

**REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON SEPTEMBER 15, 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, Fleck, Boyeff.

**MEMBERS ABSENT:** Maristuen, Haugen, Aafedt,

**OTHERS PRESENT:** Kent Jarcik, Planning Director; Donald Kress, Principal Planner; Rachel Ressler, Staff Planner; Samantha Neil, Staff Planner; Nick Vasuthasuwat, Code Compliance; Kelsey Vlamis, Code Compliance Intern; Christine Edwards (Administrative Assistant); Bob Hanson, Engineering; Jordon Evert, Assist. City Attorney; Kelly Aberly, Building Dept.; David Tuan, Public Works Director.

**DISPOSITION OF MINUTES:**

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

**COMMUNICATION:**

Boyeff suggests that the Commission adopt a rotating schedule for participation in ad hoc meetings; members agree to discuss further and try a rotating schedule. Boyeff also asks the Commission to consider the upcoming year's Planning Commission schedule stating that there are a few months in which the regular meeting date of the third Monday falls on a holiday. He reminds them that traditionally those meetings have been pushed back one week scheduled on the forth Monday instead. Boyeff poses the question, would the Commission like to continue with that solution in the next year or would they rather consider holding those meetings on Tuesday immediately following. Further Commission discussion will place on these items.

**PUBLIC HEARINGS:**

- a. Preliminary plat of Lot 10, Block 14, Fairhills Subdivision (east side of 27th Avenue north of 27th Street, City of Williston – Darrell Dyer/Ames Engineering

Boyeff introduces the first public hearing (as above) and asks Kress to present. Kress explains that the applicant is requesting a subdivision of Lot 10, Block 14, Fairhills Subdivision (1.48 acres) to create four lots. This lot is zoned R-3: Lowrise Multifamily and Townhouse Residential. No zone change is proposed.

Kress says that the lots will take access from 27<sup>th</sup> Avenue West by way of shared driveways between Lots 1R and 2R and between Lots 3R and 4R. Shared driveways are used to limit the number of driveways onto 27<sup>th</sup> Avenue West, which is expected to become a significant connection route to 26<sup>th</sup> Street West to future development to the north.

Boyeff asked City Engineer Hanson if all of his comments had been addressed, Hanson stated that they were not yet but would be addressed before the final plat.

Boyeff calls three times for public input, hearing none he closes the public hearing and asks for the wishes of the Commission.

MOTION BY CHRISTENSEN, SECOND BY LONG, to approve the Preliminary plat of Lot 10, Block 14, Fairhills Subdivision (east side of 27th Avenue north of 27th Street, City of Williston, contingent upon addressing all staff and plat comments. AYES: Long, Fleck, Christensen, Boyeff. NAYS: none ABSENT/NOT VOTING: Aafedt, Maristuen, Haugen. ABSTAINED: 0.

- b. Zone change request from R-1 : Single Family Residential to C-2: General Commercial for a parcel of land located in the SW1/4SW1/4 Sec 1, T154N R101W (110 42nd Street West), City of Williston – Petroleum Services

Boyeff introduces the second item on the agenda (as above) and asks Ressler to present. states that after review and some discussion with the City Attorney regarding the zone change request, it was decided that it would be best to have this item tabled at this time for further review of legal question; staff requests that this item be tabled.

No action was required- item tabled.

- c. Administrative Review plat to remove lot line between two existing platted lots – The Meadows Subdivision, Lots 8 & 9, Block 1 – Connor Murphy/Sanderson Stewart

Boyeff introduces the third item on the agenda (as above) and asks Kress to present. Kress says the applicant requests an administrative review plat to combine two existing platted lots, Lots 8 ad 9, Block 1 of The Meadows Subdivision, into a single lot. Kress states that these lots are zoned R-1: Single Family Residential. No zone change is proposed.

Kress explains the lots will take access from Fairview Drive, a dedicated public street in The Meadows Subdivision. Public water and sewer are available to these lots from mains in Fairview Drive.

Boyeff calls three times for public input, hearing none he closes the public hearing and asks for the wishes of the Commission. No discussion or questions were presented by the Commission.

MOTION BY FLECK, SECOND BY LONG, to approve the Administrative Review plat to remove lot line between two existing platted lots – The Meadows Subdivision, Lots 8 & 9, Block 1, City of Williston, contingent upon addressing all staff and plat comments AYES: Long, Fleck, Christensen, Boyeff. NAYS: none. ABSENT/NOT VOTING: Aafedt, Maristuen, Haugen. ABSTAINED: None.

