

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON AUGUST 17, 2015 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.

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

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

MEMBERS ABSENT: Long, (one vacant seat)

OTHERS PRESENT: Kent Jarcik, Planning Director; Donald Kress, Principal Planner; Rachel Ressler, Senior Planner; Samantha Neill, Staff Planner; Christine Edwards Administrative Assistant; Bob Hanson, City Engineer; Bill Tracy; Building Official; Tom Kalil, Assist. City Attorney.

DISPOSITION OF MINUTES:

- Minutes were approved for July 20, 2015 regular meeting. MOTION BY CHRISTENSEN, SECOND BY HAUGEN. CARRIED ON VOICE CALL.

COMMUNICATION: NONE

PUBLIC HEARINGS: NONE

COMMITTEE REPORT: NONE

UNFINISHED BUSINESS:

Kress addressed the Commission in single presentation concerning the items of Unfinished Business. He first stated that staff is requesting that Item a (below), a short plat and zone change, be tabled for another month to the September 21, 2015 meeting as there are still some plat issues that need to be corrected before this can be presented. He said that the engineer, Jeff Ames, was aware of this request and agreed.

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

Kress stated that Item b (below), a short plat of the LeDosquet Addition and the Gilmore Inlots should remain tabled for one month to the September 21, 2015 meeting as a third property owner, Dr. John Andelin, had not yet given written consent to the lot line adjustments although Kress had spoken with him and Dr. Andelin stated he would provide the consent.

- b. Short plat for rearrangement of Lots 1 and 4 of the Gilmore Inlots Subdivision and Lots 1, 2, and 3 of the LeDosquet Addition Subdivision, located between 2nd St W and Broadway, on 2nd Ave W, containing about .96 acres - William Rudolph, Opportunity Foundation, John Andelin/Westrum's Land Surveying

Kress said that the applicant, StatOil, has requested that Items c and d (below) remain tabled for one month to the September 21, 2015, Planning Commission meeting.

- c. Special Permitted Use - Jarold 1 and 2 site, for the expansion of an existing well pad to accommodate three addition wells and associated standard equipment on the Jarold 1 and 2 site, south side of 84th Street, east of Highway 2/85 - StatOil, applicant/Kathleen F. Smith, property owner
- d. Special Permitted Use - Jarold 3 and 4 site, for the expansion of an existing well pad to accommodate three addition wells and associated standard equipment on the Jarold 3 and 4 site, south side of 84th Street, east of Highway 2/85 - StatOil, applicant/Kathleen F. Smith, property owner

MOTION BY HAUGEN, SECOND BY CHRISTENSEN, to table Unfinished Business Items a, b, c, and d as requested by staff and/or applicants until the September 21, 2015 Planning Commission meeting. CARRIED ON VOICE CALL.

NEW BUSINESS:

Commissioner Aafedt stated that a change in the order of presentation of the items of New Business was being requested to hear Item e, vacation and discontinuance of public right-of-way, first and asked for a motion from the Commission.

MOTION BY CHRISTENSEN, SECOND BY BOYEFF, to change the order of presentation of agenda items to allow Item e to be heard first. CARRIED ON VOICE CALL.

- e. Review of vacation and discontinuance of a public right-of-way in Block 26, Bruegger's 2nd Addition to the City of Williston (courthouse alleyway) – Williams County/AE2S (Presented out of order upon motion of the Commission)

Aafedt introduced Item e of New Business (as above) and asked Kress to present. Kress explained that the request for vacation of a 20-foot wide alley located within Block 26 of Bruegger's 2nd Addition, the alley behind the Williams County Courthouse.

This alley was dedicated by the plat for Bruegger's 2nd Addition. The applicant requests vacation of this alley in order to provide additional space for the proposed expansion of the Williams County Law Enforcement Center (LEC), which are proposed to be expanded to the north.

Kress said that vacation of this alley does not affect street access or water and sewer connection to any lots adjacent to the alley to be vacated. A hearing on the vacation is scheduled before the City Commission at their September 8, 2015 meeting. Kress explained that the request is that the Planning Commission review the requested vacation and make a recommendation to the City Commission.

Kress stated that discussion at the August 3, 2015, ad hoc included:

DO NOT CREATE A DEAD—END ALLEY: The City Engineer stated that the applicant must provide an easement through that parking lot that was once 3rd Avenue East to allow City sanitation trucks to pass through that parking lot so they will not have to back down the alley. The City Engineer also reminded that there are apartment buildings to the north that will continue to need access

SEWER LINE REMAINS UNDER VACATED 3rd AVENUE: The City Engineer noted that a 10-inch sewer line remains, in an easement to the east under the vacated 3rd Avenue. The

County should not build over this sewer line. The applicant's representative stated there were no plans to build to the east at this time.

PARKING FOR THE COURTHOUSE AND SURROUNDING AREA: Kress stated that the applicant's representative, Mike McLean of JLG Architects, has been in discussion with Planning Staff to clarify and explain the County's parking situation for the "campus" which includes the Courthouse and LEC lots, the Broadway Commons and former MDU buildings and parking lots. Kress said that Mr. McLean will have a presentation for the Commission to explain this after staff's presentation is concluded.

FIRE DEPARTMENT ACCESS: The Fire Chief advised the applicant's representative that the existing LEC has some fire department access issues and the proper fire department access must be taken into account in the design of any new building or expansion of existing buildings.

FRANCHISE UTILITY RELOCATION: Though the City has no utilities in the alley proposed to be vacated, Nemont, Midco, and MDU do have lines in that alley. The City Engineer had earlier directed the applicant to arrange with these franchise utility operators to relocate their lines prior to vacation of the alley. Kress said that Bill Moonen of AE2S, representing the applicant, will also update the Commission on his ongoing discussions with these utility providers.

