

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON MARCH 18, 2013 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA

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

MEMBERS PRESENT: Glenn Boyeff, Deeann Long, Jerry Fleck, Chris Brostuen, Jon Maristuen, Nick Haugen.

MEMBERS ABSENT: Cynthia Aafedt.

OTHERS PRESENT: Kent Jarcik, City Planner; Rachel Ressler, Staff Planner; Elaine Sinness, Assistant Planner; Donald Kress, Principal Planner; Cheyenne Pottridge, Administrative Assistant; Monte Meiers, City Engineer; Jordan Evert, City Attorney.

DISPOSITION OF MINUTES: Minutes were discussed from the February 25, 2013 meeting as presented. Correction needed to be made to page 7, to Jonathon's Landing. Motion needed to be changed from saying "defeated" to "no-recommendation." MOTION BY LONG SECOND BY BROSTUEN. MOTION CARRIED ON VOICE VOTE.

PUBLIC HEARING:

1) Proposed Preliminary Plat for Ames Subdivision, Rearrangement of Lot(s) 2&3, Block 7, Wegley Green Acres. (Containing 2+ acres) – Epic Engineering

Boyeff opened the public hearing and asked Ressler to present. The application requested to rearrange Lots 2 and 3 of Block 7 of the Wegley's Green Acres Subdivision. The proposed rearrangement creates three 0.5 acre lots and one 0.8 acre lot, and is intended to remain residential. This application was received in 2012, but was put on hold until the Northern Annexation was approved. There are sewer and water lines to every lot. The configuration of Lot 1 is due to the existing structures on the property. The shed on Lot 2 (currently marked Lot 4) must be removed, due to a code regulation that states that there can be no secondary structure without a primary structure on the lot. The shed does not count as a primary structure, since the lot is residential.

At ad hoc, the discussion included the need to remove an existing shed from Lot 2, currently marked as Lot 4, and the need to label that lot correctly. Discussion also included whether or not the existing barn will meet setback requirements (it will), and that the intention of the applicant is to keep the 4 lots as rural residential. Ad Hoc recommends to the City Commission approval of preliminary plat for the Ames Subdivision, contingent on staff comments, plat review, development agreement, non-protest of future streets improvements and any other required items. Comments included: Building: accessory structure needs to be removed (from Lot 2). Planning: standard development agreement is required. Engineer: a Non-Protest of Future Street Improvements document is required.

Boyeff asked for public comments. Linda Wegley, a neighbor to the proposed plat, asked what is going to move in to this area. Staff answered that they didn't know; it was zoned residential single family dwelling. Another neighbor asked about the road situation and the culverts that were currently installed. The culverts are allegedly sunk in to the road, and it has left the road in terrible condition. Greg Boe representing Epic Engineering, didn't have any comment for the questions. He said he would look into the matter; he was new to the project.

Meiers stated that they would have to go back into it and fix the roads and culverts. A neighbor then asked what was the plan for the lot? They had heard a rumor about apartments. They wanted to see if that was true or false. The staff commented that only single family dwellings could be built on the lots. So at this time they could not build apartments on the lot. Teresa Lee, another concerned neighbor, asked about the horse situation. She wanted to know if they were going to clean up the mess from the horses currently on the lot, because it was starting to stink. Ms. Lee also asked if the horses were going to be allowed to stay. Mr. Boe stated that if it was an issue, he would bring it up to his employer. Then they would take action, and try to have the horses moved within thirty days.

Boyeff called two more times for any other public comments. There were no more comments, so he closed the hearing and asked for board action.

MOTION BY BROSTUEN, SECOND BY HAUGEN, to recommend to the City Commission approval of preliminary plat for the Ames Subdivision, contingent on staff comments, plat review, development agreement, non-protest of future street improvements, resolution of zoning violations, resolutions of drainage issues, and any other requirements.

AYES: Maristuen, Brostuen, Fleck, Haugen, Long, Boyeff

NAYS: None

ABSENT NOT VOTING: Aafedt

ABSTAIN: None

MOTION CARRIED ON ROLL CALL VOTE.