- d. Administrative Review plat to remove the lot line between two existing platted lots -Sunset Subdivision Lots 5 & 6, Block 2, City of Williston – Jeff Berger/Westrum’s Land Survey

Boyeff introduced this forth item on the agenda (as above) and asked Kress to present. Kress say the applicant requests an administrative review plat to combine two existing platted lots, Lots 5 and 6, Block 2 of the Sunset Subdivision, into a single lot. These lots are zoned M-1: Light Industrial. Kress states that the lots will take access from Sunset Boulevard, a dedicated public street.

Boyeff calls three times for public input, hearing none he closes the public hearing and asks for the wishes of the Commission. No discussion or questions were presented by the Commissioners.

MOTION BY CHRISTENSEN, SECOND BY FLECK, to approve the Administrative Review plat to remove lot line between two existing platted lots -Sunset Subdivision Lots 5 & 6, Block 2, City of Williston, contingent upon addressing all staff and plat comments AYES: Long, Fleck, Christensen, Boyeff. NAYS: none. ABSENT/NOT VOTING: Aafedt, Maristuen, Haugen. ABSTAINED: None.

- e. Administrative Review plat to divide one existing platted lot into two lots - one for a hotel, one for a restaurant, Lot 3, Block 1, Reiger Subdivision (west of Buffalo Wild Wings), City of Williston – Lori Boisclair/Epic Engineering

Boyeff introduces this as the fifth item on the agenda (as above) and asks Ressler to present. Ressler say that this applicant requests to split a 4.64 acre parcel into two parcels, one of 1.2 acre, which will contain Culvers restaurant, and one of 3.44 acres, which will contain the Grandstay Hotel. Each proposed building and all proposed parking required by ordinance, as well as individual access points, are contained entirely on the buildings' respective lots. Ressler explains these lots both take access off of Reiger Drive.

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

MOTION BY LONG, SECOND BY CHRISTENSEN, to approve the Administrative Review plat to divide one existing platted lot into two lots - one for a hotel, one for a restaurant, Lot 3, Block 1, Reiger Subdivision, City of Williston, contingent upon addressing all staff and plat comments AYES: Long, Fleck, Christensen, Boyeff. NAYS: none. ABSENT/NOT VOTING: Aafedt, Maristuen, Haugen. ABSTAINED: None.

- f. Administrative Review plat to divide one existing platted lot into three lots, Lot 2, Block 4, Bakken Industrial Park, City of Williston – Evercorp, Jesse Evert/Wenck Associates and Consulting Engineers

Boyeff introduces this sixth item on the agenda (as above) and asks Kress to present. Kress explains that this item and the one following (seven) are identical plats, one across the street from another for the same applicant. Kress says that Evercorp Property Management, requests an administrative review plat to divide one existing platted lot, Lots 2, Block 4 of the Bakken Industrial Park Subdivision, into a three lots. This lot is zoned M-2: Light Industrial. No zone change is proposed. Kress finally states that the lots will take access from Well Street, a dedicated public street.

Boyeff calls three times for public comment, hearing none he closes the public hearing and asks for the wishes of the Commission. Fleck asked if these lots were already platted, Kress confirmed that they are. A short discussion was had concerning the stormwater detention facilities. Staff stated that if the two lots were to share a stormwater detention facility, a maintenance agreement and easement would need to be created and approved by the City Attorney prior to recording the final plat. Jessie Evert from Evercorp stated that there would not be a shared facility. No further discussion or questions.

MOTION BY CHRISTENSEN, SECOND BY LONG, to approve the Administrative Review plat to divide one existing platted lot into three lots, Lot 2, Block 4, Bakken Industrial Park, City of Williston, contingent upon addressing all staff and plat comments AYES: Long, Fleck, Christensen, Boyeff. NAYS: none. ABSENT/NOT VOTING: Aafedt, Maristuen, Haugen. ABSTAINED: None.

- g. Admin Review plat to divide one existing platted lot into three lots, Lot 4, Block 4, Bakken Industrial Park, City of Williston – Evercorp, Jesse Evert/Wenck Associates and Consulting Engineers

Boyeff introduced this item and reminded the Commission that this plat is tied with the previous presentation. Kress again states that the applicant an administrative review plat to divide one existing platted lot, Lots 2, Block 2 of the Bakken Industrial Park Subdivision, into a three lots. This lots is zoned M-2: Light Industrial. No zone change is proposed. Kress states that the lots will take access from Well Street a dedicated public street.

Asking for public input and hearing none after three questions Boyeff closes the public hearing and asks for the wishes of the Commission.

MOTION BY LONG, SECOND BY CHRISTENSEN, to approve the Administrative Review plat to divide one existing platted lot into three lots, Lot 4, Block 4, Bakken Industrial Park, City of Williston, contingent upon addressing all staff and plat comments AYES: Long, Fleck, Christensen, Boyeff. NAYS: none. ABSENT/NOT VOTING: Aafedt, Maristuen, Haugen. ABSTAINED: None.

