked for the wishes of the Commission.

MOTION BY MARISTUEN, SECOND BY AAFEDT, to approve Administrative Review plat, a rearrangement of Lots 2A and 2B, Block 31, Pheasant Run First Addition, City of Williston, as presented. AYES: Long, Haugen, Christensen, Aafedt, Maristuen, Boyeff. NAYS: none ABSENT/NOT VOTING: Fleck. ABSTAINED: None.

- c. Administrative Review plat to rearrange Lots 1 & 2, Block 6, Fairhills Subdivision to be known as The Bluffs of Williston Commercial Subdivision, City of Williston – Roers Investments, LLC/Civil Science Infrastructure, Inc.

Boyeff introduced the third item on the agenda (as above) and asked Kress to present. Kress stated that the Commission approved an administrative review plat on this block from the same applicant in July, 2014. That plat was intended to remove the lot line between the two lots; however, while it was approved it was never recorded. Kress explained the applicant requested significant changes therefore they had withdrawn the previous plat, submitted a new plat and a separate application.

Kress said that the configuration of the lot line depicted on the new plat results from the applicant's intent to create a separate lot for each of the two 74-unit apartment buildings under construction. Lot 1 will take access from 31st Avenue West; Lot 2 will take access from 31st Avenue West and 29th Street West. Neither lot will take access from 32nd Avenue West. Water and sewer are available in these streets.

Kress noted that any driveway shared by both lots, such as if one is created accessing 31st Avenue, must have a shared driveway agreement for maintenance and access.

This project was discussed at the October 6, 2014 ad hoc. Kress pointed out staff notes in the Commission packets and stated that the Park District said there was no impact on them as long as the trail goes in on 32nd Ave. as addressed in the original Fairhills plat. Kress further said that after a brief explanation of the project by staff, the ad hoc committee recommended approval of the administrative review plat. Kress concluded his presentation.

Haugen stated he believed this to be a higher density project. Kress reminded that the original project approved in July, 2014 was higher density but that plat was never completed and the plat presented was submitted in its place. Developer has withdrawn the first plat.

City Engineer Hanson questioned that this is a multifamily residential development but the plat title said "Commercial Subdivision". Project engineer, Doug Perkins of Civil Science, said that was a printing mistake and it should/will actually be "Commercial Suites".

Boyeff called three times for public input, hearing none he closed the public hearing and asked for the wishes of the Commission. No further discussion or questions were presented by the Commission.

MOTION BY LONG, SECOND BY CHRISTENSEN, to approve the Administrative Review plat to rearrange Lots 1 & 2, Block 6, Fairhills Subdivision to be known as The Bluffs of Williston Commercial Subdivision, City of Williston, contingent upon addressing all staff and plat comments and correcting the plat title. AYES: Long, Haugen, Maristuen, Aafedt, Christensen, Boyeff. NAYS: none. ABSENT/NOT VOTING: Fleck. ABSTAINED: None.

- d. Zone Change request from general commercial to R-3 for .58 acres currently vacant land, to build 10 apartment units. Surrounding zoning is C-2. Property located on Lot 2A, Block 31, Pheasant Run First Rearrangement (behind Racer's 26th St. W. Convenience Store) City of Williston – Riggers Store 2 LLC

This item was tabled and would be removed, will not appear under un-finished business per the applicant, Greg Bradford. No action required.

COMMITTEE REPORT:

UNFINISHED BUSINESS:

Kress explained that any approval of this SPU there would have to be contingent on approval of the zone change; therefore he would like to present the zone change first and come back to the SPU afterwards.

- a. Special Use Permit (SPU) request for a gravel pit in and A:Agricultural zone, Lot 1, Block 2, Saddle Ridge Subdivision, City of Williston – Go Aggregate, LLC

It was decided that since the recommendation of the Commission was to deny the zone change, the SPU would remain tabled until after the applicant had presented the zone change to the City Commission (November 12, 2014); no further action was required.

- b. Zone change from M-1: Light Industrial to A: Agricultural for Lot 1, Block 2, Saddle Ridge Subdivision, City of Williston – Go Aggregate, LLC / R&R Engineers, Becky Hogan

Boyeff introduced this zone change (as above) and asked Kress to present. Kress first explained the location of the proposed zone change and stated that the property is undeveloped except for previous gravel excavations. A map depicting the topography of the project site and surrounding area, prepared by the City Engineer, was referenced.

