

**REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON  
September 17, 2018, AT WILLISTON CITY HALL, 22 E. BROADWAY, WILLISTON, ND.**

Vice Chairman Hansen called the meeting to order at 5:30pm. Roll Call was taken. A quorum was present.

**MEMBERS PRESENT:** Eynon, Gjovig, Bauer, Long, Hansen, Christensen, Aafedt

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Kent Jarcik, Planning Director; Rachel Laqua, Principal Planner; Jeremy Miller, Staff Planner; Mark Schneider, Development Services Director; Bob Hanson, and David Wicke, City Engineering; Christine Edwards, P&Z Office Manager.

**COMMUNICATIONS:**

**A. Approval of minutes of the August 20, 2018, Planning Commission Meeting.**

**MOTION BY BAUER, SECOND BY GJOVIG** to approve the August 20, 2018, minutes as presented. **CARRIED ON VOICE CALL**

**PUBLIC HEARINGS:**

**A. Short Plat to rearrange lots 4 & 5, East Side Industrial 2<sup>nd</sup> Subdivision – RRF, LLC  
(Martin Reiger)**

Chairman Aafedt introduced this item (as above) and asked Laqua to present. Laqua stated this application is for a short plat to rearrange Lots 4 and 5, Eastside Industrial 2<sup>nd</sup> Subdivision, moving the lot line between Lots 4 and 5 to match an existing road. This plat also dedicates the road as an easement.

Laqua explained this property was originally subdivided in 2016, and is in the ETJ. There are a number of abandoned coal mines in the area. There is a warning to that effect on the original plat; this will also need to be on this short plat.

The 50' right of way is listed on the short plat as a right of way. Instead, it should match the lot line between Lots 3 and 4, which contains a 50' road and utility easement, and be listed as such. Laqua added that at this time no comment from the township has been received.

Laqua said there are several things that will need to be completed before this plat can be completed:

1. Change of "right of way" designation to "road and utility easement"
2. Various redlines
3. Addition of warning of abandoned coal mines, as per original Eastside Industrial 2<sup>nd</sup> Subdivision.
4. Review by City Commission

Laqua concluded her presentation and Aafedt opened the public hearing. Calling three times for public input and hearing none, Aafedt closed the public hearing and called for the wishes of the Commission.

**MOTION BY HANSEN, SECOND BY LONG**, to recommend approval of the short plat to rearrange Lots 4 & 5 of the East Side Industrial 2<sup>nd</sup> Subdivision. **AYES:** Eynon, Bauer, Long, Gjovig, Hansen, Christensen, Aafedt. **NAYS:** None **ABSENT/NOT VOTING:** None. **ABSTAINED:** None.

**B. Zone Change from Agriculture to R-6: Manufactured Home Subdivision for all of Williston Park Subdivision – Staff**

Chairman Aafedt introduced item B (as above) and asked Miller to present. Miller stated that this is a City initiated zone change for the Williston Park Subdivision from A: Agriculture to R-6: Manufactured Home Subdivision.

Miller said that this land was subdivided in 1952 in the County, as a product of the first boom. This area has been zoned A: Agriculture as far back as 1985; according to an old zoning map. None of these properties meet the lot requirements for properties zoned A: Agriculture making them legal non-conforming properties.

Because none of these properties can meet the lot requirements in the A: Agriculture zoning district, they have been held to the R-1A: Rural Residential zoning district regulations. This is because it was the closest matching residential zoning district for the existing development. R-1A is intended for half acre lots in areas where community sewer and water are not planned in the near future and for low population density. Even though these properties are not half acre lots, this area didn't have paved roads or City sewer and water services until 2015.

Miller stated that the City is proposing to have this area rezoned to R-6: Manufactured Home Subdivision because all these properties can meet the zoning district regulations and the intent of this zoning district is to have manufactured home as single-family dwellings mixed with other types of single-family dwellings.

This proposal is intended to give this area a proper zoning that fits the characteristics of the neighborhood and so the properties are in compliance with zoning regulations.

This proposal was first discussed at the August 6<sup>th</sup>, 2018 Development Review Committee meeting. Originally, the proposal was to rezone the area to R-6: Manufactured Home Subdivision with a PUD Overlay; to remove Two-Family Dwellings from permitted uses. This was proposed because this area has developed as a single-family neighborhood and the PUD would have been intended to keep this characteristic. Miller said that the decision was made to rezone the area to R-6: Manufactured Home Subdivision, without the PUD, and to allow the area to develop and improve under what is allowed in the R-6: Manufacture Home Subdivision zoning district.

This proposal was again discussed at the September 4<sup>th</sup>, 2018 Development Review Committee meeting. There were no additional comments and the committee recommended approval for this area to be rezoned from A: Agriculture to R-6: Manufacture Home Subdivision.

