

REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON February 16, 2016 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.

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

MEMBERS PRESENT: Christensen, Hansen, Boyeff, Maristuen

MEMBERS ABSENT: Aafedt, Haugen, Long

OTHERS PRESENT: Kent Jarcik, Planning Director; Donald Kress, Principal Planner; Rachel Ressler, Senior Planner; Samantha Neill, Staff Planner; Josephine Ching, Staff Planner, Christine Edwards, Administrative Assistant; Bob Hanson, City Engineer; Jordon Evert, Assist. City Attorney; Howard Klug, President of City Commission; Chris Brostuen, City Commissioner; Brad Bekkadahl, City Commissioner; Shawn Wenko, Economic Development.

DISPOSITION OF MINUTES:

- Minutes were approved for December 21, 2015 regular meeting (no meeting was held in January, 2016). MOTION BY CHRISTENSEN, SECOND BY HANSEN. CARRIED ON VOICE CALL.

COMMUNICATION:

- A. Development Agreement provisions for a short plat to create two lots from Lot 20, Block 2, Bennett Industrial Park 3rd Addition, City of Williston extra-territorial jurisdiction– City Attorney

Maristuen introduced this item of communication (as above) and asked City Attorney Evert to present. As background, Evert stated a question has arisen pertaining to the short plat for the Bennett Industrial Park 3rd Addition, which was brought to and approved by the Commission in December of 2015. The questions pertain to the Commission's motion as approved at that meeting.

Evert stated that this item does deal with a short plat for Lot 20 in Block 2 of the Bennett Industrial Park 3rd Addition, primarily relating to two issues; access and drainage issues as outlined in the memo provided in Commission packets. Evert stated that what is being dealt with is a subdivision that was previously approved under the County's subdivision process and then came into the City's ETJ. During the December 2015 Planning Commission meeting it was discussed that some of the access to this subdivision had been taken away due to the truck reliever route leaving a few land-locked lots. Clarification was needed regarding certain lots in commercial or industrial zones ability to use reciprocal access easements and whether or not that needed to be shown on a plat. Evert stated that his research showed that that access could be just a private agreement between the parties; the City only needs to be sure that the access is there. With that Evert revised the short Development Agreement that was proposed for this short plat which addresses only access and drainage. The Development Agreement will state that the lots affected by drainage cannot be developed until that issue is resolved and the lots affected by access cannot be developed until access has been resolved. Access can

be resolved by a reciprocal access agreement which again, by subdivision regulations, can be just be between parties and does not have to be dedicated or platted but must exist prior to development. Evert stated the Development Agreement will be placed of record to let any future buyers and the public know what will be required for development. Evert believes this will clarify any uncertainty of what was meant by the Planning Commission motion that was approved in December 2015.

Evert pointed to the second page of his memo and stated that the real question was whether or not the City could require an applicant of an Industrial Zoned property to plat a public access. Every wanted to be clear that this instance we are dealing with a plat that was previously approved by the County therefore they show proof of those easements to the City they are free to develop. Evert asked the Commission to approve the Development Agreement as presented in the Commission packets with a note of signature changes to cover all lots affected.

MOTION BY BOYEFF, SECOND BY CHRISTENSON to accept the Development Agreement as presented to be recorded as part of the Plat for Lot 20, Block 2, Bennett Industrial park 3rd Addition, City of Williston. CARRIED ON VOICE CALL

PUBLIC HEARINGS:

Kress explained to the Commission that there are two ordinances regarding temporary workforce housing, or crew camps, to be presented. Staff will make a general presentation about crew camp regulation followed by the individual ordinance presentations. The applicants for both ordinances will be addressing the Commission.

Staff connected to a conference call in line where several workforce housing representatives were joining via phone: Curt Goodmundson and Pat Conlin of Milestone Energy, Jeff Reinhold of Northern Improvement and Ryan (LNU) of Target Logistics.

Kress reminded the Commission that the City Commission approved Ordinance 1026 in November, 2015. This ordinance provides for the extension of the permits of existing crew camps within the City's jurisdiction, including the one-mile extra-territorial jurisdiction or ETJ, until July 1, 2016. Crew camps would have to be vacated by that date, and removed by September 1, 2016.

As a result of Ordinance 1026, there are now 1,161 of available crew camp beds in the city limits and 1,761 in the ETJ, for a total of 2,922. Kress said that 81 of these beds will remain in operation after July 1, 2016 due to previously approved conditional use permits from Williams County.

The first crew camp was approved in 2008. Kress stated that since 2008, approximately 5,753 apartment units have been built and have received a certificate of occupancy. A survey of 2,463 of those units shows an average vacancy rate of 32%, with recent drops in rent prices of over 40%. There are another 574 apartment units under construction.

In 2010, there were 757 hotel rooms within the city limits. There are now 2,080 in the city limits and 506 in the ETJ, for total of 2,586. The occupancy rate for November, 2015 was 35%.

Kress said that the two ordinances before the Commission are 1037, submitted by Weatherford, and 1038, submitted by Deanette Piesik. This is a situation where ordinances were submitted

by private parties; these ordinances were not prepared at the direction of the City Commission, Planning Commission, or an ad hoc committee. The Planning Department staff did not participate in the writing of these ordinances other than to provide general technical advice on standard City ordinance style and formatting. Kress stated that the Planning Department does not take a position on either ordinance.

Kress explained that these ordinances are zoning ordinances that regulate crew camps as a land use. As with all zoning ordinances, these ordinance will have a public hearing before Planning and Zoning and a first reading and public hearing before the City Commission (planned for March 8) and, unless denied by the City Commission at the first reading, a second reading at a time designated by that Commission.

A. Proposed Ordinance 1037 relating to temporary workforce housing –
Weatherford/Tyler Scott

Kress explained that Ordinance 1037 requests an amendment to Ordinance 1026—Temporary Workforce Housing. It keeps the existing provisions of 1026 but adds provisions regarding what the amendment defines as "existing employer-provided temporary workforce housing", which staff refers to as "closed camps" where housing is on property owned by the business to house their own employees only. This is how crew camps were approved under Ordinance 925 in the City limits to continue for up to five years. Kress said this ordinance was discussed with the February 1, 2016 ad hoc committee and it was their direction that this matter be brought to the full Planning and Zoning Commission without a recommendation from them. Kress then turned the presentation over to Tyler Scott.

Tyler Scott, real estate manager for Weatherford International, stated that he believes that what they are presenting at this meeting adequately addressed the concerns from the February 1, 2016 ad hoc meeting. He wanted to be sure that the Commission understands their camp is gated, not alcohol allowed in the camp, no significant others allowed and to his knowledge the police have never been called to their camp for an employee altercation. Tyler added that Weatherford is in complete agreement with the City in regards to crew camps being closed admitting that it is better for their business to have a completely indigenous workforce and they are in the process of relocating employees and are incentivizing employees with package to help with down payments on a home. This is simply a timing issue for Weatherford which is magnified by the current market and price of oil. Scott stated that with those things in play they would propose an end date December 31, 2020, to allow Weatherford time to make that transition. Scott asked for questions from the Commission.

