

**REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON NOVEMBER 17, 2014 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.**

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

**MEMBERS PRESENT:** Long, Christensen, Haugen, Aafedt, Maristuen, Fleck, Boyeff.

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Kent Jarcik, Planning Director; Donald Kress, Principal Planner; Rachel Ressler, Staff Planner; Samantha Neil, Staff Planner; Kelsey Vlamis, Planner/Code Compliance; Christine Edwards (Administrative Assistant); Bob Hanson, City Engineer; Jordon Evert, Assist. City Attorney; Bill Tracy, Building Dept.

**DISPOSITION OF MINUTES:**

- Minutes were approved for October 20, 2014 regular meeting. MOTION BY FLECK SECOND BY LONG. MOTION CARRIED ON VOICE VOTE.

**COMMUNICATION:**

**PUBLIC HEARINGS:**

- a. Update Landscape Ordinance - Staff

Boyeff introduced the first public hearing (as above) and asked Neill to present. Neill first explained that in the original 1983 Zoning Ordinance, landscaping was required to be installed within 12 months of the issuance of a Certificate of Occupancy.

Neill then stated that October 9<sup>th</sup>, 2012, Ordinance 959 was adopted which defines a growing season as May 4 to September 28 (both days inclusive) and allows the developer portions of two consecutive growing seasons to install required landscaping. It also allows the City the ability to back charge the properties in violation through special assessments.

On September 16<sup>th</sup>, 2013, staff presented to the Planning Commission another amendment to allow for an additional enforcement remedy which allows the applicant (whether owner, builder, or developer) to post a performance bond which would enable the City to utilize such allocated funds to complete the required landscaping if applicant defaults. Neill said that at that meeting the Planning Commission tabled this item, and suggested that staff further evaluate the possibility of including paving as part of the performance bond requirement and the possibility of adding flexibility in the enforcement language which allows the applicant to be notified in advanced upon an upcoming deadline.

Neil explained that following the September 16<sup>th</sup>, 2013 meeting, discussion ensued between the Building Department and the Planning and Zoning Department. It was agreed that the Building Official would have the ability to enforce the landscaping requirement and administer any potential fines. Neil said a new installation timeline was discussed as well as the installation of boulevard trees. Further, the topic of paving was also discussed, as requested by the Planning Commission, and will be integrated into the building inspection process.

Neil said that the installation timeline would implement a cutoff date of July 31<sup>st</sup>, and added that any Conditional Certificate of Occupancy issued on or after that date will have until July 31<sup>st</sup> of the following calendar year to install the required landscaping. Any Conditional Certificate of Occupancy issued prior to July 31<sup>st</sup> will be required to install the required landscaping by July 31<sup>st</sup> of the same calendar year. If landscaping is not installed the Building Official will impose appropriate penalties.

In addition Neill stated that this ordinance further clarifies that the installation of boulevard trees shall be the responsibility of the builder/contractor at time of the construction of the building on an existing property. With regard to new subdivisions and Development Agreements, boulevard trees shall be installed on arterial streets and perimeter subdivision streets at the time of street construction or completion of the curb and gutter by the developer.

Neil stated that the ordinance also adds an exemption to the requirement of boulevard trees when an existing construction is built in such a way as to preclude any ability to provide landscaping on the property. Neil said that the Planning and Zoning Department may make that determination.

Neil said the topic of paving is addressed in the Off-street Parking section of the Zoning Ordinance and would be integrated into the building inspection process performed by Planning Department staff prior to the request of a final inspection performed by the Building Department. Neil added that the Building Official would retain the ability to enforce this requirement and administer fines, including the ability to revoke a Certificate of Occupancy if necessary.

At ad hoc, the committee members expressed the following concerns/comments: There was some discussion regarding the penalties for developments that did not comply with this ordinance. Performance bonds were discussed. Further clarification with the Building Department determined that they are working on a contractor's bond. The Building Official will discuss this further at the Planning and Zoning Commission meeting.

Boyeff asked Bill Tracy of the Building Department if, on his end, this proposal was enforceable and appropriate. Tracy said he was comfortable with it.

Boyeff called for public input, hearing none after three invitations the closed the public hearing and asked for the wishes of the board.