2) Proposed Preliminary Plat for Rearrangement of Lot 2, Block 1, Whitlock Industrial Park (Lots 1R, 2R, 3R) (containing 3+ acres) - Chase Whitlock/Site-West Development

Boyeff opened the public hearing and asked Ressler to present. Ressler stated that the application requests to rearrange Lot 2, Block 1 of the Whitlock Subdivision into three parcels. There is currently a building under construction on what is proposed as Lot 2R. This subdivision was before the Planning Commission for a zone change to C-2: General Commercial last fall and the City Commission approved a zone change to C-2: General Commercial on September 11, 2012. The site plan proposed for that zone change included a hotel, restaurant, and gas station. This rearrangement of the lot is requested in order to facilitate that process.

The access easements shown on the plat are sufficient to meet the City's lot access requirements. Staff expressed concern regarding the number of easements running through the lots. The 80' easement to the south side of Lot 3R is a proposed utility easement that houses a rural water line. Engineering has stated that when water is run to this area, that easement will be able to be vacated, as the rural water line will no longer be necessary. In addition, there have been plans from our traffic consultant, SRF, regarding frontage roads and the possibility that the south side of Lot 3R may need to be utilized as a frontage road. Due to the lack of continuity through a frontage road to the west at Schlumberger and due to lack of stacking room at the 139th Ln & Hwy 2/85 intersection, Planning and Engineering are in agreement that a frontage road is not necessary on the south side of Lot 3R.

At ad hoc, discussion included the possibility of creating Lot 2R as a flag lot, but this was later determined to be unnecessary.

Staff comments were:

Planning: need resolution of transformer box in northernmost access/utility easement.

Engineer: a Non-Protest of Future Street Improvements document is required.

Boyeff called three times for public comments. No public comments were heard; he closed the hearing and asked for board action.

MOTION BY HAUGEN, SECOND BY BROSTUEN, to recommend to the City Commission approval of preliminary plat for the Whitlock Subdivision, contingent on addressing staff comments, plat review, non-protest of future streets improvements and any other required items.

AYES: Maristuen, Brostuen, Fleck, Haugen, Long, Boyeff.

NAYS: None

ABSTAIN: None

ABSENT NOT VOTING: Aafedt .

MOTION CARRIED ON ROLL CALL VOTE

**1. Proposed Amendment to Ordinance No.613 of the Williston Zoning Ordinance-
Section 31: Definitions: Adding "Lodge"**

Boyeff opened the public hearing and asked Ressler to present. Ressler stated that in Ordinance 961, the definition of Lodge was included as "a building or portion thereof or premises owned or operated by any corporation or association organized for civic, fraternal, social, or business purposes, or for the promotion of sports".

This should have been included at that time as an amendment to Section 31, but was not. This amendment will place "Lodge" in the definition section as well as in Section 21: C-3 Restricted Commercial District.

The ad hoc committee had no questions regarding the proposed amendment.

Boyeff called three times for public comments, but hearing none, closed the hearing and asked for board action.

MOTION BY MARISTUEN, SECOND BY BROSTUEN, to recommend to the City Commission approval of Ordinance 964, an amendment to Section 31, adding the definition of "Lodge".

AYES: Maristuen, Brostuen, Fleck, Long, Haugen, and Boyeff.

NAYS: None

ABSENT NOT VOTING: Aafedt.

ABSTAIN: None

MOTION CARRIED ON ROLL CALL VOTE

**2. Proposed Amendment to Ordinance No. 613 of the Williston Zoning Ordinance -
Section 25: Supplementary District Regulations - (G): General Sign Regulations:
amending dynamic message signs; and Section 31: Definitions**

Boyeff opened the public hearing and asked Kress to present.

Kress stated Section 25 G: General Sign Regulations of the Williston zoning ordinance was amended recently to update these regulations in response to advances in sign technology, the growth of the city of Williston, and the goals of the updated Comprehensive Plan. The revised ordinance, 960, went into effect January 1, 2013.

Since that time, staff has been asked to re-evaluate certain regulations regarding dynamic messaging signs—message length, brightness, prohibited message elements, and how existing dynamic messaging signs in the Renaissance Zone will be addressed. Information provided by sign industry representatives, research on this topic done by staff and discussions within the city

have led staff to propose the following amendments to the dynamic messaging sign section of the sign ordinance.