Commissioner Boyeff asked Scott to clarify what he meant by having addressed ad hoc concerns. Scott stated as follows:

- Revised the definition of Existing Employer Provided Temporary Housing to limit the included facilities to those which received prior approval from the City Commission prior to 12/31/2015. Would not apply to any camps in the County or the ETJ.
- Set 12/31/2020 as the end date for Existing Employer Provided Temporary Housing facilities. Requires Existing Employer Provided Temporary Housing to reduce the number of beds (calculated as of 12/31/2015) by a minimum of 25% by 12/31/2016, with actual removal to be completed by 7/1/2017. See subpart 3 to Subsection P.
- Requires an agreement to be executed between the City and the Existing Employer Provided Temporary Housing business entity acknowledging, among other things,

12/31/2020 as the end date, and 7/1/2021 as the deadline for removal of the housing facilities and reclamation of the site.

- Removes the reference to the applicability of Ordinance 1033 *[this ordinance is the moratorium on applications for temporary workforce housing under Ordinance 925]*.

Maristuen opened the public hearing and asked for any public input.

Andrew Braxton, owner of the Hampton Inn, Microtel Inn and Suites and Northgate apartments, addressed the Commission. Braxton asked whether they would like to see in the community man-camps or hotels and apartment buildings but not both. He stated that his companies are seeing only about a 30% occupancy rate right now and they cannot sustain their business like that. Braxton said that the hotels and apartments are built to stay in the community to service the long term community not just five years like the man-camps. Hotels and apartments pay much more property taxes and their guests provide additional sales taxes.

Brent Esslinger of Halliburton, stated that Halliburton has donated \$850,000 to charities and events in Williston and surrounding areas, provided about \$1.6M to schools and scholarships and \$20M in North Dakota Sales Tax in 2015. They have bought or built two apartment buildings, 50 single family homes and 48 townhomes in Williston for their employees and use a couple of different lodges including their own Muddy River Lodge. Estimated removal of their lodge is \$2 to \$3 million dollars which is not feasible in the current oil field economy. Esslinger stated that since 2010 Halliburton has incurred \$30M in hotel costs in Williston and have fully supported the community in property and real estate taxes. They have invested \$450M in local infrastructure. Halliburton was the largest employer in Williston in 2014 and 15th largest in the State.

Commissioner Hansen asked Esslinger who many workers were housed at their Little Muddy facility right now; Esslinger stated that at this time there are none but defended that "there were other reasons" that he declined to discuss in public.

James Morken addressed the Commission stating that he has several properties that would be affected by removing the wording applying to workforce housing previously permitted by the County. Specifically the 72 bed facility for CUDD Energy which is located on CUDD property. He also suggested that there are facilities that do operate on leased land and if forced to close this year they would still have to pay the lease for another year and since they cannot take apartment like structures to other locations they would lose the building as well as making their financial burdens that much more. Morken stated that Rockwater is hiring right now and that these businesses need to be able to offer housing until employees have a time to become established in the community or they will not be able to fill positions. He asked that at a minimum, wording regarding County permitted facilities be added back into Ordinance 1037.

Kress stated that under the changes to this Ordinance 1037 as mentioned by Tyler Scott in response to Commissioner Boyeff's earlier question, the only crew camps that would remain are: Weatherford; Blackhawk Energy, United Pulse; Sun Well; Halliburton and Loves that were permitted through the City under Ordinance 925.

Commissioner Boyeff asked Attorney Evert if Ordinance 1026 would still be available if Ordinance 1038 were to be approved to allow camps to re-apply at a later date if needed. Attorney Evert and Kress explained that Ordinance 1026 currently controls the 2016 end dates for the crew camp permits and land reclamation. Ordinance 925 is the ordinance that allows the application for temporary crew camp housing; however, there is actually a one-year moratorium on Ordinance 925. No crew camp applications can be made until after December

2016 as it stands right now. Kress explained that proposed Ordinance 1037 does not repeal Ordinance 1026; Ordinance 1026 would continue to apply to camps permitted through Williams County and Ordinance 1037 would apply to camps permitted by the City. Evert would like to be sure to clear up language that Ordinance 1037 is an amendment to Ordinance 1026 should the Commission elect to approve the proposal.

Commissioner Maristuen called one last time for public input; hearing none added his own thought and said that years ago when Ordinance 925 was put into place it was allowed as temporary emergency housing with an exit strategy in place; it was always meant to be temporary.

Commissioner Christensen stated that he felt with the number of available apartments and hotels and homes on the market right now he felt the emergency need for housing no longer existed as it did five years ago. Commissioner Hansen agrees and said that all of these developers have come here to supply the housing and support the community and she feels they can do that now. Commissioner Boyeff stated his agreement and added that it has been stated time and time again and was always understood that crew camp housing was only to allow the housing market to catch up and they have done that now.

MOTION BY CHRISTENSEN, SECOND BY HANSEN, to recommend denial to the City Commission of Ordinance 1037. AYES: Christensen, Hansen, Boyeff, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt, Haugen, Long. ABSTAINED: None.

B. Proposed Ordinance 1038 relating to temporary workforce housing – Deanette Piesik

Maristuen introduced Item B of Public Hearings and asked Kress to present. Kress stated that an earlier version of this ordinance proposed returning jurisdiction over temporary workforce housing facilities in the ETJ to Williams County. The ordinance has been revised to eliminate that proposal. The City will keep jurisdiction over temporary workforce housing in the ETJ, though those facilities in the ETJ will still pay their per-bed crew camp fees to Williams County pursuant to state statute. Kress also explained that since the City is not giving jurisdiction back over the County, no amendment to Section 26 of Ordinance 613 is necessary.

The applicant, Deanette Piesik, stated workforce housing is not just oil and gas but other areas as well, people who are here to help build infrastructure for Williston's growth. She admitted that this is a no win situation and that someone will lose; she is just trying to find a way to make this work best for all involved. Piesik stated that her proposal gives a more detailed time line for the exit strategy that was mentioned in the previous presentation. This proposal would shut down camps with less than 50 beds. It is to remain understood that camps are temporary and that word would be added back into her proposal. She proposes raising application and per bed fees to incentivize crew camps to downsize. Ordinance 1038 would have an exit date that coincides with the County permitted crew camps; all camps closing December 1, 2019 with a removal and restoration date of July 15, 2020. Piesik would like to encourage a positive business climate and to encourage these businesses to make the right decisions on their own. Williston does have plenty of apartments and hotels but what about single family homes. People don't want to move their families here to live in apartments; she stated it "is not our job as a community and as a Commission to fill hotels and apartments". Piesik continues by stating her belief that temporary workforce housing will continue to close as the market withdraws and slows down and that she thinks they should be allowed to do so on their own.

Piesik went over her spreadsheet and proposed reduction schedule. She stated that there would be a 62% reduction of the number of beds in the City limits. There would be five camps to remain open with a 50% reduction in beds reducing the total number of beds to 449. In the ETJ her proposal has a two-phase out. By July 2, 2016 camps would reduce their beds by 25% and by December 31, 2017 they would reduce the beds by another 25% equaling a 50% reduction of workforce housing in the ETJ. Piesik stated she believed this to be a positive way to reduce the number of beds. With that Piesik concluded her presentation and Maristuen opened the public hearing calling for any public input.