Commissioner Aafedt asked if this would be retroactive or going forward. It was explained that it would go into effect at the approval of the City Commission. Tracy added that there some other ordinances in place or coming that would be supported by the proposed ordinance 959 but would not rely on it. Tracy said this ordinance would become "another tool in the box".

**MOTION BY CHRISTENSEN, SECOND BY HAUGEN, to recommended approval of Ordinance 975, amending Ordinance 613, also known as the Zoning Ordinance of the City of Williston, amending and replacing Ordinance 959 & 965, which further clarifies maintenance of landscaping for existing lots, installation timeline for landscaping and street trees, and its related section amendments. AYES: Long, Haugen, Aafedt, Fleck Maristuen, Christensen, Boyeff. NAYS: None ABSENT/NOT VOTING: None. ABSTAINED: None.**

b. Updates to R-3 and R-4 sign allowances by ordinance – Staff

Boyeff introduced the public hearing (as above) and asked Ressler to present. Ressler told the Commission this item was advertised for public hearing, but Planning Staff would request that it

be tabled until December, when staff would have a corresponding sign ordinance to present as well.

Motion by LONG, second by CHRISTENSEN to table, carried on voice call.

- c. Preliminary plat and zone change for two lots from A: Agriculture to C-2: General Commercial, for the proposed St. Joes Subdivision, an unplatted 36.154 parcel at the ND Intersection of 32nd Ave. W and 11th St. West, City of Williston – Hagan Family Partnership/Sanderson Stewart

Boyeff introduced the third public hearing (as above) and asked Ressler to present. Ressler clarified that this plat is for 48.733 acres and a zone change from A: Agricultural to C-2: General Commercial is for 16.701 acres. Ressler states that the original advertisement of 36.154 acres; however during ad hoc the need for Bison Drive to go through this plat was discussed and the applicant was asked to revise the plat for that reason. The additional area compensates for the area of the plat that was dedicated to Bison Dr., as the Hagan family had a set amount they discussed donating to the school. This property is not currently annexed into the city. However, it is within the City's extraterritorial jurisdiction.

Ressler stated that plat shows the dedication of Bison Drive through the property, following an alignment laid out by the comprehensive plan and the update that AE2S did earlier this year. Ressler says that this will need to be re-examined by AE2S, the applicant and the City Engineer to be sure that that alignment will work. Lot 1 and 2 of Block 1 are intended to remain Agricultural and eventually proposed to be donated to the St Joseph's Catholic School. Lot 1 of Block 2 is also proposed to remain Agricultural at the moment.

A minor traffic study was conducted, to ensure 11<sup>th</sup> St was capable of handling traffic from additional commercial properties. Ressler said that it appears that 11<sup>th</sup> St and the 32<sup>nd</sup> St intersection are capable of handling the additional traffic. This was reviewed by our external traffic consultants, SRF.

At the November 3, 2014, ad hoc meeting discussion focused on the necessity for Bison Drive and the traffic study. The ad hoc committee also discussed the need for access to all lots, and the need for those accesses to line up with other potential accesses into the Sand Creek and Hawkeye developments.

Ressler said that staff comments included:

1. The revised plat appears to meet our connectivity needs. If the commercial lots develop, they should be subdivided first.
2. The reciprocal access easement should be examined as a potential right of way.

Ressler added that the staff would like a no-build easement on the property explaining that here is a steep drop-off and the City would like to protect that hillside from being built upon; however the City does realize the potential for it to eventually be built upon although sewer and water cannot access it.

Rick Leuthold from Sanderson Stewart, representing the applicant, addressed the Commission. He spoke to the right of way of Bison Drive and how the current proposed alignment came about. He indicated on the plat map how it was envisioned to connect and stated that the applicant has set aside some right-of-way to the east and west for the Bison Drive connection.

Leuthold addressed the no-build easement by stating that they are sensitive to that and reminding the Commission that in the Skyline Subdivision there was a no-build area there to prevent building up to or to dangle over that edge. He explained that this area was different as it would be utilized by the school and stated that, while keeping in mind building and foundation support, there are many schools throughout the nation that have been able to build in this type of area by building over the edge of a hill and stair step down to walk-out facilities. He indicated that he wanted to tie that issue to a site-development plan rather than a plat. He states that they want to be sensitive to the issue of the hill side but not preclude any options.