Kress stated that on Wednesday, August 5, 2015, Planning, Public Works, and City Engineering staff met with the County's consultants for development around the courthouse area, including creating sufficient parking. The County's project manager presented an overall parking plan. City staff suggested some additional information and calculations be made, particularly in regard to the parking requirements of the existing building. Kress told the Commission that the County campus was within the downtown area of the City and the parking requirements for the downtown are slightly different than the rest of the City.

Kress stated that while parking is a discussion as part of the larger parking, no parking decisions are being made at this point and reminded the Commission that this item is just the vacation of the described portion of the alleyway on the north side of the Courthouse building. Kress concluded his presentation and asked the applicant's architect to discuss parking.

Mike McLean of JLG Architects explained that with the square footage of 217,000 of the Courthouse and the law enforcement center (LEC) calculated at the downtown requirement of 1 space per 500 sq. ft. of building space this project would require 434 parking spaces. However the 68,720 sq. ft. of the LEC would actually require no parking space and the square footage of the Courthouse Café should be removed as there is no parking requirement in the downtown area for restaurants. When those areas are removed the requirement for parking is only 291 spaces. McLean then stated that the County's downtown campus, the Courthouse, LEC, Broadway Commons there are 288 parking spaces. Further McLean stated that the County has purchased land south the old MDU, now Williams County offices which would add 107 parking spaces; adding another 5 spaces that would conform to ADA requirements there would 112 parking spaces with the old MDU project. The LEC project would allow for 177 spaces providing a total of 289 parking spaces, one more than the requirement of 288. McLean added that the County intends to acquire property east of the LEC that would add even more parking in the future. McLean stated that this presentation was to address any concerns that allowing the alley vacation for the future projects would compromise the parking requirements and needs of the County buildings and concluded his presentation.

City Engineer Hanson asked McLean about the existing alleyway coming in but having no exit and if it were their intention to close that, McLean said it was not and that the project engineer, Bill Moonen could address that. (This referred to a 3rd St. E entrance to the LEC parking lot and an ingress/egress from the LEC parking lot to E. Broadway)

Dan Kalil, representing the Williams County Commission, stated that one reason for proposed expansion to the LEC is to allow the addition of a larger, drive-thru sallyport to accommodate multiple vehicles or larger vehicles use stating that the current sallyport is not tall enough to allow an ambulance or bus of any kind to enter. Should an ambulance need to be called, or a bus come for loading or unloading inmates, those vehicles be parked outside behind the LEC and a patient/inmate(s) would need to be transferred outside of the safety of the LEC. Kalil further explained that the County has or is in the process of purchasing properties to the east of the LEC that will be cleared and paved to provide even more parking.

Bill Moonen of AE2S addressed the franchise utility issue by stating that there are four utility providers located in the alleyway currently: MDU gas and MDU electric; Nemont; and Midcontinent. Moonen stated that they have received proposals from both MDU gas and electric on relocating and working out time lines and costs on that. Midcontinent has also submitted a proposal and they have a verbal plan with Nemont on a written relocation agreement so no problems are anticipated. Moonen further addressed Hanson's earlier question about the alleyway exit and said that the Broadway entrance would remain to allow city sanitation trucks to enter from the east (3rd Street) and exit onto Broadway for garbage collection.

Commissioner Boyeff questioned the fire department concerns from the ad hoc meeting. Moonen advised him that those were a continuing discussion as the process moves forward. Kress added that those concerns would be addressed more in the building permit phase of the process.

MOTION BY BOYEFF, SECOND BY CHRISTENSEN, to recommend approval of the vacation and discontinuance of a public right-of-way in Block 26, Bruegger's 2nd Addition to the City of Williston. AYES: Haugen, Maristuen, Christensen, Boyeff, Aafedt. NAYS: None ABSENT/NOT VOTING: Long and (one vacant seat). ABSTAINED: None.

- a. Special Permitted Use for a 500' x 600' oil well pad (Maryland) to be located on 7.3 acres in the W1/2, Section 16, T154N, R100W, within the extra-territorial jurisdiction of the City of Willison - Continental Resources

Aafedt introduced Item a of new business (as above) and asked Kress to present. Kress stated that the next three items, a, b and c, are well pads for Continental Resources are in the City's Extra-territorial Jurisdiction (ETJ) located east of the City in the Stony Creek Township. Kress said that Stony Creek Township was represented at this meeting by Superintendent Dan Brown. Kress pointed out that two of the proposed well pads to be discussed are on State Trust Lands Department property.

This site is known as the Maryland site. This site is one of two proposed well pad sites on Section 16. Access to the site is provided by a gravel well pad access road approximately four-tenths of a mile long. This road will connect with the gravel well pad access road serving the Maryland 6-9 site proposed to the south of this site, which connects to an gravel well pad access road that runs east to connect to Highway 1804.

Kress said that gas is to be piped from the facility; no flaring is expected unless a situation arises of the gas pipe being temporarily at capacity. The applicant is negotiating with a pipeline company for access to an oil collection pipeline that is about two miles from this pad site.

Though a cuttings pit appeared on the original plan for this site, they were removed at the request of the North Dakota Department of Trust Lands, which is the landowner for this site.

Kress said that discussion at the August 3, 2015 ad hoc meeting included:

LANDSCAPING AND FENCING: Planning staff had advised the applicant that as this site is not in the City's direction of growth, has no urban land use designation around it, and is on a school section that is probably not available for development, no landscape buffering is recommended. However, a full-perimeter security fence (chain link) is recommended. The applicant stated that the pad will be temporarily fenced with barbed wire to keep the livestock away from the pad. Once the well is completed, the size of the original pad will be reduced, the slopes re-graded and seeded, and then the permanent security fence installed, though the temporary barbed wire may remain in place for one season to keep the livestock off the fresh grass. The security fence is to be installed within one year of the well going into production.