Kress said the applicant requests this zone change from M-1 to A in order to develop a gravel pit on this property. Gravel pits are only allowed in the A: Agricultural zone, and only as a special permitted use (SPU). The applicant has concurrently applied for the SPU for gravel pit in the A zone. Kress stated that the applicant stated that Lot 1, Block 2 contains 1.3 million to 1.8 million tons of aggregate that will take approximately three years to fully extract.

Kress stated that one concern of this project is that it is at the end of 50th St. W. 50th Street West is not open directly all the way through to 16th Avenue West; trucks will have to turn right and then left to get onto 48th Street West. The City is not able to open up 50th Street all the way to 16th Avenue West because of title issues with those property owners. Kress stated that upon reaching 16th Ave. West, trucks going east or south would have to get on either County Highway 7 (42nd Street) or 7C (58th Street) to get to the intersection of one of these roads with Highway 2/85. Kress said that from 16th St. W to the north there could be a possible alternate access through a Statoil site although the road is owned by Statoil and is not an option at this time.

Another concern with 50th St. being a gravel road would create a dust and traffic issue. Kress told the Commission that the applicant did invite staff and Commissioners out to the area for a demonstration of a dust palliative was applied to several hundred feet of 50th St. While it was a semi-rainy day the full effect of the palliative could not be appreciated but Kress stated that he could see the difference. Staff and the applicant discussed an agreement wherein the applicant would maintain that road, through the life of the project, with that palliative.

Kress pointed out that areas to the west and north of this project site are in the City's direction of growth. The area to the west is within the City's Tier 1 Growth Area, while portions of sections to the north and the full next section to the west (Section 4) are within the City's extraterritorial jurisdiction. Kress stated that these are areas into which the City is expected to grow, especially once the airport moves to a new location and the runway protection zone restrictions on this area are lifted. Residential and commercial developments are expected in this area, with connections to the existing road network through extension of 32nd Avenue West and 42nd Street West. Kress said that staff feels a gravel pit developed on the project site would soon be an in-town gravel pit and also a potential deterrent to future development in this area.

Kress stated that the project was reviewed in the September 2014 ad hoc and tabled for that month at the request of the applicant. Kress briefly went over some of the ad hoc notes presented in the Commission packets noting the comment on increased traffic impact and adding that the applicant has countered that believing it would be a decreased impact (presented later). Kress also touched on the issue of air quality stating that the Parks Department had significant concerns that the dust would drift on to the golf course to the south. In regard to paving Kress said that the City Engineer stated the only project currently on a CIP was reconstruction of 16th Avenue going north. Paving for the other streets is dependent on funding availability.

During the demonstration of the dust palliative a site visit was also done and discussion from that included:

- The applicant stated they would maintain the haul route for the life of the gravel pit, or pave 50th Street with asphalt;
- City Engineer stated that a sewer would have to be installed in 50th Street prior to paving;
- The Public Works Department required that the applicant provide a contact number to respond to road maintenance and particularly dust control questions and complaints
- Reclamation of the gravel pit will be required. The property owner suggested the reclaimed area might be able to be used as a park facility. Planning staff suggested the property owner contact the Park and Recreation District for further discussion of this topic. Kress stated that it is estimated that this pit could be 30 ft. lower than it currently is once it is fully mined out; and
- The Public Works Department expressed concern that the large number of trucks from this project would create a significant increase in dirt/mud on 16th Avenue West and 42nd Avenue West, compounding an already challenging problem to keep these streets clean.

Kress stated that the applicant had provided three letters of support which were in the Commission packets and said that there is one letter of opposition and one adjacent property owner who called in his opposition. Kress directed the Commission to the draft findings in their packets and fully read finding number 8:

8. *General compatibility with adjacent properties and other property in the district.* This project site is within the city's Tier 1 growth area, which means additional area to the west and north would be considered for expansion of the city, as a direction of city growth is to the northwest. Gravel extraction is not compatible with this direction of growth. This area north of the airport was developed as industrial due to its proximity to the airport and, more significantly, the runway protection zones, which limit residential or commercial construction. As the airport is expected to move in the near future, the runway protection zones will no longer be in place in this area to restrict the type of development, allowing residential and commercial development where it is currently limited.