Commissioner Boyeff asked about temporary workers. Piesik said for some working for an example two weeks on and two weeks off. Some will say they are going to come here to stay but there is no way to tell if they will or will not. Drillers are never going to move here, their job is temporary by nature. Piesik believes that with increased application and per bed fees the companies will close their workforce housing themselves and have employees who will become part of our community but they will not all move here.

Commissioner Maristuen asked if Piesik was aware if there is still a lot of compensation being provided or offered by the oil field companies to help employees to become permanent members of the community. Piesik stated she has heard in order to entice people to come here and take very physically demanding jobs it is nice to be able to say that until (you) get comfortable in our community or until (you) can find permanent housing, we will provide housing for you. Piesik stated that there are still jobs available that are difficult to fill.

Commissioner Christensen asked what oil companies do in places like Minot and Dickinson where crew camp housing is not allowed. Piesik stated she wasn't sure but believes that some workers stay in other communities and commute to work. A good number have negotiated for hotel rooms. She asked also whether the Commission would rather see oil field crews in crew camp housing or in hotels with children and added the question, "Would you allow your children to use the swimming pool alone in a hotel filled with oil workers". Do you want beautiful hotels to become workforce housing.

Maristuen asked if there were any comments from the audience.

Andrew Braxton again addressed the commission and stated that his companies want to work with the oil field companies to assist with housing for their employees and said that they have worked with Halliburton in the past. He stated however that he feels the oil companies should stay in the oil business and let the housing businesses stay in the housing business. He added that hotels won't be beautiful if they are boarded up. His company helped bring Famous Dave's to Williston along with the Hampton Inn and said it is a struggle to get restaurants to build near hotels when with a smaller population and if the city starts losing restaurants it will be maybe 10-20 years before they come back. Braxton stated that getting rid of the man camps is not a fix all but a step in the right direction.

Brad Arson, Knife River, stated that neither the proposed ordinances 1037 nor 1038 address their business. Knife River close their employee housing from November 1st to April 1st and suggested maybe that is what should be allowed for the whole county. Knife River has owned an apartment building and sold it but still lease it. Their lease runs for one more year but if not allowed to use crew camp housing then what happens to their lease? Arson said that they have only 32 beds and need a couple more years to not lose money to community investments. Knife River is working on incentives to move their employees to permanent housing. Hotels are an ok option but will they raise the rates to \$300 a night again? Knife River is paying per deim and housing costs to encourage employees to move into town but the rents have to be

\$800 - \$1,200 a month for that to work. While it is getting closer to that now, will they go back up to \$2,500 a month when oil goes back up?

Travis Kelley, Target Logistics, tells the Commission that this matter of crew camp housing is back here in front of them again because when Ordinance 1026 was approved in November there was discussion among the City Commission that some alternatives could be proposed. Kelley is in agreement that there does need to be an exit strategy that complements the City with a reduction of beds and also allows the workforce housing time to come to an end. He stated his support of Ordinance 1038.

Dale Haugen, MWEC, stated that they use crew camp housing for critical infrastructure workers such as journeymen linemen who are very hard to obtain. As much as he would like to have some just stay and here it is a profession that is hard to recruit and is transient in nature. MWEC is not sure what the "new norm" will be but knows that they need another year to complete major electrical infrastructure before they can assess what normal will be. Haugen stated that MWEC would support the long term reduction proposed by 1038 as it would be most useful to them. Commissioner Boyeff asked Mr. Haugen what they do with their transient workers now; Haugen stated that they have beds and campsites through Anderson Wood.

Tyler Scott, Weatherford, said they are aligned with the City and want out of workforce housing as well. He added however that oil field crews are still largely rotational crews and they need time to transition to a full time, permanent, local workforce. Weatherford estimates that forcing them to close now will cost them \$14.6 million dollars which they just cannot afford to do right now in the oil business downturn and asked that the Commission approve this Ordinance.

Lance McCarthy, Nabors Drilling, is in support of ordinance 1038 stating that employment is not stable enough right now to ask employees to sign a long term apartment lease or make a home purchase when they don't know what their job is going to be right now.

Jonathan Iblings, Halliburton, said he has stayed in several of the crew camps in the area and said while they do provide good food that doesn't stop people from going into town to eat at the restaurants any more than eating at home would. He added that he has never felt unsafe or insecure at the crew camps. Programs are ongoing to localize employees but no one wants to move their family here to live in an apartment. Community has a lot to offer now, the ARC, restaurants, activities but there needs to be more time to discover the new normal of living and working in the area.

Andrew Braxton spoke to the question of rental rate hikes if the oil workers come back. He stated that costs are controlled by supply and demand. Before the supply was limited so the rates could be higher but now the supply of hotel rooms and apartments has increased to a surplus, approximate 70% vacancy, therefore the rules of supply and demand will dictate lower rental rates than in the past.

Commissioner Christensen asked about the average cost of a hotel room for the night. Andrew Braxton stated that his information shows that over a 28 day period the hotel rate in Williston averaged \$106.00 per night, a 32% reduction. Braxton added that his motels, during that same 28 day period, averaged \$101.00 a night, a 41% reduction from last year and that so far for the month of February his rooms were \$91.00, down 31%. Commissioner Hansen said she would just like to know that if these oil field companies come to the hotels that they would be helpful to them.

Mike Ferguson stated he would like to add one thought, not as part of an oil field company or business owner but as a home owner and parent. He said he likes the crew camps for transient based workers because they police their workers and they are an alcohol free environment. Ferguson said if oil field workers are forced into hotels, who will police them then?

Kelly Ellingson, manager of the El Rancho Hotel, stated that even at the height of the oil boom they never charged more than \$126 per night and stated that filled up fast and were full every night. She echoed other comments that temporary is temporary and it is time for them to be done. "Let us that are here take care of those employees". El Rancho does police their guests and will take care of any issues or needs that they can. Ellingson stated that they currently have only a 30% to 40% occupancy rate.

Orlando Romero, Nabors Drilling, agreed that the City cannot let "temporary" get out of control but stated that during a downturn of business is not the time to shut down the camps. He stated that they cannot get workers to come here to live in an apartment. Romero added that Nabors does not offer meals so their employees do come into town and spend money at the grocery stores and restaurants.

Kress spoke to make a clarification that the proposed Ordinance 1038 would allow the camps with fewer than 50 beds to remain in operation until the current end date of July 1, 2016; Piesik said yes, just would not be allowed to operate past that number.

Commissioner Maristuen stated that Ordinance 1026 did not allow for seasonal/transient worker's and stated concern that there are those jobs that will always be transient.

Commissioner Boyeff stated that Ordinance 1026 was approved by Planning and Zoning and twice by the City Commission; this is what the City wanted. Yes it was said there could be discussion about different exit strategy but he would feel better about those discussions if the City Commission had come together on this decision rather than from a split vote. Boyeff said he believes there may be some consideration for seasonal workers but right now he cannot support it.

MOTION BY BOYEFF, SECOND BY CHRISTENSEN, to recommend denial to the City Commission of Ordinance 1038. AYES: Christensen, Hansen, Boyeff. NAYS: Maristuen. ABSENT/NOT VOTING: Aafedt, Haugen, Long. ABSTAINED: None.