PIPING OF OIL, GAS, SALTWATER: The applicant stated that gas will be sold at the wellhead so will be piped. There is a lack of infrastructure to pipe oil and saltwater in this area, but Continental is negotiating with a pipeline company that has an oil collection pipeline within two miles of the pad site

FLARE SHIELD: The applicant asked about specifics for the required flare shield, and whether the flare shield on the well pad south of the railroad tracks would be an adequate example. This shield is just a large steel box around the flare. The committee stated that this was an acceptable design.

Kress directed the Commission to the draft findings attached to the fact sheet in their packets and added that Terry Johnson, the land man from BJ Kadmas, and Mark List of Continental Resources are available for questions and concluded his presentation.

Tony Axelson spoke from the audience. Aafedt reminded the audience that this is not a public hearing item but comment would be allowed. Mr. Axelson stated that he owns the property directly south of the first two proposed well pads. He expressed his concern and unhappiness with his land being "given away" for the construction of a new roadway to the oil well pad sites. He stated that he had no notice of any work to be done, stated he did not get notice of this meeting as it had been sent to an incorrect address and stated that even before this meeting Continental has already constructed the roadway to the proposed second site (Maryland 6-9) again Mr. Axelson stated without any notice to him nor has he ever even had notice of survey of the section line. It was determined that this new road was constructed on the section line which the state automatically has an easement on. Axelson stated that the section line on both the north and west side of his land were closed by the state years ago.

Mark List of Continental Resources stated they have an access easement through property neighboring Mr. Axelson through a private drive to the northern section line to access the existing Maryland well pad site. That same private drive would continue to be used at that the section line easement would be extended across the top of Mr. Axelson's property to the Maryland 6-9 site. The County and the Township have given consent for this.

Dan Brown representing the Stony Creek Township said that the State would not give a new approach so the best option was to use the current private drive easement to the section line and to extend that road along the section north of Mr. Axelson's property. Brown stated again that there is an automatic easement on section lines of 66 ft., in that case 33 ft. on Mr. Axelson's property and 33 ft. from the State Trust Lands property where the oil well pads are located. Mark List, Continental, and Dan Brown, Stony Creek Township, both stated that they were unable to find any documentation that the section lines mentioned by Mr. Axelson had been or are now closed by the State.

Discussion between Kress, Axelson and List about current access route. From the State Highway access is gained through Richard Hanson's private drive, through an easement agreement to the section line, west to the closest half section line to the north on State Trust Land to a private drive to the current Maryland well pad. Axelson doesn't understand why the current road to the Maryland site cannot be extended to the west on the State Trust Land to the proposed Maryland 6-9 pad. Mark List, Continental Resources, stated that the State Trust Land department made the requirement to use the section line access easement rather than extending the current road across that Trust Land section to the next site. List further stated that the State would not approve any new approach from the highway to access directly onto the section line, thus the reason for the continued access through Richard Hanson's private drive.

Axelson asked if this is now City jurisdiction what business the County and Township had to do anything. Kress explained the limited authority of the City Planning and Zoning Department within the ETJ being planning and zoning code, subdivision code and crew camps only. Kress stated that all other matters were still County and Township jurisdiction. Axelson stated that he has had no notification of any meetings concerning the roadway and stated that there are no meeting minutes of any roadway discussions. Dan Brown stated that there is Township meeting minutes granting the roadway on the section to Continental Resources.

Terry Johnson, BJ Kadrmas, showed the Commission proof of a certified letter having been sent to Mr. Axelson well ahead of this meeting which remained unclaimed at the post office for 23 days. Mr. Axelson stated that it was addressed to the property location and not his actual home address so he had no knowledge of this until Continental's security guard, on the road construction project, provided him with a copy of the letter sent out to surrounding property owners. Further, Mr. Johnson says that contrary to Mr. Axelson's claim that he had no notice of any intent to build a road way, BJ Kadrmas does have Mr. Axelson's signature on a Notice to Survey.

Commissioner Boyeff asked Mark List if the NDIC has permitted this well and Mr. List confirmed that it had.

MOTION BY BOYEFF, SECOND BY HAUGEN, to approve the special permitted use request for a 500' x 600' oil well pad (Maryland) to be located on 7.3 acres in the S1/2, SE1/4, SW1/4, Section 16, T154N, R100W, within the extra-territorial jurisdiction of the City of Williston, contingent on addressing all staff comment. AYES: Haugen, Maristuen, Christensen, Boyeff, Aafedt. NAYS: None ABSENT/NOT VOTING: Long and (one vacant seat). ABSTAINED: None.

- b. Special Permitted Use for a 500' x500' oil well pad (Maryland 6-9) to be located on 6.4 acres in the SW1/4, S1/2SE1/4, Section 16, T154 N, R100W, within the extra-territorial jurisdiction of the City of Williston - Continental Resources

Aafedt introduced Item b of new business (as above) and asked Kress to present. Kress stated this next site is known as the Maryland 6-9 site and is proposed to be a four well pad.

Kress said that staff comments on this project are essentially the same as with the previous well site presentation. This site would take access to the site through the same private drive driveway and section line road discussed in Item a. Just as with the previous presentation, gas is to be piped from the facility; no flaring is expected however a flare shield is required for the eventuality that flaring is needed when the pipelines are at capacity. The applicant is negotiating with a pipeline company for access to an oil collection pipeline. Again, as this site is not in the City's direction of growth, has no urban land use designation around it, and is on a school section that is probably not available for development, no landscape buffering is recommended but a security fence will be required.