Kress continues through the Commission packet noting that Section 25(L) of the Williston Zoning Ordinance requires certain conditions on any SPU for a sand and gravel pit which were enumerated in the packet such as: boundaries, bonding, and reclamation. Kress read aloud conditions 11 and 12 stating that they were issues brought up at the ad hoc meeting:

1. All permits shall be in full force for a period of five years from the date of issuance thereof unless a shorter time is set by the Planning and Zoning Commission. Such temporary permits may be renewable by the Planning and Zoning Commission for the same period of time or less, without further notice, hearing, or posting of the property involved; provided, however, that the operator has complied with all the terms and conditions of the original permit. A renewal of a permit shall be considered as a new permit with respect to fees.
2. The Planning and Zoning Commission shall have the power to cancel permits upon proof of violation of any of these regulations.

Kress finally stated that the ad hoc committee recommended the project go before the full Planning Commission; however that Planning Department staff recommends denial of the SPU for a gravel pit as not compatible with current development and future growth of the surrounding area which would also apply to the zone change as well. Kress concluded his presentation and stated that Becky Hogan, the applicant's representative had a presentation to make at that time.

Becky Hogan, engineer with R&R Engineers, began by stating that they actually had 6 letters of support. Further she introduced Jess Miner, Charles Bates and Chuck Bates as representing Go Aggregate as well as Charles and Darren Owan, the property owners.

Hogan stated that they decided after the September ad hoc to table this project for one month to allow them time to address the concerns raised at the meeting. She felt they had done so and said that Jess Miner would continue the presentation.

Miner discussed the letters of support and acknowledged the differing opinions of the businesses in that area. He explained that the company does supply aggregate for oil field and community projects and stated that they were supplying aggregate for a local county road project at the current time. Miner suggests that this location is on the edge of "town" and that if it isn't mined now and the town continues to grow, if it is not utilized now it will never be.

Miner suggested that Go Aggregate believes they can have this mining done and area reclaimed in four years, although they are allowed five by ordinance. He continued with explanation of assumed produce and delivery each day and points out that actual crushing of rock would only be around 400 days in that four-year period.

Miner stated an understanding of the issues with the use of 50th St. and that Go Aggregate e would be happy to supply the aggregate for maintaining that road. Further he acknowledged the single access point and desire to have more than the one.

Miner states that in his business it is understood that the best place to mine aggregate is where you're going to use it and stated among other points that this actually relates to improved public safety because there are fewer semi-trucks on the road. Miner made a comparison stating the closer the operation is to the projects using their aggregate the less ton miles there will be on the road vs. purchasing aggregate from another county or state you have a long haul traveling state highways, county and city roads. Also, being able to provide the aggregate in town is more financially beneficial to the city.

Other discussion included:

- Haugen questioned 30 ft. vs. 60 ft. dig out as stated in different parts of their presented material. Miner explained that an expected 30 ft. of overburden would need to be removed from the pit to access the gravel. Overburden would be piled around the top of the pit for back fill when mining was complete. Gravel extraction would be another approx. another 30 ft. Preliminary drilling in that area went to 70 ft. without finding water table.
- Aafedt asked about hours of operation. Miner stated that the crushers could run from 8:00 a.m. to 10:00 p.m. as could the trucks however, he stated that it would be rare to have trucks running past 5:00 p.m. Miner agreed that they would respect the Commissions wishes on ours of crushing. Additionally Miner added that short trips do not necessarily mean more trips as the customer can only take so much product.
- Maristuen wanted to know as an example of who the intended clients of this product. Miner suggested oil well sited within 15 miles from the pit, 42nd St and University Commons as possibilities.
- Miner spoke as reclamation of the area once the project is complete; stated that they have spoken with the parks department about donating that to the city/Owen's family representatives agreed.
- Paving of 50th St. It was largely agreed by staff and Commissioners that this road should be paved no matter what. Miner stated that they were prepared to maintain the haul route for the life of the pit (currently primarily "self-maintained" according to Hanson) and work with other local business to provide funding for the paving. This would have to be coordinated with the City to accommodate utility installations prior to paving. Miner stated concern that if paving were mandatory from the beginning of the project there would be no participation by other business and would prefer some time to garner support and agreement; however states that they would find funding for paving the truck haul route if it were needed as a condition of approval.

Becky Hogan closed with a reminder that this is a used and undevelopable parcel of land as it stands; it is an existing use on the parcel; and, is proposed to be a short-term (4 year) project.