**A brief break was taken after this item

C. Extra-territorial Jurisdiction rezone in Stony Creek Township – Staff

Maristuen introduced Item C of Public Hearings and asked Kress to present. Kress explained that the extra-territorial jurisdiction (ETJ) is provided for in state law. It is not an annexation but gives the City jurisdiction over planning, zoning, subdivisions, stormwater management, building codes, and crew camp regulations. Jurisdiction over other regulations remains with Williams County or the townships.

The City has had an ETJ since the mid 1980's. The City's growth since 2009 has pushed the city limits past the 1980's ETJ line as the ETJ boundary does not automatically move with annexation. In May of 2015, the city adjusted the one-mile ETJ to match the current city limits.

Kress said that within the ETJ, the City has jurisdiction over zoning, among other responsibilities, but the City has different zoning designations than the County therefore properties in the ETJ now are being rezoned to match the City zoning. Kress added that the City is not rezoning property for future development.

The proposed City zone on each property is evaluated based on the existing legal use on the property and the County zoning. For residential lots, lot size was also considered. Rezoning properties in the ETJ was also guided by the Comprehensive Land Use Plan, which projects the City's long term growth.

The proposed zoning of the ETJ, including Stoney Creek Township, was reviewed by an ad hoc committee on December 4, 2015. Kress stated that Planning staff and Commission representatives presented the proposed rezoning of Stony Creek Township to the township board on January 12, 2016 and the ad committee reviewed the specific zoning for Stony Creek Township on February 1, 2016.

Kress pointed out that the City is trying to best zone properties to their current use with intention that little to no effect is felt by property owners and re-zoning is being done at no cost to the property owners. All property owners have been noticed of their individual zone change and of this public hearing to the best of our information with all addresses coming to us by way of the County Assessor's office. Kress then handed the presentation over to Staff Planner Ching.

Ching stated that there are five proposed zones in Stony Creek Township—Agricultural, R-1A: Rural Residential; R-1E: Rural Estate; and M-1: Light Industrial and M-2: Heavy Industrial.

Agricultural

This district is intended to protect and preserve lands which are presently rural or agricultural in character and use. Most of these properties are currently zoned Agricultural by the County.

R-1A: Rural Residential

This district is intended primarily for areas devoted to large-lot suburban residential use, adjacent to existing or planned urban development with a minimum lot size of one-half acre.

R-1E: Rural Estate

This district is intended to provide low-density, limited-growth residential areas. It is designed to accommodate residential development opportunities for those who desire low-density or estate living. Minimum lot size for R1-E is one acre.

M-1: Light Industrial

This district is intended to light manufacturing, processing, storage, wholesaling, and distribution operations, and other operations which do not require large numbers of workers. Limited commercial use is allowed in this district to serve the uses for which the district is primarily intended.

Ching said that the County properties that had been zoned Commercial best fit the M-1 designation under the City's zoning ordinance.

M-2: Heavy Industrial

Ching pointed out a few parcels that the City proposes to re-zone to M-2. She stated that one of the property owners, Lance Olson, states the County zoned their properties to industrial in April of 2012. Planning staff have verified with the County that the following properties were

zoned to industrial. The City proposes to rezone the following properties to M-2: Heavy Industrial:

T154 R100 SEC 8 SWNW
 Twin Bin Subdivision B1 L1
 Twin Bin Subdivision B1 L2
 Twin Bin Subdivision B1 L3
 Twin Bin Subdivision B2 L1
 Twin Bin Subdivision B2 L2
 SWSW EX DD PTS SEC 8 T154 R100
 SEC 8 SE T154 R100

N2NE SEC 17, T154 R100 (It was explained that this parcel was incorrectly advertised so will not be part of any decision made at this meeting. Staff will re-advertise the correct legal description and bring this parcel back to the Commission in March 2016)

County’s Conditional Use Permit (CUP)

The properties that were granted a Conditional Use Permit (CUP) by the County would carry through to the City. When these CUP’s expire, the use will have to come into compliance with the current City zoning.

Property Legal Description	Conditional Use Permit
Twin Bin Subdivision Block 2 Lot 1 and Lot 2; T155 R100 Sec 8 SWSW EX DD PTS	Recycling Center
T154 R100 Sec 21, Sublot 2 in E2E2NW	Boarding Kennel
Sunrise Hills Subdivision Block 1, Lot 1R of Lot 3 and L 2R of Lot 3	Welding Business
Stony Acres Subdivision Lot 8	Truck Parking
Sunrise Hills Subdivision Block 1 Lot 4	RVs Parking

Commissioner Boyeff asked about the M2 and why it couldn’t be M1 considering it is so near residential zone. Ching explained that his property was owned by Lance Olson and is currently zoned Industrial by the County so it was the best match. Kress added that a land fill extension and an inert landfill are proposed on this property and landfill use is only allowed in M-2 zoning under the City Zoning Ordinance.

A Stony Creek Township resident spoke against that M-2 zoning stating it is too close to houses, expensive houses. If M-2 is considered too dangerous to live in then is shouldn’t be within 1000 ft. of his home and suggested the M-1 designation as well.

Commissioner Maristuen stated that the County only has one Industrial zone designation but the City has two and he also asked why this could not be M-1. Kress again stated that the landfill uses are only allowed in an M-2 zone. Boyeff asked if the areas outside of the landfill could be zoned M-1 while leaving the landfill zoned M-2; Kress said that is something the staff could look at but would need to talk to the land owners and City Attorney to be sure that would not hinder any entitlements. Both Boyeff and Commissioner Hansen said they would request that the staff look at that possibility.

Tony Axelson, a resident of Stony Creek Township expressed his dissatisfaction at this rezoning process asking why there was no public input before the City taking over and wondered if it was just taxes. To that, City Commissioner Brad Bekkadahl stated that he was the Finance Commissioner and assured Mr. Axelson and the audience that the City does not get any tax money from the properties in the ETJ. He further explained that the ETJ simply allows the City control of the development to be sure that waterlines and other infrastructure will properly blend with the City. City Attorney Evert stated that this re-zoning process has nothing to do with

taxes; this is to match zoning to best fit with City zoning. The intention is to not put any one in a worse position than they are currently in.

Kimberly Lester spoke on behalf of two elderly neighbors whose homes will re-zoned to a residential designation and whether or not it will affect their taxes; however she stated she now knows that will not happen because of Commissioner Bekkadahl's answer to previous audience member. Lester explained that both ladies have horses, one of them has someone living in a camper on her land which creates a small income for her or a pile of old lumber in the yard, will they now get slapped on the wrist and told they can't have those things? Will there be any benefit to them in becoming City residential such as road maintenance. Ms. Lester asked if there is an incident where law enforcement needs to be called, do we call the police department, do we call the sheriff's department. Jarcik explained that zoning is based on lot size; this zoning is R1-A which is large lot residential. Residential zoning does not mean that the property is now in the City. This is not an annexation. Junk and animals may still be ok in that zone. City Commission has directed the Planning and Zoning staff to be reasonable and accommodating to existing uses. Kress took Lester's information and agreed to follow up with her.