Kress stated that the draft findings were in the Commission packets, the ad hoc recommendation was the same as the previous well pad presentation.

Boyeff again asked if this well site has been permitted by the NDIC. Mark List, Continental Resources, said that this site has not been permitted stating that another location south of this one was permitted because the State Trust Land was not going to allow the well pad to be placed there originally. After some further negotiations the State Trust Land site became available so the originally permitted site was abandon and the new proposed site permit has been applied for but not yet permitted.

Haugen asked about the chain link security fence and whether that is to be a slatted fence or not. Kress said that at ad hoc the discussion was that both the Maryland and this Maryland 6-9 site could be an un-slatted chain link.

Shane Anderson, property owner directly south of proposed site, asked how far off the section line this well pad would be located. List stated that the south edge of the well pad would be approximately 500 feet north of the section line. Anderson referenced an existing well pad in the area that is buffered and landscaped and asked why it would have buffering and these would not be required to? Kress stated that the City would have had no control of that existing site because it would have been under the County's control.

Aafedt asked why for instance the Commission has always made StatOil landscape and buffer their well pads but would not do the same for this one. Kress again read to the Commission the discussion/decision on landscaping from the ad hoc committee, *"this site is not in the City's direction of growth, has no urban land use designation around it, and is on a school section that is probably not available for development, no landscape buffering is recommended"*. Kress stated that this is a different situation than the StatOil well pads that are in City limits.

Anderson stated a concern about the visual aspect and noise from his property to this well pad and stated that he has horses that pasture nearest the proposed well pad and that the noise would upset them. It was stated that the area where Anderson lives is all residentially developed. Commissioners discussed this residential area vs. the State Trust Land that is undevelopable in regard to buffering; in that discussion Mark List stated that Continental Resources had no issue with buffering the south side of this well pad to protect those property owners.

Axelson asks if they have to buffer the south side then why would they not have to buffer the east side adjoining his land. Axelson does not live on that land but is concerned that not having it buffered for noise and dust will deter any prospect of sale or development in the future

and that as it stands now his cattle will not graze on that north part of his land because of the noise from an existing well.

Boyeff asked List if these wells were electric, List stated that they were and will run on generators until line power can be accessed. There is an REC substation nearby and Continental is in talks with REC to connect there.

MOTION BY CHRISTENSEN, SECOND BY HAUGEN to approve the special permitted use request for a 500' x500' oil well pad (Maryland 6-9) in the S1/2, SW1/4, SE1/4, Section 16, T154 N, R100W, within the extra-territorial jurisdiction of the City of Williston, contingent on addressing all ad hoc and staff comments and installation of landscape buffering on the south side of the well pad site. AYES: Haugen, Maristuen, Christensen, Boyeff, Aafedt. NAYS: None ABSENT/NOT VOTING: Long and (one vacant seat). ABSTAINED: None.

** Boyeff asked as a matter of clarification, since this site is not yet NDIC permitted, if the well pad site as presented and approved changes during the NDIC permitting process will the applicant (Continental Resources) be required to come back before the Planning Commission for reconsideration? Assistant City Attorney Tom Kalil confirmed that yes they would have to come back to the Commission.

- c. Special Permitted Use for a 500' x600' oil well pad (Nashville) to be located on 6.4 acres in the E1/2SW1/4, Section 21, T154N, R100W, within the extra-territorial jurisdiction of the City of Williston - Continental Resources/Clark Jenner and C'Dale Jenner

Aafedt introduced Item c of new business (as above) and asked Kress to present. Kress explained the application requests a special permitted use (SPU) for a well pad to accommodate four wells and associated standard equipment.

This site is known as the Nashville site and is within the City's one-mile extra-territorial jurisdiction. Kress stated that the pad is already in existence as the applicant started development on this believing they were under County jurisdiction rather than City.

Access to the site is provided by an existing gravel well pad access road providing access from Highway 1804. Gas is to be piped from the facility; no flaring is expected unless a situation arises of the gas pipe being temporarily at capacity. The applicant is negotiating with a pipeline company for access to an oil collection pipeline.

Kress said discussion at the August 3rd, 2015 ad hoc meeting included:

LANDSCAPING AND FENCING: Planning staff had advised the applicant that as this site is visible from Highway 1804 and adjacent subdivisions, a full-perimeter security fence (double-slatted chain link) as well as trees around the north, east, and west sides are recommended. The applicant has provided a landscape plan that depicts trees installed on three sides of the pad site. Kress said there are existing tree rows on the south. Commissioner Haugen stated that he drove out to this site in the days prior to the meeting and that he thought the existing tree rows looked good.

Clark Jenner, property owner expressed concern about the existing tree row and Haugen's statement. Haugen said it was his understanding that Jenner's had been working with the oil company and that they had accepted the tree rows as buffering to their residence.

Clark Jenner approached the Commission and stated that he has been trying to water and grow that tree row for four years and that the well pad is so close to the tree rows that he cannot get any equipment in there to care for the trees or the weeds. Jenner stated that two years ago he spoke with Terry Johnson, BJ Kadrmaz, and Jenner was promised a double tree row buffering and that hasn't happened. Aafedt asked if that was a County requirement and Jenner said no that it was his requirement as the land owner. Jenner said there needs to be a chain link fence to protect kids in the area and a double tree row, on a drip system that Continental has to maintain, to help buffer noise and dust. Jenner stated that there is so much dust and dirt coming off the pad now that he can no longer use rainwater off of his pole barn to water the trees. Jenner said his existing trees cannot be used as a buffer and asks that Continental plant their own on the south side of the pad as well as the other three sides.