Message length: The revised message length—three screens per message in no longer than nine seconds—replaces the earlier length limitation of six seconds per message screen.

Prohibited display elements: Clarifies elements and effects prohibited in the dynamic messaging and further defines “animation.”

Brightness: The brightness standard proposed by the amendments is the industry standard for measurement of brightness.

Dynamic messaging signs in the Renaissance Zone: Their status has been clarified.

Kress added additional information. Light emitted shall be max 0.3 foot candles above the ambient light level. It has been requested that measuring be done from a pre-set distance depending on sign size. Measuring distance shall be determined by using the following calculations, the square root of the product, the sign area, and one hundred, recommended by the sign industry. Kress stated that it would be rare that we put such a specific technical measure in the ordinance, because these things change as technology advances, and new practices are adopted. Staff will try to keep the spirit, and amend point F, to say “Light emitted shall be a maximum 0.3 candles above ambient levels measured per industry standard procedure,” if commission will accept this change.

In addition, staff recommends your commission approve and extension of the time required for complying with the dynamic messaging sign regulations. The sign ordinance that went into effect on January 1, 2013 provided 90 days to comply with the regulations of that ordinance, which would be April 1, 2013. As these revisions to the dynamic messaging signs will not have been approved by the City Commission by that date, staff proposes an extension of time to 90 days after this ordinance amendment is adopted to comply with the requirements of the dynamic messaging regulations.

An ad hoc meeting was held to discuss the proposal. They recommended approval of Ordinance 962-the proposed amendments to Section 25 G: General Sign Regulations and Section 31: Definitions of the Williston zoning ordinance.

Boyeff called three times for public comments, hearing none, he closed the hearing and asked for board action.

MOTION BY FLECK, SECOND BY HAUGEN, to recommend to the City Commission approval to recommend approval of Ordinance 962- the proposed amendments to Section 25 G: General Sign Regulations and Section 31: Definitions of the Williston zoning ordinance. Contingent with the comment Kress added about section 4F, Industry Standard Measuring and additional compliance time of 90 days after this amendment is adopted.

AYES: Maristuen, Brostuen, Fleck, Long, Haugen, Boyeff.

NAYS: None

ABSENT NOT VOTING: Aafedt .

ABSTAIN: None

MOTION CARRIED ON ROLL CALL VOTE

3. Proposed Amendment to Ordinance No. 613 of the Williston Zoning Ordinance - Section 25: Supplementary District Regulations - (H): Off-Street Parking

Requirements – Modifications of City’s parking requirements. Definitions: Adding “Warehouse” and “Remote Lot”.

Boyeff opened the public hearing and asked Kress to present. Kress stated section 25 H of the Williston zoning ordinance states the requirements for off-street parking as well as provides for methods of modification of those requirements—allowing parking on a non-contiguous lot (now proposed to be called “parking on a remote parking lot”), allowing shared parking, or reducing the parking requirement. Within the past year, the Planning Commission has received several requests to modify the off-street parking requirements pursuant to the methods described in the ordinance. Those methods, however, do not provide a detailed basis on which to make a decision as to when a modification of the parking requirement should be granted.

In an effort to clarify the situations in which a modification of the parking requirement is appropriate, staff has proposed the amendments. The methods of modification in the amendments are those currently in the parking ordinance. What the amendments add are findings that must be made to support the decision to grant each kind of modification. The amendments also:

- Restructure that portion of Section 25 H that deals with modifications, so that each method of modification is clearly an individual process;
- Expand requirements for shared parking and parking on a remote lot;
- Require a site plan to be reviewed for all modifications of the parking requirement;
- Clarify what happens when the use to which a modification of the parking requirement has been granted;
- Require recordation of the grant of a parking reduction in the county recorder’s office; and
- Define terms related to modifications of required parking.

The amendments leave to power to make a decision on the modifications with the Planning and Zoning Commission.

Kress added in addition to addressing the methods of modification of the parking requirements, the proposed amendments also:

- Remove the requirement for one parking space per employee for professional or business offices;
- Provide a parking ratio of one space per 1,000 square feet of floor space for warehouses uses; and
- Define “warehouse.”