Haugen stated that he felt there were too many "maybes & might's" to this project such as what to do with the land after the extraction is complete, road paving, haul route and dust and weed control of the overburden mounds.

MOTION BY HAUGEN, SECOND BY CHRISTENSEN, to recommend denial of the zone change from M-1: Light Industrial to A: Agricultural for Lot 1, Block 2, Saddle Ridge Subdivision, City of Williston, AYES: Haugen, Long, Christensen. NAYS: Maristuen, Aafedt, Boyeff. ABSENT/NOT VOTING: Fleck. ABSTAINED: None.

**** Per City Attorney Evert, a tie vote in this case will simply result in a NO RECOMMENDATION to the City Commission.**

NEW BUSINESS:

- a. Special Use Permit (SPU) request for a 150 foot cellular communications tower located at 13853 Hwy 2, City of Williston – Mike Bieniek for SBA Communications and Verizon Wireless/Orville Loomer

Boyeff introduced this item of new business (as above) and asked Ressler to present. Ressler first explained the location of this proposed project as being east of the go cart track, stated that surrounding zoning was R-3 to the north, M-1 to the south (Hwy 2/85), M-1 to the east (Bobby Erickson's trucking), and C-2 to the west being the new Holiday station.

Ressler stated the property had been proposed for a 150' monopole telecommunications tower. The site is 221 feet away from the centerline of Hwy 2/85 and 120' from east, 150' from the west and rear property lines. The tower must be 75% of the tower height away from any property line. For a 150' tower, that is 112 feet. The tower therefore meets that requirement.

The tower is a capacity site to offload some signal from surrounding sites in order to enhance the network in that area. The tower will serve Verizon and be leased to Verizon.

The fence will be required to be vinyl. The area will also be landscaped as on all other Verizon sites. The access road and driveway will need to be paved 20' in from the entrance of the property, since it accesses a paved road.

Ressler said at the ad hoc meeting on October 6, 2014 the applicant stated they would need more towers with the ever increasing growth and use in Williston. Planning clarified that there are no residents in the area. Planning also clarified that the property owner and lessee were aware of the odd location of the tower, which limits future development of the property.

Haugen questioned the lot line distance vs. residential set back referencing a previous cell tower SPU (Wells'). Ressler explained that this lot is zoned Agriculture and the property referenced was a residential zone which required its distances to be measured to residences, there is no such situation in this case. Haugen also questioned the 20 ft. paving requirement and said he believed that a longer distance was decided for another recent tower site (Frontier Museum). Ressler and the Commission were reminded that a 40 ft. paved access was required at the referenced site as the original 20 ft. would not have been enough distance to clear mud from a vehicle before it reached a main roadway.

Boyeff stated that another concern from the ad hoc meeting was that there were several easements that run through this parcel, particularly a high pressure gas line; Ressler pointed out that it was marked and identified on the site plan and directed Commissioner Boyeff to that. Ressler answered there was no set back requirement for planning and zoning; Boyeff stated that he believes a 50 ft. building set-back requirement.

Alex Novak was available to represent the applicant for any questions. He addressed the question of set-backs and explained that the design of a mono-pole tower is such that should it fail, it is designed to fall in sections, essentially collapsing into itself. Novak stated that a fall zone letter could be provided if the Commission would like.

MOTION BY MARISTUEN, SECOND BY HAUGEN to approve the Special Use Permit (SPU) request for a 150 foot cellular communications tower located at 13853 Hwy 2, City of Williston, contingent upon addressing all staff comments and that access is to be paved 40 ft. from the

edge of the main roadway. AYES: Long, Haugen, Maristuen, Aafedt, Christensen, Boyeff. NAYS: none. ABSENT/NOT VOTING: Fleck. ABSTAINED: None.

- b. Special Use Permit (SPU) request to allow a bed and breakfast to operate in an R-2: Single family and two-family zone located at 615 1st Ave. E, City of Williston – Kelly Jeannotte

Boyeff introduced Item (b) of New Business (as above) and asked Kress to present. Kress stated the application requests a special permitted use to establish a bed and breakfast in an existing residence located in the R-2: Single Family, Twinhome, and Duplex Residential zone. The residence is currently occupied by a single family.