Miller explained that staff sent out letters to the properties owners on July 6<sup>th</sup>, 2018 for the original proposal to rezone the area to R-6: Manufactured Home Subdivision with a PUD Overlay. (PUD overlay was later removed from the proposal)

Miller said that he had received a phone call from one property owner who was opposed to the rezone. This property owner wanted the City to focus on other issues in the area such as truck traffic, poor property maintenance, and unlawful activities. Miller added that earlier on the day of this Planning & Zoning Commission meeting a phone call came to the department to ask the status of this proposal by a gentleman who is holding off on applying for a building permit for a garage as he knows that this zone change will be beneficial to him. No other comments on the proposed zone change have been received.

Following the decision at the August 4<sup>th</sup>, 2018 Development Review Committee meeting, staff sent out a second letter to all property owners informing them of the proposal to rezone the area to R-6: Manufactured Home Subdivision without the PUD Overlay.

Miller concluded his presentation and Aafedt opened the public hearing. After making three calls for public comment and hearing none Aafedt closed the public hearing and called for the wishes of the Commission.

**MOTION BY LONG, SECOND BY HANSEN**, to recommend approval of the zone change from Agriculture to R-6: Manufactured Home Subdivision for all of Williston Park Subdivision. **AYES:** Eynon, Bauer, Long, Gjovig, Hansen, Christensen, Aafedt. **NAYS:** None **ABSENT/NOT VOTING:** None. **ABSTAINED:** None.

**UNFINISHED BUSINESS:** NONE

**NEW BUSINESS:**

**A. Special Permitted Use request for a gas & oil well facility, SWSW, Sec. 8, T154N, R100W – Ellis/Olson**

Chairman Aafedt introduced this item of New Business (as above) and asked Miller to present. Miller explained this applicant, Nine Point Energy, requests a special permitted use (SPU) for the addition of 3 oil wells on an existing well pad located on Lot 1, Block 2 of the Twin Bin Subdivision. There are currently 4 existing wells and this SPU will make 7 total oil wells.

This property was granted SPUs to drill oil wells in the past. The first SPU was granted in November of 2015, for the first three wells, and another SPU was granted in June of 2016, for one additional well.

Miller said that at the Development Review Committee, there was a discussion about the landscaping/buffering requirements for this site. An inspection by staff revealed that the property had not met the previous landscaping/buffer requirements, because slats have not been installed in the fence along the west side of the property but the trees have been planted. The requirement to install the double-slatted chain link fence is outlined both the November 2015 and June 2016 SPU recorded findings. (all documents provided in Commission packets)

A representative of Nine Point Energy, Jon Skaare, said that the slatted fence along the west side of the property was not required. Commissioner Cyndy Aafedt commented that she remembered there being a concern with snow drifting up against the fence, if the slats were installed.

Miller said that waiving the requirement to install slats along the west side of the property is not detailed in either of the two previous SPU Factsheets or Planning & Zoning recorded minutes. This is mentioned as a requirement in both the recorded findings.

Mark Schneider had expressed concerns about noise from the drilling and operation of the wells and asked how long it will take to drill and how much noise the new wells will create. Jon Skaare stated that drilling will increase the noise in the area and it will take them 5 or so weeks to drill the wells and another month or so to have the equipment to operate the wells set-up. Long term, the noise will not be increase significantly compared to what it is now.

It was noted that no concerns have been forwarded to Code Enforcement, Planning, or Nine Point regarding the existing well pad. There was a concern regarding dust, but Nine Point works with Chamley to mitigate that issue.

After Miller concluded his presentation, discussion was had among the Commissioners and City Engineer Hanson that the requirement for slatted fence had been waived because of highway vision issues. Hanson, who lives across from this site, said that they have been very good at caring for the landscaping around the site. Grass is mowed and cared for and if there is a dead tree they are replaced. She has not heard any complaint from surrounding neighbors about the site at all.

Will Chamley, neighboring property owner, stated he believed that when this was approved that the tanks would be taken down after a period of time. He was told that was not the case. He further stated that the tanks were 180 ft. from his office and less than 400 ft. from the flare and he knew that a flare has to be more than 1000 ft. from a dwelling. Commissioner Christensen questioned that Chamley's office does not qualify as a dwelling (a residential unit). Chamley said that there are people in his office from 6 a.m. to 8 p.m. daily. His office staff has headaches and other health problems when in the building and often need to leave by noon; this is a daily issue. He added that the flare causes some explosion type percussions on his building and shakes the whole thing. Commissioners felt and Chamley understood that this is a state permitting problem and not a city issue. Chamley is in a process with the state already in reference to this issue.

John Skaare of Nine Point Energy stated that the state requires a flare to be located furthest from the dwellings, which he said it was. He further stated that surrounding property owners were well aware the drill was coming as they had been working with neighboring properties for years prior to the site being drilled. He said that they are now connected to OneOk to pipeline everything they could. No additional tanks will be added to this site and the current tanks are located 500 ft. from the nearest dwelling (where someone lives and sleeps).