The Commissioners in attendance at the ad hoc meeting recommended that the proposed amendments to Section 25 H: Off-street Parking Requirements and Section 31: Definitions of the Williston zoning ordinance be approved by the Planning and Zoning Commission at their March 18, 2013, meeting.

Boyeff called three times for public comments. There weren’t any comments, so he closed the hearing and asked for board action. Note on the record by Maristuen that he would like to thank the planning staff for working so hard on this parking ordinance, he thinks it will be managed much better in the future.

MOTION BY MARISTUEN, SECOND BY FLECK, to recommend to the City Commission approval of Ordinance of 963.

AYES: Maristuen, Brostuen, Fleck, Long, Haugen, Boyeff.

NAYS: None

ABSENT NOT VOTING: Aafedt.

ABSTAIN: None

MOTION CARRIED ON ROLL CALL VOTE

4. Proposed Amendment to Ordinance No. 613 of the Williston Zoning Ordinance - Section 25: Supplementary District Regulations – (S): Buffer Yards – Amending buffer requirements in certain zones.

Boyeff opened the public hearing and asked Ressler to present. Ressler stated that Ordinance 959, passed in October of 2012, added a section “Buffer Yards” to Section 25 of Ordinance 613, otherwise known as the Zoning Ordinance of the City of Williston. Upon further review and citizen comment, the ordinance was determined to need more flexibility in buffering options.

Staff reviewed the ordinance and determined the following changes were necessary.

The ordinance clarifies that on undeveloped lots, the more intensively zoned lot is required to install the buffer at the time of development, on their property.

The ordinance clarifies that the Planning Department will review site plans before deciding whether or not to approve them, and provides criteria to examine when reviewing the site plan, including open space setbacks, orientation of buildings and activities, architectural compatibility, streets and parking lots, and nuisance factors such as loading and traffic areas, noise, lighting, etc.

In addition, the ordinance combines several “buffered zones” shown in Table 1: Buffer Yard Requirements, and updates some of those requirements between R-3/R-4/R-5/R-7 and R-1/R-2/R-6, and between any C and any A, R, or P zones. The requirements have been updated to allow flexibility from developers with approval from the Planning Department. Rather than requiring a 4 to 6 foot high opaque fence as a buffer between certain areas, the developer will now be able to choose between landscaped buffers, fencing and landscaping, and berms. The Planning Department will work with the developer to determine the appropriate level of buffering.

Boyeff called three times for public comments, hearing none, Boyeff closed the hearing and asked for board action.

MOTION BY LONG, SECOND BY BROSTUEN, to recommend to the City Commission approval of Ordinance 965, an amendment to Section 25 (S): Buffer Yards.

AYES: Maristuen, Brostuen, Fleck, Long, Haugen, Boyeff.

NAYS: None

ABSENT NOT VOTING: Aafedt .

ABSTAIN: None

MOTION CARRIED ON ROLL CALL VOTE

UNFINISHED BUSINESS:

- 1. Proposed Zone Change from M-1: Light Industrial to C-2: General Commercial for two (2) unplatted properties located in the SW1/4SW1/4 Section 1, T154N, R100W, and Block 1 & 2, Sawvell Subdivision (containing 2 +acres)-Christianson/Bradley**

Item was tabled. Ressler spoke with the applicant. The applicant is working on a purchase agreement, and are expected to come before will be ready to present on it in next month's meeting.

MOTION BY FLECK , SECOND BY HAUGEN to table the item. MOTION CARRIED ON VOICE VOTE.

New Business:

1. Request to reduce parking requirements –Ebel Integrators

Boyeff asked Kress to present. Kress stated the letter from the applicant received February 15, 2013, requests a reduction in the parking requirement for development at 2407 2nd Avenue West, an existing 3,200 square foot building(1,550 SF of office; 1,650 SF of shop space). This building is being enlarged to a 12,380 square foot building (6,380 SF of office space; 6,000 SF of warehouse). The business takes access from the frontage road to U.S. Highway 2/85 to the east.