Boyeff opened the public hearing and called for any input. Nyla Fretland stood and stated that she lives on the very end of the existing Bison Drive and asked where it was intended that future connection come through. Mr. Fretland stated that they have never been contacted about this and it comes directly through their property. Discussion was had about possible connection routes, other subdivisions involved and land issues. Fretland's were assured that it would be a considerable length of time before the Bison Drive connection would begin to reach their property and assured that long before that time they and other property owners would be contacted to have personal discussions with the City and any developers involved.

Larry Slingsby expresses the same concerns and that he worries that if he is forced to continue giving easements on his land that it will be so cut up he won't be able to hay. Slingsby stated that these proposed developments of City streets to the west but property owners have never been included in any of those discussions. It was discussed that there is a significant distance to Mr. Slingsby's land and that he would not be effected for some time; Mr. Slingsby was assured, just as the Fretland's were, that he would in fact be contacted and allowed input well ahead of any City street connections near his land.

Boyeff called two more times for public input, hearing none he closed the public hearing and asked for the wishes of the Commission.

Fleck asked for clarification of difference in acreage shown on initial plat vs. the plat presented and his calculations. Numbers were discussed, Ressler and Leuthold explained plat acreage with and without road dedications for Bison Drive and 11<sup>th</sup> Street W.

Haugen state that he understood there was a five year deadline for the school to take or refuse this land dedication and asked what would happen if the school did not take over. Leuthold and Terry Meztler, representing the developer, stated that is between the Hagen Family Partnership and St. Joseph's School and information they are not privileged to. A representative of the Hagen Family Partnership stated that he could say only that the commitment is there and the five year deadline was to give the Church time to make necessary arrangements. Ressler stated that should the land not be used by the Church or the school it would simply remain agricultural land. Finally Haugen asked in reference to Bison Drive, for this plat at this time there is only a dedication for Bison Drive but it is not actually being built. Leuthold stated that was correct, the dedication was asked for by the City for possible future connectivity but there is no current plan to build.

**MOTION BY LONG, SECOND BY MARISTUEN, to recommend to the City Commission approval of a plat of 48.733 acres in the SW 1/4 and SE ¼ of the SW ¼, Section 15, T154N R101W, City of Williston, contingent on staff comments and a development agreement being recorded. AYES: Long, Haugen, Christensen, Aafedt, Maristuen, Fleck, Boyeff. NAYS: None ABSENT/NOT VOTING: None. ABSTAINED: None.**

MOTION BY MARISTUEN, SECOND BY LONG, to recommend to the City approval of a zone change from A: Agricultural to C-2: General Commercial for 16.701 acres in the SW ¼ and SE ¼ of the SW ¼, Section 15, T154N R101W, being Lots 3 and 4 of block 1, City of Williston, contingent on staff comments and a development agreement being recorded and recordation of the final plat. AYES: Long, Haugen, Christensen, Aafedt, Fleck, Maristuen, Boyeff. NAYS: None ABSENT/NOT VOTING: None. ABSTAINED: None.

- d. Preliminary Plat for National Guard Subdivision and a Future Land Use Amendment to re-designate approximately 26 acres (corrected from 28 acres) from “residential” to “public/institutional” for a National Guard Armory on an unplatted 138.84 acres in Sec. 9, NE intersection of 139th Ave. NW and 54nd St NW/26th St. W, City of Williston – Hagan Family Partnership/Sanderson Stewart

Boyeff introduced the last public hearing item on the agenda (as above) and asked Kress to present. Kress said that the preliminary plat to create seven new lots and include an existing City-owned subplot, included to not leave an “orphaned” lot, on 138 acres. The property is currently zoned A: Agricultural; no zone change is proposed. This project requires a Future Land Use Amendment (FLU) for approximately 26 acres, Kress stated that this was a correction from what was provided in Commission packets of 28 acres. The FLU for this 26 acres would be changed from the current “Residential” land use designation to “Public/Institutional” land use designation for the site of a proposed National Guard armory. Kress stated that change would also notify surrounding land owners that there may be such a use there in the future. Kress further clarifies that the plat does not involve a zone change. The current zoning is agricultural and will remain so. He added that the land is within the City’s extra-territorial jurisdiction and while there are no plans to build on this at this time, a National Guard Armory is a non-enumerated use within the agricultural zone. When this build is ready it will come before the Planning & Zoning Commission for a special use permit.