Clark Jenner, a Stony Creek Township resident, asked for clarification of what R1-E was as it relates to his property. Kress explained that this is a large lot residential designation with a minimum one-acre lot. Jenner asked why neighbors to the west were not showing on the proposed zone change map and Kress told him that those properties were already in the previous ETJ and that they are also zoned R1-E; all of Scenic East is R1-E. Jenner asked whether this zone change would prohibit his ability to hunt and shoot on his land has he has done in the past. Jarcik stated that the firearms regulations pertain to City limits and since it is not a zoning regulation does not apply to the ETJ. City Attorney Evert stated again that the City has no intention of annexing this area.

Barry Bohannon asked if this zone change would affect their ability to keep animals and was told no as that is not a City zoning issue. He asked about getting city water or curb and gutter into their properties. City Engineer Hanson said, "not unless you are annexed" and Bohannon stated they did not want to be annexed. Bohannon then asked about access to rural water. Hanson told him that he would have to talk to William Rural Water; City water, sewer and street extensions are predetermined by being in the City limits so extending into the ETJ would require annexation into the City.

Commissioner Maristuen stated for the audience that there are two Planning and Zoning Commissioners who live in the ETJ and he wanted the audience to know they did have representation on the P&Z Commission.

Don Haagenson asked why the information for his property said use inconsistent with zone. Kress explained to him that is because he is running a commercial business on a residential lot, as identified by the County. He further told Haagenson that if he could get some documentation from the County that approved that use prior to the expansion of the ETJ that the City would honor it.

Commissioner Hansen asked why there seems to be such a problem with notice mailings as several members of the Audience (Tony Axelson, Clark Jenner) had expressed they had never received notice and Mr. Axelson said this is not the first time he has had this issue with Planning and Zoning. Ressler explained that the mailing information that the Planning Department has access to comes from the Williams County Assessor's property tax rolls. Planning Department mails to the addresses that are provided so if there is a problem then we need to contact the Assessor's office to try to determine why. Audience and Commission were also reminded that

all Notices are published in the Williston Herald for two weeks prior to any public hearing meeting. Planning staff took contact information from any resident stating they did not receive their notice and said this would be looked into but reminded that again that there is only one way to access address information and those are the only addresses they have to send mail to.

MOTION BY CHRISTENSEN, SECOND BY BOYEFF to recommend to the City Commission approval of the proposed zone change map, contingent on addressing all staff, Ad Hoc Committee and public comments and excluding the Industrial Zoned lots as discussed at this meeting. AYES: Christensen, Hansen, Boyeff, Maristuen. NAYS: None ABSENT/NOT VOTING: Aafedt, Haugen, Long. ABSTAINED: None.

D. Zone Change request from Agriculture to C-2:General Commercial for Lot 2, Block 5, Hi-land Heights 2nd Subdivision, City of Williston – Jim Morken for Aladdin Investments, LLC

Maristuen introduced Item D of Public Hearings and asked Neill to present. Neill explained that this was a request to rezone Lot 2, Block 5 of the Hi-Land Heights 2nd Subdivision from A: Agricultural to C-2: General Commercial which, along with structural upgrades, would allow Alladin Investments to convert the existing temporary housing structures into a hotel. A hotel is not a permitted use in Agricultural zones but is a permitted use in C-2: General Commercial zones. The zone change from Agricultural to General Commercial is consistent with the Comprehensive Plan goal of having a commercial corridor along Highway 2/85.

The property owner has been informed of the structural changes that will need to be performed in order to convert the existing temporary crew camp housing structures into a hotel.

Neill said that there are three buildings on the lot that the applicant will be required to bring up to code. The applicant plans to shift their residents around so that the upgrades can be made in one vacant building at a time. Neill stated that the applicant cannot perform sprinkler system installation in a building that is occupied. The building that is being upgraded must be completely vacated. The lot will remain Agricultural to allow the crew camp to remain until July 1st under Ordinance 1026.

The zone change to C-2, if approved by the City Commission, would become effective on July 2, 2016. At that time, any building that has not been brought up to code will have to be vacated until it is brought up to code.

Neill said the applicant would be required to install buffering, in accordance with Ordinance 1007, along the east side of the property which is adjacent to Residential. Neill said that parking will be required to be striped, paved, and meet all dimension requirements (9.5' x 18.5'). The applicant will have to provide enough parking to meet the requirement of one parking space per room in the hotel. The parking lot will need to be paved and striped by July 2nd, 2016 and the installation of landscaping and street trees will have to be done by July 31st, 2016.

Neill stated that discussion at the February 1, 2016 ad hoc meeting included:

Parking: The proposed hotel will have 60 bedrooms, and will be able to provide 60 parking spaces. Parking will be hot-mixed asphalt or concrete. There must be enough parking to meet the 1 space per hotel room standard.

Timeline for Completion: Staff spoke with Jordon Evert, City Attorney, about the timing of completion for this project. Since the existing use is a crew camp, which will expire July 1st, 2016, the existing camp will still follow that deadline. Since the applicant wants to start making upgrades to his buildings now, to convert it to a hotel, staff has suggested he can make those changes as long as the building is vacant while he makes upgrades and all structural upgrades as well as parking lot requirements must be completed by July 2nd, 2016.

Neill concluded her presentation and stated that the applicant, James Morken, was available to answer any questions.

City Engineer Hanson asked Morken about connecting to City water and sewer. Morken stated he planned to connect through 72nd Street and would arrange a meeting with Hanson about this. Morken said he needed to get the engineering worked out to get bids for the water and sewer work as soon as possible; said he is not worried as much about how to get the building work done as the services.

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

MOTION BY BOYEFF, SECOND BY HANSEN, to recommend to the City Commission approval of the proposed zone change from Agriculture to C-2:General Commercial for Lot 2, Block 5, Hi-land Heights 2nd Subdivision, City of Williston, contingent on addressing all ad hoc and staff comments; zone change to become effective on July 2, 2016. AYES: Christensen, Hansen, Boyeff, Maristuen NAYS: None ABSENT/NOT VOTING: Aafedt, Haugen, Long. ABSTAINED: None.

- E. Preliminary Plat for an un-platted 7 acre lot in Section 2, T154N, R101W requesting 5 lots and Zone Change from M-1:Light Industrial to C-2:General Commercial for proposed 3rd Avenue Subdivision – Racer’s Store Management, LLC/Sanderson Stewart

Maristuen introduced Item E of Public Hearings and added that a Special Permitted Use (SPU) request was also part of this project and listed as a New Business item but that staff would be presenting it in conjunction with the Plat and Zone Change. Maristuen asked Kress to present. Chad Horning, the developer of this property joined via phone.

Kress began by explaining that there are three entitlements to this project –a plat, a zone change, and an SPU. The application requests a subdivision of a 7-acre property on the northwest corner of the intersection of 42nd Street and Highway 2 into five lots, a rezone of the entire property from M-1: Light Industrial to C-2: General Commercial, and a special permitted use (SPU) to allow existing light industrial uses to be considered conforming uses in the C-2 zone until those uses end.