The applicant proposes a single bedroom for the bed and breakfast. Kress said that the applicant will live in the lower level of the house. The required parking will be two spaces for the residence and one for the bed and breakfast bedroom for a total of three parking spaces. Parking is provided in an existing garage and paved parking area accessible from the alley.

Kress explained that bed and breakfasts are required by North Dakota Century Code Section 23-09.1 to be licensed by the state health department. The applicant's representative had applied for this license. That code section also prohibits local jurisdictions from imposing any further requirements on bed and breakfasts. Kress said the SPU will not become effective until the state license has been granted to the applicant and added that the applicant did not expect to begin business until spring 2015 in any case.

Kress said that this matter was discussed at the October 6 ad hoc meeting explained that discussion included:

- **DEED RESTRICTION:** The committee directed the applicant to verify whether there were any deed restrictions on this property prohibiting a bed and breakfast (Kress stated that this deed resulted as a result of a divorce decree). *Planning staff advised the applicant to contact the County Recorder to see if any restriction or covenant documents are recorded against the property.*
- **SIGNAGE:** The committee directed that the size of allowable sign be determined and stated in the findings, and that the applicant know what that sign size is before she orders or creates a sign. *Signage is limited to a single sign on the building no larger than two feet square, as specified in Section 12 (L)(1) of the zoning ordinance.*
- **CITY INSPECTIONS:** The applicant stated the fire department inspector had already been to the property. The applicant was directed to contact the building inspector and was given contact information for him. *The applicant has stated that the residence has been inspected by the building department, and that she is working to comply with the directions of the building and fire inspectors.*

Onesty Krieger, representing the applicant, Kelly Jeannotte, addressed the Commission. It was stated that no deed restrictions were found, the applicant had applied for state license and Kress added that a copy of that would need to be provided to the Planning Department for the file. Krieger stated that once building and fire department have approved, she is to notify the state within 30 days of opening for state inspection. Further Krieger stated that the building and fire department inspections had already been done; she has a list of items to fix before state license.

MOTION BY LONG, SECOND BY MARISTUEN to approve Special Use Permit (SPU) request to allow a bed and breakfast to operate in an R-2: Single family and two-family zone located at 615 1st Ave. E, City of Williston, addressing all ad hoc and staff comments and obtaining state licensing. AYES: Long, Haugen, Maristuen, Aafedt, Christensen, Boyeff. NAYS: none. ABSENT/NOT VOTING: Fleck. ABSTAINED: None.

- c. Special Use Permit (SPU) request to operate a group child care center in an R-2: Single family and two-family residential zone located at 707 3rd Ave. E, City of Williston – Chelsea Wilson and Katelyn Reilly

Boyeff introduced Item (c) of new business (as above) and asked Kress to present. Kress stated the applicant requests a special permitted use for a group child care center in an existing residence located in the R-2: Single Family, Twinhome, and Duplex Residential zone, pursuant to Section 12(E)(4) of the zoning ordinance. The facility will accommodate up to 13 children in the applicant's residence; she will remain living in the residence. Kress stated the facility will be in operation only two days per week, Tuesday and Thursday 8:30 to 11:30 a.m. and 12:30 to 3:30 p.m. The applicant will operate an educational program during these sessions.

Prior to the SPU becoming effective, the applicant must have received the required state license (application in process) and have the facility inspected and approved by the Fire Department and Building Department. Applicant, Chelsea Wilson, stated that their final inspection would happen later that week.

Kress said that access for parking and drop-off will be from the rear (alley access) as the residence has no driveway access to the street and the public street cannot be used to satisfy parking and drop-off requirements. The applicant has provided a drop-off plan (in Commission packet), and plans to stagger the drop-off times, having 4-5 parents for 8:15-8:20 and 4-5 for 8:20-8:25, and any remaining from 8:25-8:30 for the morning session, with similar staggering for the afternoon session. Kress stated that staff recommends pick-up time be similarly staggered.

Applicants addressed the Commission further explaining the drop off plan, that one of the two applicants would meet parents at their vehicle to take children to the house so that parents would not have to pull in and park. It was stated that Chelsea Wilson, the owner of the home, had a two car garage and that while her husband was a work in the day her co-applicant could park in that spot leaving space for approximately three vehicles to park in the rear drive. Kress asked the applicants about their state facility license and they stated that their final walk-through for that would be the next day.