Commissioner Eynon said that in reference to the slats in the fence, "if it isn't broke don't fix it".

Commissioner Christensen stated that as to the location of the site to buildings other than residences the state was aware of what was in the area at the time of permitting.

Commissioner Hanson asked if it is possible for Nine Point to add another side to the current flare shield on the side that Chamley is on. Skaare said he would have to talk to their engineers to see if that is possible but agreed to work with Chamley if they can to help his situation.

**MOTION BY GJIOVIG, SECOND BY EYNON**, to approve the Special Permitted Use request for the extension of a gas & oil well facility, SWSW, Sec. 8, T154N, R100W. **AYES:** Gjovig, Bauer, Long, Eynon Hansen Christensen, Aafedt. **NAYS:** None. **ABSENT/NOT VOTING:** None. **ABSTAINED:** None

**B. Special Permitted Use request for a group daycare in R-1 zone, 1215 1<sup>st</sup> Ave. W, Williston – Brandi Dees**

Aafedt introduced this item (as above) and asked Laqua to present. Laqua said this application is for a group daycare at 1215 1<sup>st</sup> Ave W. Brandi Dees intends to operate a 12 child daycare on the main level of her home. Social Services has reviewed and have noted that they will license her for 12 children on the main level. Laqua stated that a Group daycare is permitted as a special permitted use in the zoning ordinance.

Laqua explained drop-off will occur in the alley. Parents will be directed to pick up and drop off in front of the garage off the alley. They will be directed to use the alley from south to north. Employee parking will also be in the driveway and garage.

Laqua stated that Engineering and Public Works noted that the trash pick-up for this house will move to commercial service. She also noted that the City will not remove snow from the alley. This will be the Dees' responsibility.

The Building Department had several items which must be corrected prior to the property being put into use as a group daycare. The applicant has been notified:

1. Front steps must be made uniform; the top step is over 8" high, and there is more than a 3/8" difference between the other steps.
2. The rear deck egress requires a guard rail, and each set of rear stairs need conforming handrails.

**SPECIAL USE PERMIT CONSIDERATIONS**

As part of the review for a special use permit, the following items are required to be considered:

1. *Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.* The property will need to be updated as per Building Department and Fire Department Requirements. Pick up and Drop off will be through the alley. The applicant will be responsible for snow removal.
2. *Off-street parking and loading areas where required, with particular attention to the items in "1" above and the economic, noise, glare, or odor effects of the special permitted use on adjoining properties and properties generally in the district.* Parking will be provided for employees in rear driveway and garage.
3. *Refuse and service areas, with particular reference to the items in "1" and "2" above.* Sanitation services will move to a commercial service.
4. *Utilities, with reference to locations, availability, and compatibility.* No changes required.

5. *Screening and buffering with reference to type, dimensions, and character.* No changes required.
6. *Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.* No signs are associated with this project.
7. *Required yards and other open spaces.* Social Services has approved the property for a group daycare.
8. *General compatibility with adjacent properties and other property in the district.* This is permitted as a Special Permitted Use.
9. *Use shall not impose a hazard to health or property.* This property has been reviewed by Social Services and the Building Department and a list of corrections has been issued.

Laqua added that there are two Code Enforcement Cases open currently on this property, one for junk and rubbish and one for tall grass. Any approval of this SPU request needs to be contingent on those cases being resolved.

Brandi Dees, the applicant, that new front steps are being cast in concrete at the time of this meeting and the rear steps are being redesigned to be one clear path to the garage.

City Engineer Hanson asked that is be specifically noted in these minutes that the City Public Works Department will NOT clear snow from this alleyway.

Commissioner Eynon asked about ownership of a sidewalk on the north side of the property and whether parents would also be using that. Dees stated that the sidewalk is the neighbor's sidewalk and parents will be directed not to use it.


**MOTION BY CHRISTENSEN, SECOND BY GJIOVIG,** to approve the Special Permitted Use extension request for a group daycare in R-1 zone, 1215 1<sup>st</sup> Ave. W, Williston, contingent on the Code Enforcement Cases being cleared up. **AYES:** Gjovig, Bauer, Long, Eynon, Hansen, Christensen, Aafedt. **NAYS:** None **ABSENT/NOT VOTING:** None. **ABSTAINED:** None.

**COMMITTEE REPORT:**

**A. NONE**

**DATE OF NEXT REGULAR MEETING:** Monday, October 15, 2018.

**MEETING ADJOURNED.**



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Kent Jarcik, Williston Planning Director

# **APPENDIX TO THE September 17, 2018, PLANNING & ZONING COMMISSION MEETING**

- A. Special Permitted Use request for a gas & oil well facility, SWSW, Sec. 8, T154N, R100W – Ellis/Olson and Nine Point Energy
  
- B. Special Permitted Use request for a group daycare in R-1 zone, 1215 1<sup>st</sup> Ave. W, Williston – Brandi Dees