Kress stated that 3rd Avenue East through the subdivision is intended to be a dedicated public street. In addition to providing access to the lots in the subdivision, it is intended to be part of a future backage road system connecting 42nd Avenue with 45th Avenue. However, as the need for this connection has not been confirmed at this time, the developer will not be required to pave 3rd Avenue East until such time as Lots 2 and 3, Block 1 are developed with commercial uses. Kress added that there is a corridor study underway to determine the need for this portion of 3rd Ave. East. The City will required a non-protest of future special assessments to allow the properties in this subdivision to be special assessed for development of 3rd Avenue

East if that street needs to be developed as part of the backage road system before Lots 2 and 3 are developed with commercial uses.

The property is currently served by city water and sewer.

The zone change from the existing M-1: Light Industrial to C-2: General Commercial is consistent with the 2010 Comprehensive Plan direction for development along the Highway 2 corridor.

Kress said that the SPU will allow the existing M-1 uses that would otherwise be non-conforming in the C-2 zone to be conforming in that zone until such time as those uses end. These uses cannot be expanded. Any new uses must be conforming in the C-2 zone. A summary of the proposed lots, their current uses, and whether those uses will be covered by the SPU was given:

Block and Lot	Existing Use	SPU Required To Be Conforming In C-2?
Block 1, Lot 1	Truck stop	Yes
Block 1, Lot 2	Truck parking and diesel fuel islands	Yes
Block 1, Lot 3	Truck parking	Yes
Block 2, Lot 1	Restaurant	No
Block 2, Lot 2	Fuel tanks	Yes

At the January 6, 2016 pre-development meeting, the Fire Chief raised concerns about fire safety and life safety in relation to the design of this plat. The committee's direction was that the plat should not go forward until these issues were resolved.

Specifically, the Fire Chief was concerned that the current configuration of Lot 2, Block 2 (diesel fuel tanks) does not allow sufficient room for a tanker truck to service these tanks without being on the public right of way. In response to that concern, the applicant has proposed a reconfiguration of that lot to allow an additional 155 feet for tanker trucks to service these tanks.

The Fire Chief was also concerned that the City would incur liability for any fuel spills or leaks in the fuel lines ; the City Attorney advised that City Commission acceptance of a public road right of way dedication does not mean assumption of liability for anything that's in that right of way. The Fire Chief has determined that his concerns from the pre-development meeting have been sufficiently addressed for the plat to go forward.

Kress reviewed staff comments as related to these requested entitlements:

CITY PLANNING

Special Provisions of the Development Agreement:

1. Lots 2 and 3, Block 1, shall not be developed until 3rd Avenue East is improved to City standards along the frontage of each lot.
2. 3rd Avenue East does not need to be improved by the developer until Lots 2 and/or 3, Block 1, are developed.
3. The property owner shall agree to a non-protest of future special assessments for 3rd Avenue East in the event that the City requires this street to be improved prior to the development of Lots 2 and/or 3, Block 1.
4. The property owner shall grant an easement to the City to allow the dedicated public right of way for 3rd Avenue East to cross the existing fuel lines between Lot 2, Block 2 and Lot 2, Block 1.

5. Developer shall submit a plan for safety barricades on Lot 2, Block 2 to the Fire Chief for his review and approval prior to installation of the barricades.
6. Developer will maintain the un-improved 3rd Avenue right of way to the satisfaction of the City Engineer until that street is improved.

CITY ENGINEER

Need to add chamfers at the intersection of 3rd Ave W and 42nd to accommodate the curb 7 gutter radius that the developer is requesting NDDOT to construct.

PARKS

This project will have no impact on the Williston Parks and Recreation District.

Kress concluded his presentation and stated that Rick Leuthold of Sanderson Stewart was in attendance at the meeting and available for comment and that the applicant, Chad Horning was available via phone.

Rick Leuthold addressed the Commission first stating he believed that all pre-application and ad hoc concerns had been taken care of including staff comments to this point. Leuthold said that the applicant does believe that the truck-stop use in this area will eventually end itself to become more of a convenience store and commercial development but they need to create the parcels and the plat for that to happen.

Leuthold stated that they understand that the existing uses cannot expand and that once they cease they may only be replaced with C-2 compliant uses but they are asking to be allowed consideration for upgrading and maintaining what is already there. He explained that one of the fuel storage tanks needs to be upgraded and maintained, not expanded, and that they would work with the Fire Chief to comply with all applicable fire codes when that happens. Leuthold also explained the reconfiguration of Lot 2 and the roadway to accommodate the fuel tanker. Kress added that the reconfigured lot and road would show on the final plat.

Maristuen reminded the audience that this was a public hearing and asked for any public input.

City Engineer Hanson stated that the sewer for Lonnie's Roadhouse Café crossed the Racer's store lot and that needed to be shown on the plat. Leuthold stated it was on the upcoming first final plat to be reviewed.

Commissioner Hansen stated she had been approached by the owners of Badlands Steel about roadways that they had been told would eventually connect to their property being 4th Ave. W on the east side of Badlands Steel then connecting east to the highway at the north end of their property. Leuthold stated that 4th Ave. W is a platted right-of-way and that their proposed backage road may connect to either 3rd or 4th Ave. W and then either west to Hwy 2/85 or through to 45th Street which connects to the highway for which they will provide the right-of-way. City Engineer Hanson said he will require that the right-of-way end where it is shown on the plat now at 44th Street West to the highway.

Commissioner Christensen questioned whether there was plan to keep access to Lonnie's Roadhouse Café during development of this project? Leuthold and City Engineer Hanson both stated they will always find a way to provide access to surrounding homes and businesses.

Maristuen called twice more for public input; hearing none he closed the public hearing and asked for the wishes of the Commission reminding them that there would need to be three motions: Plat, Zone Change and SPU.

MOTION BY CHRISTENSEN, SECOND BY HANSEN, to recommend to the City Commission approval of the preliminary plat for 3rd Avenue Subdivision with the revised configuration of Lot 2, Block 2, City of Williston, contingent upon addressing all staff and ad hoc comments. AYES: Hansen, Boyeff, Christensen, Maristuen. NAYS: NONE ABSENT/NOT VOTING: Aafedt, Haugen, Long. ABSTAINED: None.

MOTION BY CHRISTENSEN, SECOND BY BOYEFF, to recommend to the City Commission approval of the zone change for the entire property from M-1:Light Industrial to C-2:General Commercial, contingent addressing all staff and ad hoc comments and contingent on final plat recordation. AYES: Hansen, Boyeff, Christensen, Maristuen. NAYS: NONE. ABSENT/NOT VOTING: Aafedt, Haugen, Long. ABSTAINED: None.

MOTION BY BOYEFF, SECOND BY HANSEN, to approve a Special Use Permit to allow existing uses in the M-1 zone to continue as conforming uses in the C-2 zone until those uses end; no expansion of these uses is permitted, contingent on zone change at time of final plat recordation. Staff and City Attorney to work on SPU condition related to maintenance of existing structures. AYES: Hansen, Boyeff, Christensen, Maristuen. NAYS: NONE. ABSENT/NOT VOTING: Aafedt, Haugen, Long. ABSTAINED: None.