MOTION BY HAUGEN, SECOND BY MARISTUEN, to approve the Special Use Permit (SPU) request to operate a group child care center in an R-2: Single family and two-family residential zone located at 707 3rd Ave. E, City of Williston, contingent on addressing all ad hoc and staff comments and implementing the staggered drop off plan. AYES: Long, Christensen, Maristuen, Haugen, Aafedt, Boyeff. NAYS: None. ABSENT/NOT VOTING: ABSTAINED: Fleck.

- d. Special Use Permit (SPU) request for an animal shelter for the Mondak Humane Society to be located at 6325 2nd Ave. W (Frontier Museum property NW of Spring Lake Park), City of Williston – Mondak Humane Society/ReNea Vorgert, President

Boyeff introduced Item (d) of new business (as above) and asked Ressler to present. Ressler first explained the location of this proposed project and stated that there is a lot split in process

which will eventually give ownership of this parcel to the Mondak Humane Society, tentatively to be Sublot 1, Section 36. Ressler stated that surrounding properties were general commercial to the north, parks and open spaces to the East and South and agricultural to the west.

Ressler stated that this property has been proposed for an animal shelter to be owned and operated by the Mondak Human Society. The plan currently proposes an animal holding area, with a larger veterinary and office building planned as phase 2, which would be completed after the property was deeded over to them.

There is access to a paved road (2nd Avenue West), so the property will need to pave its parking. Public water is available; the City has taken over the existing Williams Rural Water line. Public sewer is not available. Ressler stated the facility would be served by septic system until such time as public sewer becomes available in this area, at which time the facility would be required to connect to that sewer.

Discussion at the October 6, 2014 ad hoc focused on whether the lot was a buildable lot. Ressler directed the Commission to the site plan in their packets and added that the applicant was leery of going further with the project and the land transfer prior to being approved for the special permit used. The director of the Frontier Museum, the property owner, stated that they would like to give the land to the humane society because they are a non-profit which is in line with their principles.

Ressler stated that the Planning staff brought up the question of what happens to the animals if they die; the director clarified that they would cremate them, and that it is not something regulated by the state. Planning staff also clarified that this shelter is for small animals, such as dogs and cats, etc.

The proposed use appears to fit as it is a charitable organization - public facilities, libraries, recreation center- the Williams County Historical Society sits on the same property and does not wish to rezone to C-2 at the moment nor to split the property off at the moment. The surrounding land uses are most similar to Ag, in which animal operations are also allowed.

Haugen asked to clarify that eventually the property would be deeded to the humane society and then will move on to Phase II. A representative of the Frontier Museum explained that it was a unanimous decision by their board to deed this property to the humane society and they are prepared to do so as soon as the humane society was ready. He stated, "they don't want it if they can't use it", and indicated that the decision was to wait for the outcome of this hearing before proceeding.

Christensen asked Ressler to clarify the statement made earlier that there probably wouldn't be any large animals. Ressler said she was unprepared to make that guarantee and turned to Renea Vogart, president of Mondak Humane Society, who explained that large animals such as horses would be placed in foster homes out of town. Christensen asked how she felt about a condition added to the SPU restricting this site to small animals, Vogart agreed.

Gary Fixen, neighbor, says this is proposed 200 ft. from his house. Concerned with noise, odor, and decreased property value as he is trying to sell, "their use should not bring down my property value". Fixen stated that this area is now very much in town and while he supports the need for the shelter does not believe the placement is appropriate.

Vogart explained that the building would be designed by a firm that specializes in animal housing and that sound barriers, waste disposal and such would all be minimalized and properly

cared for. She said that yes the dogs would need time to be outdoors each day but would be brought in by about 7:00 p.m. each evening. Vogart also pointed out that Western Veterinary west of Williston and the Minot humane society are both in and near residential areas. Haugen asked Vogart if there were any plans to also be a boarding facility. Vogart stated that there is that intention as there boarding in Williston is rarely available. Vogart pointed to the site plan provided to the Commission where adoption and boarding are separated. She continued to state that the hope to be a full pet resource offering information, training and possibly a small pet store to help support the costs of the shelter. Monday Humane Society believes that if pet education and training can be provided it will help prevent animals from becoming homeless and hopefully cut down on the numbers of abandoned animals in Williston.

Maristuen stated that he attended the ad hoc with this project and states that the presentation was great and he believes that the neighbors will not be disappointed. He stated that Williston will only benefit from this project and he supports it fully.