Jenner stated that a cuttings pit was dug in another location on his land in years past and that now that area is basically dead land. Kress assured Mr. Jenner that part of the conditions of the permit is that the current cuttings pit for this site must be filled back in and not used. Kress stated that is a condition of NDIC as well that a cuttings pit is never allowed in city limits or a city's ETJ.

Commissioner Haugen asked Jenner what his proposal is for landscape buffering on the south side. Jenner suggested it be a double row of something like Ponderosa Pine that will be draught resistant and something that will grow in North Dakota and stated that the Ponderosa Pine is what he has there now.

Commissioner Boyeff asked again about NDIC permit for this site. Mark List stated that approximately half of the wells proposed were permitted when the project was believed to be in County jurisdiction and since they have suspended work on it to obtain the City's SPU they have applied with the NDIC for the additional wells.

MOTION BY HAUGEN, SECOND BY CHRISTENSEN to recommend approval Special Permitted Use for a 500' x600' oil well pad (Nashville) to be located on 6.4 acres in the E1/2SW1/4, Section 21, T154N, R100W, within the extra-territorial jurisdiction of the City of Williston, contingent upon addressing all staff comments and the installation of a double row of pine trees on the south side of the well pad in addition to the other landscaping requirements. Continental Resources should work with Clark Jenner (property owner) to ensure the tree row to the south is sufficient. AYES: Haugen, Maristuen, Christensen, Boyeff, Aafedt. NAYS: None ABSENT/NOT VOTING: Long and (one vacant seat). ABSTAINED: None.

- d. Special Permitted Use for a Daycare in an R1:Single Family Residential zone located on Lot 1, Block 1, Pleasant View Homes Rearrangement 1 & 2 (501 18th St. E), City of Williston – Jocelyn Lynch/Williston State College Foundation

Aafedt introduced Item d of New Business (as above) and asked Neill to present. Neil stated the application requests a special permitted use for a group child care center in an existing office building located in the R-1: Single Family Residential zone, pursuant to Section 11(E)(5) of the zoning ordinance. The existing office building had been renovated to keep the exterior of a residential house but have offices inside. The office building (Williston State College Foundation) was granted an SPU in 1997 to allow offices on an R-1 zoned lot. The WSC Foundation (current tenants) will be keeping their Gaming Office in part of the building so they will keep the original SPU that granted them offices in the R-1. Neill said that the Gaming Office will be used mainly as storage, no gaming will actually take place in there and one WDS Foundation employee will continue to work at the office. If the daycare SPU is approved the building will have two SPU's. The first SPU that was granted to this location (WSC Foundation)

was specifically granted for the use of the WSC Foundation offices. No other offices could locate in the building under the first SPU other than the Foundation.

Neill said the daycare is not proposing to renovate the inside. The applicant believes the existing office layout will fit well with her plan. The facility accommodates up to 23 children with 3 employees. The daycare will be open 5 days a week (Monday through Friday) and will be in operation during normal business hours (8am-5pm). None of the employees will be living in the building. There is enough parking on the lot for 6 vehicles. Since there will be one WSC Foundation Gaming employee still working in the building, they will need to provide a parking space for that employee. Total they would need to provide for 7 parking spaces. In discussion with the applicant she noted that her sister, who will be working with her, lives down the street and that she will either walk to work or get a ride. She will not be parking on the daycare site.

Neill stated that the applicant is in the process of setting up a contract with the college to allow the ability for a work study program for qualifying students. This will allow students to work as her employees and gain experience working in a daycare.

The applicant has scheduled a Fire and Building Inspection. The applicant had been provided a list of things to be done before a final inspection once WSC Foundation vacates the property. That is predicted to happen October 1st. License and inspection from Social Services has also been completed. They will not be using the basement for the daycare.

The applicant will fence the side yard with a vinyl fence.

Neill explained that access for parking and drop-off will be from the driveway on 18th Street. To avoid a vehicle stacking or parking problem on the street the applicant will provide pick-up and drop-off times for the children. There is no parking on the University Avenue side of the building. On-street parking will not be counted towards the required parking for the daycare.

At the ad hoc on August 3, 2015, discussion included:

EXISTING USE: Current SPU for offices in an R-1 zone. No remodeling for daycare, it will just go back to a house. They will not be using the basement.

ACCOMMODATION OF REQUIRED PARKING / DROP-OFF AREAS/ PARKING: The applicant clarified that the driveway will be the drop-off and pick-up area. Her employees will park in the drive-way as well as the Gaming employee from the college. Parents will be required to bring their children to the door, signing them in and out of the daycare. The applicant has drawn up a contract for the parents to sign outlining the safety concerns regarding pick-up and drop-off. Planning

INSPECTIONS: Final inspections will be conducted after the WSC Foundation vacates the building. There will not be any structural changes made to convert the offices to a daycare. Once the Foundation moves their desks and supplies out the building it will become a regular single family residence again.

OWNERSHIP: The building will still be owned by the Foundation after they vacate the building, minus the Gaming office. The applicant will be renting the building from the Foundation. The applicant will give priority daycare to the Williston College staff's children.

BUILDING DEPARTMENT: Site plan, floor plan, and what the rooms are going to be used for will need to be provided to the Building Department and they will do final inspections after the Foundation has vacated the building.

Neill directed the Commission to the draft findings in their packets along with other staff comments.