Kress said that in Section 25 (H) of the Williston zoning ordinance states "If it can be demonstrated by the property owner through market studies or other means that the required off-street parking is excessive and a lesser requirement justifiable, the Planning and Zoning Commission may consider reducing the number of required spaces."

Kress stated a request to reduce the parking requirement from 45 spaces to 25 spaces was denied by the Planning and Zoning Commission at the November 19, 2012 meeting. Since that time, the applicant and property owner have worked with staff to agree on a reduced number of spaces.

Staff has proposed 32 spaces, based on the following calculation:

- One space per 250 square feet of office space ($6,380/250 = 25.25$ spaces)
- One space per 1,000 square feet of warehouse space. ($6,000/250 = 6$ spaces)
- $25.25 + 6 = 32$ spaces required

The applicant has prepared a site plan depicting the enlarged building as well as the 32 parking spaces.

An ad hoc meeting was held on March 6, 2013 to discuss the proposal

- The parking spaces in the rear of the lot must have a designated drive lane of the width required by the zoning ordinance.
- In order to simplify access to the parking spaces at the rear of the lot, the existing gate should be moved to the north or a new one installed those lines up with the designated drive lane for those spaces.
- Meaning of the some of the lines on the site plan must be clarified.

Public Works: It appears that there is only about 60 feet of space available for parking between Ebel's and the Striefel Building to the south. This does not seem to be enough space for perpendicular parking for both Ebel and Striefel and the proposed 25 foot driving aisle.
Planning: Provide documentation the "Drive Aisle Agreement" with the adjacent property. This should be a recorded document. This agreement should include an exhibit depicting the shared driveway. Kress stated the Ad Hoc committee recommended approval of the request for reduced parking for the Ebel Integrators building.

Boyeff asked if anyone had any public comment at this time. Mr. Mark Schneider, representing Ebel Integrators, stated 18 spaces out to the right; it appears that there is more than 60ft. between the buildings.

Mr. Schneider said the owner to the south and Mr. Ebel have agreed to put a 25-foot driveway cross access agreement into place, because they knew that they needed the perpendicular parking. So if either owner sold their property, they certainly wouldn't want the new owners to come in and put up a fence. Boyeff asked for board action.

MOTION BY LONG, SECOND BY BROSTUEN, to recommend approval of the request for reduced parking for the Ebel Integrators building. Contingent on a 25 foot drive aisle agreement being executed by the applicant and neighbor to the south.

AYES: Brostuen, Fleck, Long, Haugen, Boyeff.

NAYS: None

ABSTAIN: Maristuen.

ABSENT NOT VOTING: Aafedt.

MOTION CARRIED ON ROLL CALL VOTE

2. Special Permitted Use for Hazardous Materials – Jerry's Weed Service

Boyeff asked Ressler to present. Ressler indicated the application requested to allow storage of hazardous materials on Lot 2, Block 2, of the Tofte Bean Subdivision, including hydrochloric acid. The lot is .52 acres.

Ressler stated that is just for Lot 1, of Block 2. There is an office and building to house weed control. This includes non-reportable quantities of chemicals for that purpose. This application is just for Lot 2, Block 2, which includes an office and pole barn which house operations for emergency response, spill cleanup, and hydrochloric acid.

Chief Alan Hanson, Fire Chief for the City of Williston, has verified that the chemical storage and use is acceptable.

Ressler indicated that at ad hoc, committee members verified that there are no other chemicals needed to be included in the SPU. Ad hoc recommendation was to approve the request for a special permitted use as presented in the site plan attached. Boyeff asked if anyone would wish to comment at this time.

None were heard. Boyeff asked for board action-

MOTION BY FLECK, SECOND BY MARISTUEN, to recommend approval of the request for a special permitted use as presented in the site plan attached, for Lot 2, Block 2 in Tofte Subdivision, for Jerry's Weed Services.

AYES: Maristuen, Brostuen, Fleck, Long, Haugen, Boyeff.

NAYS: None

ABSENT NOT VOTING: Aafedt.