MOTION BY MARISTUEN, SECOND BY CHRISTENSEN, to approve the Special Use Permit (SPU) request for an animal shelter for the Mondak Humane Society to be located at 6325 2nd Ave. W (Frontier Museum property NW of Spring Lake Park), City of Williston, contingent on addressing all ad hoc and staff comments, paving, no large animals to kept at the site, fencing and completion of the land transfer to the Mondak Humane Society. AYES: Long, Christensen, Maristuen, Haugen, Aafedt, Boyeff. NAYS: None. ABSENT/NOT VOTING: Fleck. ABSTAINED: None.

- e. Special Use Permit (SPU) request for the expansion of an existing oil well drill pad site located on Section 2, Lot 3, T154N R101W, City of Williston – Statoil Oil & Gas LP/Nancy Beard

Kress stated that he spoke with a Statoil Oil & Gas representative by phone earlier this day and the applicant stated they were not quite ready to take this matter forward and requested it be removed from the agenda. Kress said that it is the recommendation of staff that this matter be tabled, adding that it was expected to come back on next month's agenda.

Item tabled, no action necessary.

- f. Special Use Permit (SPU) request to allow a contractor yard in the A: Agricultural zone located at the corner of 54th St. W and 16th Ave. W, City of Williston – Zack Lebsock/Spyder Oilfield Services

Kress said he spoke with a representative for Zack Lebsock earlier this day and that it was his desire to table this matter. Kress concurred and stated that it is the recommendation of staff that this matter be tabled and added he expected it would come back on next month's agenda.

Item tabled, no action necessary.

- g. Parking Reduction request for proposed Home Depot, Lot 2, Block 2, Chandler Fields Subdivision, City of Williston – David Begrens, GreenbergFarrow for Home Depot

Boyeff introduced Item (g) of new business (as above) and asked Ressler to present. Ressler first pointed out the location of this proposed project and described the zoning and surrounding zoning. Ressler stated this property applied for a reduction in parking from 426 required spaces to 402 spaces. A retail store is required to provide 1 space per 250 sq. ft. of retail space,

according to our zoning ordinance. Home Depot expects to turn in plans for a 106,484 sq. ft. store, which, based on our zoning ordinance, would require 426 spaces. This 5.6% reduction.

Ressler said that the applicant provided a variety of studies from other areas. The study focused on the Minot store, which is slightly larger in size and has 435 spaces, which generally are about 20-35% full. The study also compared several of their other stores, including the busiest store in the nation, in Chicago, and determined an average parking need of 308 spaces. This store is providing more parking at their Williston store than most others. Their studies also seem to show that the space in the stores, like another big box store which recently applied for a parking reduction, is used up by large items and wide aisles to accommodate those large items, which reduces their actual "retail" area.

Ressler stated that this parking reduction seems appropriate and in line with previous decisions on big box stores.

Discussion at the October 6, 2014 ad hoc meeting focused on whether the store would have any transient merchants, and on the 16 spaces that are to be used in the summer as a garden area. Ressler explained that the 16 lots dedicated for garden area in the summer would not require any special permitting however any other transient merchants would need a Temporary Use Permit approved by the Planning Department. Ressler stated that the ad hoc recommendation was to approve the parking reduction.

Paul Phillips, representative working for Greenberg Farrow, stated that it was realized at the ad hoc meeting that the lot with the original application was incorrect. Phillips clarified that after refiguring for 9 ½ ft. wide parking stalls they are now only able to provide 384 parking stall. By their parking study they only need 250 – 300 on a Friday/Saturday afternoon, they are providing 384.

Haugen expresses a concern of people with truck and trailer parking. Phillips said that because their parking areas do not have islands a truck and trailer can pull through and take 2 spaces, also Philips points out on the site plan areas on the perimeter of the parking lot(s) where there 20 ft. deep stalls for parking a typical single-axle pickup truck and trailer. He reminds that their parking study showed they only need 250 – 300 on a Friday/Saturday afternoon, and states that possibly 50% of their shoppers could show up with pickup and trailer and they would still have enough parking.

Maristuen questioned how, from their parking study, store aisles figure in to parking spots? Philips explained that their shopping aisles are wider to display much larger items (than a grocery store), therefore square footage of a store of this kind is not an accurate way to figure parking spots; larger items and displays does not equal larger inventory or larger number of customers.