Neill said that two neighbors have sent letters of protest. One concerned that there would not be enough play area for the children. Neill had spoken with Kathy Molland from Social Services and learned that while the City does not have a daycare requirement for outdoor space, Social Services does require 75 sq. ft. per child; that does not mean that enough space be provided for the total number of children in the daycare to be outside at once. Molland told Neill that larger daycares usually do not have enough space so they will rotate groups of children to be outside. (5 year olds at one time, younger kids at another time)

Neill said that the second letter of protest was a concern about parking in the alley way. Neill said that the applicant would be required to stripe the parking lot so that there will be no question as to where parking is allowed. Neill concluded her presentation and stated that the applicant was in the audience to answer any questions.

Commissioner Aafedt asked for clarification about the parking spaces, 6 vs. 7. Neill said that the daycare would be required to provide six parking spaces and one additional space would be required for the WSC Foundation employee for a total of seven spaces. There is enough room to provide only six spaces however one of the daycare employees lives close to the daycare and will walk to work so that sixth space will not be required. Aafedt was concerned that that employee may not always be employed there and then there would not be enough parking for a new employee or if the applicant would ever sell the daycare there would be a parking issue.

Sharon Lindquist spoke from the audience. She is a neighboring property owner and several concerns. She does not believe that a fence will protect the children from vehicles jumping the curb and crashing into the yard has happens often she stated. She stated that the alley way is always blocked by other people now and that even if (daycare) says it will not be used it will still be used. Traffic is so heavy on both 18th Street and University with University being a "dragstrip" that adding more traffic will be harmful. And finally Ms. Lindquist stated that her garage is accessed through the alley across from the WSC Foundation building and she is concerned about being able to get in and out of her garage.

Commissioner Christensen asked about the vehicles crashing into the yard. Lindquist explained that many times either from a traffic accident or bad weather vehicles have ended up on the lawn of the WSC Foundation offices either in the front or side yard.

Commissioner Maristuen asked if there was parking allowed on 18th Street. Neill said that parking was allowed but on-street parking would not be allowed to be counted toward the parking requirements. Maristuen suggested having it posted "no parking" on the north side of 18th Street from the alley to the four-way stop in front of the proposed daycare; he worries that parents will try to park there and use that space for drop-off and pick-up and that it would be dangerous.

The applicant Jocelyn Lynch approached the Commission. Lynch discussed that the number of children she would be able to have is based on space footage of building space and that six of the children that would belong to staff members leaving space for 18 additional children. She added that there will more than likely be more than one child per family so it is not as

though 18 different vehicles would be dropping off and picking up. Lynch said that she already has families ready to use her daycare, most of whom work at the College and work varying hours with drop-off starting at 7:30 a.m. and picking up between 3:00 p.m. 5:00 p.m.; thus staggering times should not be a problem or cause an overburden of traffic.

Ms. Lindquist asked about the fence height and Commissioner Aafedt followed that with asking if it is a Social Service requirement. Lynch said that Social Services does require a fenced yard but there is no height requirement. Lynch added that WSC Foundation was planning to discuss installation of the fence at their upcoming board meeting so she couldn't answer definitively yet on the height or construction of the fence.

Commissioner Haugen asked if it would be allowed to have employees park on the street further from the daycare to allow more space for parent drop-off and pick-up. Kress stated that on-street parking is never used to fulfill parking requirements for purposes of permitting.

Commissioner Boyeff asked about the maximum number of children that may be allowed. Lynch said that she is being licensed as a daycare center rather than an in-home daycare and a daycare center allows 30 children; however after the initial inspection by Social Services and based on the square footage of the building space she has been given the number 23 children. After the daycare is set up with toys, table, chairs and the like, Social Services will do a final inspection, re-measure usable space and give a final maximum capacity but 23 is to be the likely number.

Planning staff stated that the parking requirements as figured for the daycare, one space per 10 children and one per employee, would remain the same whether Ms. Lynch were licensed for the 23 that is being used as the target number now or if she were licensed for the full 30 under the daycare center restrictions.

MOTION BY CHRISTENSEN, SECOND BY BOYEFF to approve the Special Permitted Use for a Daycare in an R1:Single Family Residential zone located on Lot 1, Block 1, Pleasant View Homes Rearrangement 1 & 2 (501 18th St. E), City of Williston, contingent on meeting all staff comments, all licenses being obtained and on providing the required number of parking spaces. AYES: Haugen, Maristuen, Christensen, Boyeff. NAYS: Aafedt. ABSENT/NOT VOTING: Long and (one vacant seat). ABSTAINED: None.

**** (Item e, presented as first item at request and motion of the Commission)**

- f. Special Permitted Use for a 130' monopole cellular communications tower to be located in the NE1/4 NW1/4 NE1/4 & E1/2 E1/2 NW1/4 NW1/4 NE1/4 T155N, R101W, Section 13 (13526 58th St. NW) of the extra-territorial jurisdiction of the City of Williston – NW Dakota Cellular of ND for Verizon Wireless LLD/Greg and Charlotte Quarne

Aafedt introduced Item f of New Business (as above) and asked Neill to present. Neill stated this property has been proposed for a 130' telecommunications tower. The site is 1.98 miles away from the nearest monopole tower. Ordinance 912 requires towers to be set back a distance equal to at least 75% (or 97.5 feet in this case) of the height of the tower from any adjoining lot line which this proposed cell tower meets. Ordinance 912 also states that any cell tower must have a separation distance of 3 times (390 feet in this case) the height of the tower from any residential house. Neill said that the nearest house from this tower is located on the resident's property and is within the 390 ft. set-back; however the owner understands his residence is less than 390 feet from the tower and has provided a letter of understanding and

consent which was provided in the Commissioner's packets. There is another house on the lot but currently it is not occupied and is farther than 390 feet from the tower so meets the separation distance.