- h. 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 introduces this final item for public hearing and asks Kress to present. Kress first states that this item and the first item under new business, an SPU request for a gravel pit operation, are tied together. Kress explained that the outcome of their decision on this zone change will have a direct effect on the SPU. Kress states that the applicant has asked to table this item; however, since it has already been advertised for public hearing it would still need to be presented and opened for public comment.

Kress states that 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 property is undeveloped except for previous gravel excavations. The applicant has 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.

Saddle Ridge Subdivision, including the project site, are currently zoned M-1: Light Industrial. Kress say that this area was zoned M-1 prior to the Saddle Ridge Subdivision, and was intended for light industrial development. Kress explains that Section 22(A) of the Williston Zoning Ordinance states that the intent of the M-1: Light Industrial District is for operations which do not require large numbers of workers; do not generate heavy truck traffic; do not emit significant amounts of smoke, noise, dust, or glare. Changing the zoning on Lot 1, Block 2 of the Saddle Ridge Subdivision back to A: Agricultural in order to be able to apply for an SPU for a gravel pit does not take away from the fact that this area is intended to be developed, and actually is developed, as Light Industrial. Kress states a gravel pit in this location is not consistent with the type of development in this area nor the type of development intended for this area.

Areas to the west and north of this project site are in the City's direction of growth. The area adjacent 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. These are areas into which the City is expected to grow, especially once the airport moves to a new location and the restrictions imposed by the runway protection zone on this

area are lifted. Kress says that residential and commercial developments are to be expected in this area, with connections to the existing road network through extension of 32<sup>nd</sup> Avenue West and 42<sup>nd</sup> Street West. Kress adds that 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.

Becky Hogan, R&R Engineering representing the applicant states that there is a possibility that some land ownership may change and slightly different ideas have been brought forth concerning how operations of the gravel pit could be done, therefore they have asked that these items be pulled from this agenda so as to allow them to make changes and bring back at a later time.

Boyeff says that this is a public hearing and calls for public input, Kress introduced a letter from a neighboring business and a phone call from a neighboring property owner who both oppose this gravel pit. After three calls and receiving no public input, Boyeff closes the public hearing and asks for the wishes of the Commission.

MOTION BY FLECK, SECOND BY CHRISTENSEN, to TABLE the zone change from M-1: Light Industrial to A: Agricultural for Lot 1, Block 2, Saddle Ridge Subdivision, City of Williston. Carried on voice call.

**COMMITTEE REPORT:**

**UNFINISHED BUSINESS:**

**NEW BUSINESS:**

- 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

Boyeff introduces this item of new business (as above) and asks Kress to present. Kress stated as with the previous zone change, the applicant has requested that this item be tabled until the zone change proposal can be modified and re-presented to the Commission. The SPU in this case, if granted, would have to be approved contingent upon the approval of the zone change. Staff requests that this item be tabled.

MOTION BY LONG, SECOND BY CHRISTENSEN, to TABLE the Special Use Permit (SPU) request for a gravel pit in and A:Agricultural zone, Lot 1, Block 2, Saddle Ridge Subdivision, City of Williston. Carried on voice call.

- b. Special Use Permit (SPU) request to place a generator and protective wall at the downtown location of Nemont Communications, Lot 4, Block 3, Original Townsite, City of Williston – Missouri Valley Communications

Boyeff introduces Item (b) of New Business (as above) and asks Ressler to present. Ressler says this application requests a special use permit to allow a back-up electrical generator on a currently vacant property in the downtown. This property is owned by Missouri Valley Communications, operating as Nemont, and is listed in the downtown plan as an ideal place for a public space.

Ressler says the applicant's existing back-up generator, used to provide power for phone and internet service to people in the Williston area, is currently housed inside the building, and has

failed. The applicant has stated that there is no way to remove it from the building and that they therefore must use a generator that has been placed in the alley permanently.

A generator is not an enumerated accessory use in the C-3 zone. The placement of it also does not correspond with the Downtown Plan. However, Ressler says that given the severity of the need for the generator, it does not seem unreasonable to allow this use by an SPU. Planning Staff asked Nemont to look at ways that the impact of the generator could be minimized and perhaps still meet the goals of the Downtown Plan. Planning staff worked with the developer to create the presented plan, where the applicant will provide a public space and a wall which will screen the generator. Ressler explained the public space regarding placement of tables, seating, greenery and the wall that will be built around the generator to screen it from view and also provide some sound barrier.

Ressler states that at the September 2, 2014 ad hoc meeting, it was clarified that a generator is essentially an accessory use on a lot by itself, which isn't allowed in the code, but can be looked at as a non-enumerated SPU. Staff also clarified previous discussions with the applicant regarding a non-enumerated SPU and the Downtown Plan. Ad hoc generally felt that the creation of this public space would further the goals of the downtown plan while simultaneously providing screening of the use in the "alley" property and recommended approval.