Aafedt questioned whether or not the parking numbers included the lumber yard. Philips states that typically a person is not parking at the lumber yard. They would go through the store, order their lumber, drive to the warehouse to load their purchase and leave. Kress stated that the code only requires that the space of the store itself is used to calculate parking, outdoor storage is not counted. Discussion is had about Home Depot sales using parking spots such as rug sales, trailer sales and so; applicant is reminded to keep parking availability in mind for these kinds of sales.

MOTION BY MARISTUEN, SECOND BY CHRISTENSEN, to approve the Parking Reduction request to 384 spots for proposed Home Depot, Lot 2, Block 2, Chandler Field Subdivision, City

of Williston. AYES: Long, Christensen, Maristuen, Aafedt, Boyeff. NAYS: Haugen
ABSENT/NOT VOTING: ABSTAINED: Fleck.

- h. Payment in Lieu request to pay for a number of parking spaced of required parking pursuant to the recently adopted downtown parking ordinance 998 for The Metro Building located at 309 Washington Ave., City of Williston – Steve Price/Ryan Geltel

Boyeff introduced the final item (as above) and asked Neill to present. Neill reminded the Commission that at the August 2014 Planning Commission Meeting they were presented an SPU request to allow this building to continue its long existing use of office and apartment space a C-3: Restricted Commercial zone. The purpose for this SPU was to bring this building into compliance with current ordinances as it prepares for sale.

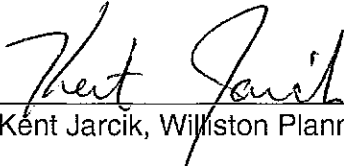
It was determined at that August meeting that the building was six parking stalls short of its requirement per City code. The applicant was given 60 days to re-stripe the parking lot and try adding the six spots but was unable to provide more than two extra spots. Therefore they met with the Parking Authority on October 8, 2014 and requested to pay in lieu of providing the four remaining spots. The Parking Authority determined that the applicant did meet the requirements of Ordinance 998 and that they would be required to pay \$3,000 per space for the remaining required parking spaces.

Aafedt asked where the monies go; Ressler states that this money would go into the Parking Authority . It was clarified that this is a one-time payment.

MOTION BY LONG, SECOND BY CHRISTENSEN, to approve the Payment in Lieu request to pay for 4 parking spaces at \$3,000 each, for a total of \$12,000, pursuant to the recently adopted downtown parking ordinance 998 for The Metro Building located at 309 Washington Ave., City of Williston, for a total of \$12,000 payable to the Parking Authority payable upon approval of the parking reduction. Long, Christensen, Maristuen, Haugen, Aafedt, Boyeff. NAYS: None, ABSENT/NOT VOTING: ABSTAINED: Fleck.

DATE OF NEXT REGULAR MEETING: November 20, 2014

MEETING ADJOURNED.



Kent Jarcik, Williston Planning Director

APPENDIX
to the
OCTOBER 20, 2014 PLANNING AND ZONING COMMISSION MINUTES

- a. Special Use Permit (SPU) request for a 150 foot cellular communications tower located at 13853 Hwy 2, City of Williston – Mike Bieniek for SBA Communications and Verizon Wireless/Orville Loomer
- b. Special Use Permit (SPU) request to allow a bed and breakfast to operate in an R-2: Single family and two-family zone located at 615 1st Ave. E, City of Williston – Kelly Jeannotte
- c. Special Use Permit (SPU) request to operate a group child care center in an R-2: Single family and two-family residential zone located at 707 3rd Ave. E, City of Williston – Chelsea Wilson and Katelyn Reilly
- d. Special Use Permit (SPU) request for an animal shelter for the Mondak Humane Society to be located at 6325 2nd Ave. W (Frontier Museum property NW of Spring Lake Park), City of Williston – Mondak Humane Society/ReNea Vorgert, President
- e. Parking Reduction request for proposed Home Depot, Lot 2, Block 2, Chandler Fields Subdivision, City of Williston – David Begrens, GreenbergFarrow for Home Depot
- f. Payment in Lieu request to pay for a number of parking spaced of required parking pursuant to the recently adopted downtown parking ordinance 998 for The Metro Building located at 309 Washington Ave., City of Williston – Steve Price/Ryan Geltel