ABSTAIN: None

MOTION CARRIED ON ROLL CALL VOTE

3. Review Proposed Vacation of (24') frontage road – New Hope Wesleyan Church

Boyeff asked Kress to present. Kress indicated that the application received March 1, 2013 requests vacation of approximately a 196-foot portion of a platted 24-foot wide frontage road

right-of-way that runs northeast to southwest along the southerly boundary of the properties occupied by New Hope Wesleyan Church and Sugar Shack Properties, LLC (car wash). A frontage road has not been developed on this right of way. The easterly 201 feet of the originally platted frontage road was vacated previously (this area is now occupied by 7th Avenue West and the Kum and Go property).

Kress stated this platted right of way, though adjacent to North Dakota Department of Transportation's (ND DOT) right of way for U.S. Highway 2/85, is entirely under the jurisdiction of the City of Williston. As a result of the vacation, the full 24-foot width of the platted frontage will be acquired by the property owners of the adjacent parcels. Kress commented that an ad hoc meeting was held to discuss the proposal. Discussion at the ad hoc meeting included: Future widening and signaling of 9th Street West, Street parking along 9th Street West and the level of activity on uses adjacent to 9th Street West. Adhoc recommended approval. Boyeff asked for board action.

MOTION BY FLECK, SECOND BY MARISTUEN, to recommend approval to the City Commission at their April 23, 2013, meeting of the vacation of platted frontage road for the 24 ft. dedication. With an agreement, that the City of Williston shall gain right of way from the New Hope Church for the future expansion of 9th Ave West.

AYES: Maristuen, Brostuen, Fleck, Long, Haugen, Boyeff.

NAYS: None

ABSENT NOT VOTING: Aafedt.

ABSTAIN: None

MOTION CARRIED ON ROLL CALL VOTE

Other New Business:

Bob Eynon addressed the commissioners with a concern of his neighborhood. Mr. Eynon was questioning an article he had read in the local newspaper about new AE2S building next door to him. The article stated that the building would be remodeling and potentially welcoming other professional tenants. Mr. Eynon was concerned about the parking issues that it may cause an overflow through the neighborhood. Commissioners and staff stated they would look into the issue. He then asked about the minutes and agenda being placed on the City's web site. Staff stated they would begin doing this.

Rachel Ressler had other business with the new My Gov system. Ressler stated to the commissioners that they would no longer be receiving PDF copies of the supporting information before ad hoc meetings. They need to get all their information from the My Gov. system.

Next meeting - Monday, April 15, 2013, 5:30pm

MEETING ADJOURNED

Kent Jarcik, Williston Planning Director

APPENDIX
to the
MARCH 18, 2013 Minutes

Findings for the following:

SPU – Storage of Hazardous Materials on Block 2, Lot 2, Tofte-Bean Subdivision(606 East
Broadway) City of Williston. – (Jerry's Weed Service)

FINDINGS OF THE PLANNING AND ZONING COMMISSION
in approving a
SPECIAL PERMITTED USE
for
STORAGE OF HAZARDOUS MATERIALS at JERRY'S WEED SERVICES

Section 21: M-1: Light Industrial District of Ordinance 613 of the City of Williston, otherwise known as the zoning ordinance, states that storage of hazardous materials may be considered for a special permitted use, subject to locally adopted Fire Code and State Building code regulations.

The Planning and Zoning Commission has made the following findings:

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.* Yes, Fire Chief Hanson raised no concerns.
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.* Use is acceptable in an M-1 zone. Surrounding Properties are also zoned M-1: Light Industrial.
3. *Refuse and service areas, with particular reference to the items in "1" and "2" above.* N/A
4. *Utilities, with reference to locations, availability, and compatibility.* Utilities are compatible with use.
5. *Screening and buffering with reference to type, dimensions, and character.* Buffering is not required between industrial lots.
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.* N/A.
7. *Required yards and other open spaces.* There are no required yards or open spaces for this project.
8. *General compatibility with adjacent properties and other property in the district.* The area is light industrial and used for similar purposes.
9. *Use shall not impose a hazard to health or property.* All hazards have been approved as acceptable by the Fire Department.

The Planning and Zoning Commission found the request for reduced parking to be in compliance with Section 25 of the Williston Zoning Ordinance.

By _____
Kent Jarcik, Williston Planning Director