City Engineer Hanson asked about the maintenance of the public space, a Nemont representative stated that Nemont would be responsible for maintenance. Hanson further requested that applicant add a public access to the map. Fleck asked what kind of wall would be built around the generator and Ressler said it would be a masonry wall. Christensen asked about the proposed height, Ressler answered that it would be an 8 foot wall. Further discussion was had about the wall, it was suggested that the wall be built two feet higher than the generator for better sight and sound barrier. Nemont representative stated that they would be placing the generator in a containment unit that is designed to buffer the noise, he also stated that the generator is ran for 20 minutes each week to test the system and further than that is only used when there is a commercial power outage. He further pointed out that the temporary one being used now has received no complaints and it is not buffered or contained in any manner.

MOTION BY FLECK, SECOND BY CHRISTENSEN, to approve the Special Use Permit (SPU) request to place a generator and protective wall at the downtown location of Nemont Communications, Lot 4, Block 3, Original Townsite, City of Williston, contingent on providing all upgrading as submitted for public space, providing the public access as requested by the City Engineer, the wall being a minimum of 2 ft. higher than the generator and the generator being contained in the noise suppression container. AYES: Long, Fleck, Christensen, Boyeff. NAYS: ABSENT/NOT VOTING: Maristuen, Haugen Aafedt. ABSTAINED: None.

- c. Payment in Lieu request to pay for a number of parking spaces of required parking pursuant to the recently adopted downtown parking ordinance 998 – Nancy Kapp

Boyeff introduces Item (c) of new business (as above) and asks Ressler to present. Ressler explains that the Renaissance Companies has requested of the Parking Authority and Planning Commission to pay in lieu of providing several spaces in their Renaissance on Main project. Ressler adds that approval of this project will allow them to move forward with breaking ground this month.

The project needs 57 spaces to meet the parking requirement for the building. The project can now provide 52 spaces within the parking areas of the building. They are requesting the ability

to pay in lieu of providing in the remaining 5 spaces, since they cannot add any more parking to the building without adding more floors. Ressler pointed the Commission to see the developer's letter, also in their packets, which states that "Adding another floor to the building would cause undue hardship and costs that could not be borne by the development." Ressler says that under the ordinance, as a new development, the developer would pay \$15,000 per unprovided space. The total for this project is \$75,000 which would be paid at time of building permit and would go toward the parking authority budget.

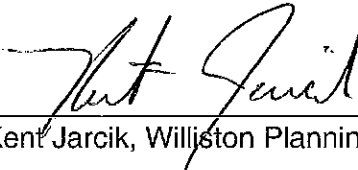
On September 10, 2014, the Parking Authority met on and discussed this project, the changes since the project had been brought up originally two years ago, and discussed the upcoming parking study. The Parking Authority had concerns about allowing less parking in the building than is required, especially given its location and the current concerns with parking downtown. The Parking Authority also discussed the possible disadvantages of moving forward with this request while the downtown parking study is still underway. The Parking Authority ultimately determined that the project and application met the requirements of Ordinance 998.

Commission was reminded that they had originally allowed a parking reduction for this project. Nancy Kapp, the developer, explained that the original intension for this project was a seven-story building containing 60 apartments, 100 parking spaces and two floors of retail office space. Bids for that proposal were far over budget so the project was cut in half. They will still offer the two floors of retail space but now only 30 apartments and 52 of the required 57 parking spaces. She adds that to provide the other 5 spaces would require a fifth floor be added which puts the project over budget.

**MOTION BY LONG, SECOND BY CHRISTENSEN**, to approve the request to pay in lieu of providing 5 parking spaces from the Renaissance Companies for the Renaissance on Main project, on the southwest corner of 2<sup>nd</sup> St and Main St., with \$75,000 payable to the Parking Authority and being due at the time of building permit issuance. **AYES:**, Long, Fleck, Christensen, Boyeff. **NAYS:** None, **ABSENT/NOT VOTING:** **ABSTAINED:** Maristuen, Haugen, Aafedt.

**DATE OF NEXT REGULAR MEETING:** October 20, 2014

**MEETING ADJOURNED.**

  
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Kent Jarcik, Williston Planning Director

**APPENDIX**  
to the  
**SEPTEMBER 15, 2014 PLANNING AND ZONING COMMISSION MINUTES**

1. Special Use Permit (SPU) request to place a generator and protective wall at the downtown location of Nemont Communications, Lot 4, Block 3, Original Townsite, City of Williston – Missouri Valley Communications
2. Payment in Lieu request to pay for a number of parking spaces of required parking pursuant to the recently adopted downtown parking ordinance 998 – Nancy Kapp