The area proposed for the tower is a 39' x 42' fenced area, accessed by a gravel road from 58th St NW. This cell tower will be a co-locating tower.

Neill added there is a commercial business currently located on the lot and the nearest residence off the property is over 4,000 feet away.

This proposed cellular communications tower is to be galvanized steel and not artificially lighted. The equipment building will be of natural earth tone colors. This tower will be registered with the FCC and meet or exceed all regulations of the FCC, FAA and other controlling standards from the appropriate state and federal agencies. This tower does not have to file with the FAA because of the low tower height.

Neill said that at the ad hoc committee meeting held on August 3, 2015 discussion focused on whether the applicant met the requirements of the Ordinance 912. The applicant must clarify the distance between the proposed cell tower and the house on the lot. Staff explained that the residence is about 300 ft. from the proposed tower, 2 ½ times the height of the tower away.

Neill added that new information was presented just prior to this meeting that the applicant had been determined that an underground fuel tank was found in the area so they would need permission to utilize a propane powered back-up generator on the site rather than diesel for safety reasons. Neill said this would have to be approved by the Fire Chief prior to construction.

Neill referred the Commission to draft findings and staff comments in their packets, stated that the applicant's representative, Rick Adams was available for questions and concluded staff's presentation.

Aafedt stated concern about allowing less distance from the cell tower to the residence than required by ordinance where it relates to possible future sale of the residence stating that while the current home owner may know and consent to its location, future home owner's may not know that it is within the recommended set-back. Kress stated that the Findings are recorded against the property with all disclosures enumerated.

Aafedt stated that when the ordinance regarding cellular communications towers in the City limits were passed they were to allow more than one company to set up on a pole so that there wouldn't have to be so many. Neill said that this tower would be a co-locating tower to allow multiple tenants. Aafedt wondered why a new pole was needed rather than adding to an existing pole.

Rick Adams of KJI Wireless, representing Verizon, addressed the Commission. Adams stated he has reviewed the City ordinance in regard to residential set-backs and said that the ordinance is directed to residences "off-site" from the tower location and that it goes further to say that when measuring the distance to the residence off site it should be measured from the center of the tower. Stating that the residence in question here is on site and not addressed in City ordinance therefore KJI Wireless maintains that all set backs are met.

City Engineer Hanson stated that the Fire and Police Departments as well as Western Area Water Service are all having communications issues on the north of town and asked Mr. Adams

if there was a possibility of putting aerials on this tower. Hanson said he did not know if this would work or not but wanted to know what possibilities were available. Adams stated that they are voluntarily agreeing to be co-locating site and said that adding City services could be done if it was determined that it would work for those services.

Boyeff asked about the nearest tower to this location. Adams stated that the nearest tower was 2 miles away and that this tower would be intended to be off loading tower in the north east sector. Adams explained that this tower would have a one mile service radius and would be a capacity site rather than a coverage site. Using this tower to off load some usage on larger towers would in turn boost their coverage. Adams added that this site would be built no sooner than next summer based on federal approvals and budgeting.

MOTION BY HAUGEN, SECOND BY MARISTUEN, to approve the Special Permitted Use for a 130' monopole cellular communications tower to be located in the NE1/4 NW1/4 NE1/4 & E1/2 E1/2 NW1/4 NW1/4 NE1/4 T155N, R101W, Section 13 (13526 58th St. NW) of the extra-territorial jurisdiction of the City of Williston, contingent on addressing all staff comments. AYES: Haugen, Maristuen, Christensen, Boyeff, Aafedt. NAYS: None ABSENT/NOT VOTING: Long and (one vacant seat). ABSTAINED: None.

- g. Parking reduction request from 358 parking spaces required by City ordinance to 312 parking spaces for a proposed Mountrail Williams Electric Cooperative office building to be located west of Hwy 2/85 and north of 58th St. W, City of Williston – Mountrail Williams Electric Cooperative/JLG Architects

Aafedt introduced Item g of New Business (as above) and asked Ressler to present. Ressler stated this property has applied for a reduction in parking for a new 77,198 square foot office space, an existing 10,400 square foot warehouse/shop space, and an existing 32,220 square foot warehouse/shop space from a total of 353 required spaces to 313 spaces.

Ressler explained that zoning ordinance requires 1 parking space per 250 sq. ft. of office space, and 1 office space per 1000 square feet for warehouse/shop space. Ressler said that the parking proposal for this project would be provided between existing outside spaces, an existing warm garage, and new outdoor spaces. In total the applicant is requesting a 12% reduction.

The applicant has provided a variety of examples from other areas. Two of the examples provided in the application are also utility company offices, and one is a large medical clinic. These examples use ratios between employees and parking spaces that are similar to the applicant's suggested numbers. Ressler said that the applicant, at the August 3rd ad hoc, also clarified that there are several very large communal spaces to be provided in the new building, including a cafeteria and a theater style meeting room to be used for employees already located in the building. They would have a total staff at full occupancy of 190 people, with an average of 4 visitors at a time.

Ressler discussed some of the necessary findings to allow this parking reduction. She referred to the draft findings in the Commission packets and pointed out the following:

- The parking area will include some green space
- All handicapped parking requirements will be met
- Market data provided by the applicant indicates the reduced number of parking spaces requested will satisfy the parking needs of this project
- The project will add a bike trail/sidewalk to 58th St.; and
- The market data shows similar ratios of parking and employees as the request.