F. Short Plat to rearrange Lot 1, Block 22, Spartan Nash Subdivision, City of Williston – Roer’s Development, LLC

Maristuen introduced Item E of Public Hearings and asked Ching to present. Ching explained that this application requests a rearrangement to create four lots from one existing lot; Lot 1, Block 22 of Spartan Nash Commercial Subdivision. The lot is currently undeveloped and zoned C-2: General Commercial. There is no minimum lot size requirement in C-2: General Commercial zone. The approval of this short plat would create four lots as follow:

Lot Number	Size (acres)
Lot 1	3.22 acres
Lot 2	.57 acres
Lot 3	6.05 acres
Lot 4	1.76 acres

Ching said that the project site will have access on 29th St W, 32nd Ave W, and 26th St.

Other Fairhills development agreement requirements will apply along with this plat. The applicant would be required to buffer the residences and the public owned property to the east with landscaping. Water and sewer is available in surrounding public streets.

Ching stated that discussion at the February 1, 2016, ad hoc meeting included:

Sidewalk: This plat is required to complete an oversize 8-foot wide sidewalk and trail along 29th Street W and 32nd Avenue W. A regular size 5-foot wide sidewalk will also need to be completed on 26th Street West as part of the original Fairhills development agreement.

Development Agreement: Planning staff will create a short development agreement regarding the sidewalks and access points for this project. The applicant shall submit an exhibit, which will be part of the development agreement, to show the access points. The applicant shall depict a minimum 30-foot wide reciprocal access easement between Lots 1 and 2. The access on 32nd

Ave W will align to 27th St W and the 29th St W access would align with 31st Avenue West. The access on 26th St will need to be located at least 400 feet east from the intersection of 26th Street West and 32nd Avenue West.

STAFF COMMENTS:

PARKS: Parks Department is OK with the changes as long as the 8-foot wide sidewalk and trail is on 32nd Avenue W and 29th Street W.

Ching concluded her presentation. Maristuen opened the public hearing and asked for any public comment.

City Engineer Hanson stated that he had not yet seen a utility plan for this project but knows that utilities can be easily provided to the lots, may need a water easement from Lot 1 going east to Lot 2 or Lot 3.

Jeremy Easum of Roers Development addressed the Commission and said that they have interest in Lot 2 and that the site plan is in the works now where cross access easements will fall into place. He pointed out his proposed easements and utilities and Kress asked to be sure they are shown on the plat.

Maristuen called twice more for public comment; hearing none closed the public hearing and asked for the wishes of the Commission.

Commissioner Boyeff questioned the need for the 5 ft. sidewalk on 26th Street stating that there is no sidewalk on that north side for four or five blocks before this plat. Kress stated that there is to be a 5 ft. sidewalk on that north side but understands that it is interrupted by the water reservoir. Hanson said that there is a 10 ft. bike path on the south side of 26th Street but since that is such a busy road the City would like to see sidewalk on both sides. Jarcik interjected that the City wants to encourage pedestrian connectivity throughout developments and this would allow pedestrian access all the way around the proposed plat and to the residential neighborhoods around it.

MOTION BY CHRISTENSEN, SECOND BY BOYEFF, to approve the Short Plat for Lot 1, Block 22, Spartan Nash Subdivision, City of Williston, addressing all staff comments and ad hoc comments. AYES: Hansen, Christensen, Boyeff, Maristuen. NAYS: None. ABSENT/NOT VOTING: Aafedt, Haugen, Long. ABSTAINED: None.

G. Short Plat to rearrange Lots 7, 8, and 9, Block 1 of the Meadows Subdivision, City of Williston – Edman Builders/AE2S

Maristuen introduced Item E of Public Hearings and asked Ching to present. Ching stated that this application requests a Short Plat for the rearrangement of Lot 7, 8, 9 Block 1 of the Meadows Subdivision. These lots are currently undeveloped and are zoned R-1: Single Family Residential. Ching explained that the approval of this short plat would create two lots, consisting of .42 acres and .49 acres, from combing the three existing lots. Both proposed lots meet the minimum lot area requirement for R-1: Single Family Residential zone.

A short plat to combine lots 8 and 9 was approved by Planning Commission in September of 2014. The plat was not recorded and has been withdrawn by the original applicants.

Both lots will take access from Fairview Drive and will be served by City water and sewer.

Ching said that this matter was discussed at the Feb. 1, 2016, ad hoc meeting and the Committee had not comments or concerns then concluded her presentation.

Maristuen opened the public hearing and asked for any comments from the audience. After calling three times for public input and hearing none he closed the public hearing and asked for the wishes of the Commission.

MOTION BY BOYEFF, SECOND BY HANSEN, to approve the Short Plat for Lots 7, 8 & 9, Block 1 of the Meadows Subdivision, contingent on addressing all staff comments. AYES: Christensen, Hansen, Boyeff, Maristuen. NAYS: NONE. ABSENT/NOT VOTING: Aafedt, Haugen, Long. ABSTAINED: None.

COMMITTEE REPORT:

- A. Nomination and appointment of Chairman, Vice-Chair and 2nd Vice-Chair seats for 2016

Maristuen stated that nominations and elections would be handled at the end of this meeting if there were no objection; none were voiced.

UNFINISHED BUSINESS:

- 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 asked if City Engineer Hanson was able to get any resolution with the issues he has been working with the applicant on; he stated that he has not. Kress then told the Commission that staff was not ready to present this item; he said that it was being worked on but not quite there.

MOTION BY CHRISTENSEN, SECOND BY HANSEN, to table this item until for a future Planning Commission Meeting. CARRIED ON VOICE CALL

- B. Special Permitted Use request to allow a parking lot in a C-2 zone located on Lot 7, Block 1, Sloulin Field 1st Addition, City of Williston – Interstate Power Systems

Maristuen introduced Item B of new business (as above) and asked Kress to present. Kress noted that this application was originally to be discussed at the November 19, 2015 Planning and Zoning Commission meeting, however, at the applicant's request, it did not appear on the agenda for that meeting, in order to allow the applicant additional time to evaluate the cost of the improvements to the property proposed by this SPU.

Kress noted that staff does consider this a zoning violation and the applicant was informed that if this was not brought forward at this time, staff would have to consider taking action on the violation.

Kress said this application requests a special permitted use (SPU) to allow truck parking in the C-2: General Commercial zone pursuant to Section 20(E)(1) of Ordinance 613, the Williston zoning ordinance. This SPU request comes as a way to clear the existing zoning code violation of having a parking lot in the C-2 zone without approval. Kress said that this parking lot has been operating since 1987 but staff research shows it has never been approved. The parking lot is for trucks in line for service at Interstate Power, west across 4th Avenue West from the property.

Kress explained that an SPU would require the applicant to provide a concrete or hot-mix asphalt paved surface for the area used for parking and a grass cover for any portion of the lot not used for parking. The SPU would also require that the west and south property lines have parking lot screening consistent with the requirements of Ordinance 1007 and that the boulevards on the west and south sides be planted with boulevard trees every 35 feet and grass.

Kress said this item was discussed at an ad hoc committee meeting on November 2, 2015 and discussion included:

STATUS OF THE EXISTING PARKING: Use of this C-2 zoned property as a parking lot is a zoning violation. It is not a non-conforming use as the use began after the property had been zoned C-2. This use had never been permitted on this property. Kress stated that there have been many different owners of this property since 1981; the applicant has owned the lot since 2011. The City owned this lot for a brief time after the County took it in for unpaid taxes before eventually being sold to a private owner. It is the applicant's contention that this lot has been used for truck parking since 1987 including the time it was owned by the City of Williston.