At the August 3, 2015 ad hoc meeting the architect clarified that all spaces are employee centers, with several large communal areas. The architect clarified that the applicant is looking for LEED certification. The staff discussed that LEED certification cannot be considered under the code as justification for a parking reduction, and that many LEED qualifiers are based on an urban environment. The architect clarified that their goal is to provide enough parking without creating a large, blank parking lot, while also creating a welcoming "front yard" style atmosphere. The architect also clarified that the employee count is not actually at 190 at the moment, but that would be the full capacity of the building.

Nick Lippert with JLG Architects briefly addressed the Commission and stated that they believe they will be providing adequate parking that meets the goals of the project and is satisfactory to the owner. Commissioner Maristuen asked about the largest event that would be held at this location. Lippert stated that the maximum seating in the largest room is 150-175 employees but states that it is not intended for public meeting space, only for employees that would already be on site.

MOTION BY CHRISTENSEN, SECOND BY BOYEFF, to approve the parking reduction request from 358 parking spaces required by City Ordinance 963 to 312 parking spaces for a proposed Mountrail Williams Electric Cooperative office building to be located west of Hwy 2/85 and north of 58th St. W, City of Williston. AYES: Maristuen, Christensen, Boyeff, Aafedt. NAYS: None ABSENT/NOT VOTING: Long and (one vacant seat). ABSTAINED: Haugen.

- h. Payment in Lieu request, in lieu of providing five (5) parking spaces, First National Bank, Lots 15 and 16, Block 8, Original Townsite of Williston.

Aafedt introduced the final item of the evening, Item h (as above) and asked Ressler to present. Ressler stated this application utilizes Ordinance 998, which changes the parking requirements downtown and allows an option for a downtown development to pay cash in lieu of providing required parking spaces, provided that they can show a good faith effort to provide as much of the required parking as possible on site. That ordinance is attached to this fact sheet.

Ressler told the Commission that this project is for First National Bank and Trust located on the NE corner of Broadway and 1st Ave. E and that this lot and all surrounding properties are zoned C-3: Restricted Commercial. The purpose of this project is to build an office which will house the bank's trust department.

First National Bank has requested of the Parking Authority and Planning Commission to pay in lieu of providing several spaces in their Renaissance on Main project. The Parking Authority approved the request at their August 12, 2015 meeting.

Ressler explained that the project needs 10 spaces to meet the parking requirement for the building but can only provide 5 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 lot. Under the ordinance, as a new development, the developer would pay \$15,000 per un-provided 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 which helps provide and maintain parking.

On August 12, 2015, the Parking Authority met on the project. The Parking Authority determined that the project and application met the requirements of Ordinance 998.

Aafedt requested that Ressler clarify the letter from Dennis Pederson, FNBT; confusion was in the wording of the letter where it appeared that that the Bank was agreeing to being charged for the five parking spots that they are providing. Aafedt asked Ressler to send a letter back to Mr. Pederson clarifying that the City is not charging them for those spots. Ressler re-stated that the Bank is requesting to pay in lieu of providing

City Engineer Hanson stated that in looking at the 5 parking spaces provided at the rear of the proposed building he was concerned about the parking spot to the far east not having enough room to back out. First National Bank stated that they have talked with the Neff law firm to the east of them about the possibility of having an easement allowing them to use the small undevelopable open space behind their offices to allow drivers to back into that area in order to leave the parking lot and Neff has agreed. Ressler stated that if the Commission was concerned, a written easement agreement for this could be requested at the time of applying for a building permit.

MOTION BY HAUGEN SECOND BY CHRISTENSEN, to approve the Payment in Lieu request, in lieu of providing five (5) parking spaces for First National Bank and Trust, Lots 15 and 16, Block 8, Original Townsite of Williston, contingent on the easement for use of the open space being in writing by time of the building permit. AYES: Haugen, Maristuen, Christensen, Boyeff, Aafedt. NAYS: None ABSENT/NOT VOTING: Long and (one vacant seat). ABSTAINED: None.

**Aafedt and Ressler have discussion about the use of the monies paid in lieu of providing parking spots, how the parking authority is using these funds and how this will affect, either positively or negatively, the future of the downtown.

DATE OF NEXT REGULAR MEETING: September 21, 2015

MEETING ADJOURNED.



Kent Jarcik, Williston Planning Director

APPENDIX
to the
AUGUST 17, 2015 PLANNING AND ZONING COMMISSION MINUTES

- a. Special Permitted Use for a 500' x 600' oil well pad (Maryland) to be located on 7.3 acres in the W1/2, Section 16, T154N, R100W, within the extra-territorial jurisdiction of the City of Williston - Continental Resources
- b. Special Permitted Use for a 500' x500' oil well pad (Maryland 6-9) to be located on 6.4 acres in the SW1/4, S1/2SE1/4, Section 16, T154 N, R100W, within the extra-territorial jurisdiction of the City of Williston - Continental Resources
- c. Special Permitted Use for a 500' x600' oil well pad (Nashville) to be located on 6.4 acres in the E1/2SW1/4, Section 21, T154N, R100W, within the extra-territorial jurisdiction of the City of Williston - Continental Resources/Clark Jenner and C'Dale Jenner
- d. Special Permitted Use for a Daycare in an R1:Single Family Residential zone located on Lot 1, Block 1, Pleasant View Homes Rearrangement 1 & 2 (501 18th St. E), City of Williston – Jocelyn Lynch/Williston State College Foundation
- e. Special Permitted Use for a 130' monopole cellular communications tower to be located in the NE1/4 NW1/4 NE1/4 & E1/2 E1/2 NW1/4 NW1/4 NE1/4 T155N, R101W, Section 13 (13526 58th St. NW) of the extra-territorial jurisdiction of the City of Williston – NW Dakota Cellular of ND for Verizon Wireless LLD/Greg and Charlotte Quarne