NEED FOR SCREENING AND SURFACING IMPROVEMENTS: The committee clarified that the City is applying a standard for development in this situation. Though there may be a cost to the individual property owner to meet this standard, all property owners face that same situation.

SCREENING AND SURFACING REQUIREMENTS: Staff summarized these requirements, and explained the purpose of parking lot screening.

TIMING OF SCREENING AND SURFACING IMPROVEMENTS: The committee noted that the applicant has put considerable resources into improving other parts of their property and so it "makes sense we give them some time to allow them to phase that in budgets". Also, consideration for phasing was given due to the fact that this business has been established long term on this site. This is not a situation where an undeveloped ("green") property is being proposed for development. The committee suggested half the improvements could be completed in 2016 and the other half in 2017. Kress stated that should the Commission approve this SPU, the applicant would have until December 31, 2017 to complete these requirements.

SIDEWALK ALONG 4th AVENUE WEST:

The committee determined to follow the City Attorney's recommendation to require the applicant to sign a non-protest for future sidewalk improvements along the east side of 4th Avenue West. The applicant would not incur any cost for the sidewalk at this time but would not be able to protest special assessments.

Kress stated that the applicant's attorney, Winthrop Weinstein of Minneapolis, challenges the need for this SPU wondering why the City would allow this lot to be used as it is now in 1990's if it has never been a conforming use. Kress stated that the applicant's attorneys have been

provided all information available to the Planning and Zoning staff which indicates that the current C-2 zoning of this lot has been in place since 1987. The truck parking use on this lot has therefore always been a zoning violation.

City Attorney Evert stated that some of his communication with the applicant's attorney concerns the possible existence of a lease between the City and Interstate Power to use the lot for truck parking during the time the lot was owned by the City in the early 1990s. The City Attorney can find no record of this and therefore cannot address any parameters of any such lease should one have existed. Secondly he states that the applicant's attorney asks why the City would allow this use to exist for so long if it was a zoning violation. Evert said that their other comment pertained to being a non-conforming use vs. a non-permitted use.

Kress said that there was a miscommunication of non-permitted or non-conforming on the fact sheet from the zone change for Interstate Power (Lot to the west of the one in question for this SPU) in October, 2015. Kress said however that also in that same fact sheet was a note making it clear that this was a zoning violation. Evert stated that this came out of an ad hoc where it was originally thought this was a non-conforming use but that further research found it was indeed a zone violation because the zoning of this lot has always been C-2: General Commercial under the current zoning ordinance established in 1983.

Travis Penrod, appearing by phone for Interstate Power, stated that they have no fundamental issues with the what the City is asking nor are they now questioning the Code or required improvements but are curious about the time in which these things might be enforces. He stated that Interstate Power has been a positive employer and business for over 30 years in Williston and want to continue to be. The City has built up around them very differently than expected and they understand that and realize that for long term it makes more sense for them to find a different place to operate but still in Williston.

Penrod says that it is estimated that the required improvements for the two lots (Oct. 2015 zone change and this SPU) will be nearly \$500,000. If they do that they would need to be sure they can operate in the current location for several more years. Interstate Power feels it can more easily find a location that better serves their business and stated that if they are forced to make the required improvements now it will cause job lay-offs but they would rather keep their people employed.

Penrod asked the Commission to consider allowing them to continue to operate as they have for a number for years, for the next two years to allow them time to find the best compromise for all concerned. If they are unable to find a suitable location to move by the end of that time they will commit to the required improvements.

Maristuen asked Penrod what his proposal for a two year window would look like on paper for the SPU as far as dates and deadlines. City Engineer Hanson suggested using construction season dates which would give them until the end of 2017; Penrod agreed. Maristuen asked City Engineer Hanson if there were any acute issues with the site. Hanson responded aside from concern about controlling mud from the unpaved lot onto the city streets he was not aware of any from either his prospective or from Public Works.

City Commission Chairman Klug, who was in the audience, stated that he has had conversations with the applicants about putting gravel on the lot to help with the mud. Klug stated that he wasn't too concerned with the costs, "if it has to be done it has to be done". He added however that he does like their proposal and would like to give them opportunity to move out of the City because it will benefit the airport re-development, the City won't have to worry about a heavier road surface and it would keep truck traffic to local deliveries only.

Kress asked City Attorney Evert whether it was appropriate to have the SPU allow for operation to continue as currently used for a certain amount of time; Evert stated there was no problem as long as the conditions of the SPU were worded correctly.

The Planning Commission voiced their support that Interstate Power has been a positive force in Williston and made a general discussion of the timing and wording of the SPU and conditions. Penrod agreed with the terms of discussion.

MOTION BY BOYEFF, SECOND BY CHRISTENSEN, to approve the Special Permitted Use request for Lot 7, Block 1, Sloulin Field 1st Addition, to allow Interstate Power to continue using the lot for truck parking until December 31, 2017 contingent on: Interstate Power's agreement to either move to another location by that date or commit to comply with all required improvements (paving, buffering, landscaping) by October 31, 2018; and, Interstate Power shall work with the City staff to find ways to make simple lot improvements during the term of this SPU. AYES: Christensen, Hansen, Boyeff, Maristuen. ABSTAINED: None. NAYS: None. ABSENT/NOT VOTING: Aafedt, Haugen, Long.

NEW BUSINESS:

- A. Special Permitted Use request to allow existing truck stop and diesel storage tanks to continue as conforming uses in the C-2 zone for proposed 3rd Avenue Subdivision (related to item 5E) – Racer's Store Management, LLC

** Presentation and Motion to approve included with Item E of Public Hearing.

NOMINATION AND ELECTION OF CHAIR SEATS FOR 2016:

- Commissioner Christensen, representing the Nominating Committee (Commissioners Christensen and Hansen) stated that he would like to make nominations all in one vote. Christensen stated that the Nominating Committee would like to nominate Cynthia Aafedt as Chairman, Jon Maristuen as Vice-Chairman and Glenn Boyeff as 2nd Vice-Chairman for the 2016 Planning and Zoning Commission. Maristuen called for any other nominations, none were made.

Christensen called for the question; all seats were elected as nominated by unanimous vote on Voice Call.

DATE OF NEXT REGULAR MEETING: March 21, 2016

MEETING ADJOURNED.



Kent Jarcik, Williston Planning Director

APPENDIX

to the

February 16, 2016, 2015 PLANNING AND ZONING COMMISSION MINUTES

- A. Special Permitted Use request to allow a parking lot in a C-2 zone located on Lot 7, Block 1, Sloulin Field 1st Addition, City of Williston – Interstate Power Systems
- B. Special Permitted Use request to allow existing truck stop and diesel storage tanks to continue as conforming uses in the C-2 zone for proposed 3rd Avenue Subdivision (related to item 5E) – Racer's Store Management, LLC
**NOTE: This is contingent on recordation of final plat for 3rd Ave Subdivision. The SUP will not be effective or recorded until after that time.