No development is proposed at this time, except for the following public streets:

- 44<sup>th</sup> Avenue West, running north from 26<sup>th</sup> Street to continue through the project site and along the west side of the new high school in the property adjacent to the north;
- 32<sup>nd</sup> Street West, continuing west from Harvest Hills to intersect with 44<sup>th</sup> Avenue.
- Prairie Commons Street, continuing west from Harvest Hills to intersect with 44<sup>th</sup> Avenue.

Kress sated that the project site will take access from these three streets and that additional streets will be created at the time of future platting.

Kress briefly addressed development proposed on the lots is as follows:

- Block 1, Lot 1: Future residential development
- Block 1, Lot 2: Future low density residential
- Block 1, Lot 3: Existing city sludge pit to remain
- Block 2, Lot 1: Future National Guard Armory
- Block 3, Lot 1: Future school development (in conjunction with Orville Erickson Plat)
- Block 4, Lot 1: Future low density residential
- Block 4, Lot 2: Future low-density residential
- Block 3, Lot 3: Sewer lift station (dedicated to City)

Platting and zone changes to these lots will be done by as separate entitlements once this plat records. Development must be consistent with the land use designations of the Comprehensive Plan, as amended.

Discussion at the November 3, 2014 ad hoc included:

DEVELOPMENT OF INTERNAL STREETS: City Commissioners outlined how development of two of the proposed streets—44<sup>th</sup> Avenue, 32<sup>nd</sup> Avenue—would be funded by the City and would not be the developer's responsibility to install.

BUFFERING: As earlier stated, when the actual armory facility is proposed, a special use permit (SPU) will be required and that will be the appropriate time to address buffering. It was said at ad hoc that this buffering could include earth berms, trees, or a row of single-family residences on two or more sides of the armory.

Kress asked City Engineer Hanson if he had anything further to add. He made brief explanation of how and when the streets would be built; clarification was made as to when the dedications come into play. Boyeff asked about connection to 139<sup>th</sup> St. Hanson stated that is encapsulated in the Williston Township plans and runs up to the westerly edge of this plat. When the layout of Lot 1, Block 4 was known the intersection can be worked out. Boyeff asked then if the dedication of right-of-way for that connecting road would come into play at the time of development and Hanson confirmed that. Kress reminded that there is a 50 ft. road dedication for that drawn into the plat at hand encompassing the statutory 33 ft. plus an additional 17 ft. Kress added that effectively should the parcel adjoining the west side of this plat be developed there could be as much as a 100 ft. right of way for 139<sup>th</sup> St.

Kress reminded the Commission that should they choose to approve this plat that the motion for the future land use amendment be for approximately 26 acres and 28 and that it also be contingent on recordation of the final plat.

Boyeff opened the public hearing and asked for public input. Cole Arndt, neighboring property owner, questioned the actual building and use of the National Guard Armory lot itself. Kress stated that he believed this to be an office, assembly type building. There would be a yard there but would not be any sort of demolition or firing, Kress added that during the week there would be minimal activity there as it would only be office staff. Arndt asked if there would be the storage of large equipment and the like. Kress said he could not answer those questions and reminded everyone that there are no building plans at this time and that before anything can happen on that lot it would need to come back to the Planning & Zoning Commission for a special use permit. Kress invited Arndt to feel free to contact him at the Planning Department if he has any questions in the future. Arndt finally questioned paving near his property, 37<sup>th</sup> Ave., and when that is planned. Mayor Klug stated that it is the intention of the City to have 37<sup>th</sup> Ave. tied into Harvest Hills Subdivision and to the new high school dedication, as a second access point, in 2015.

Boyeff called twice more for public input, hearing none he closed the public hearing and asked for the wishes of the Commission.

Aafedt asked for clarification of whether this proposed armory was an additional armory to the current New Williston Armory or a replacement of that. Kress stated that to his knowledge, the current unit would be moving out of the current armory and into this one.

**MOTION BY FLECK, SECOND BY CHRISTENSEN,** to for the National Guard Subdivision, a preliminary plat of 138 acres in the SW ¼ Section 9, T154N, R101W, City of Williston, contingent upon addressing all staff comments. **AYES:** Long, Haugen, Maristuen, Aafedt, Fleck Christensen, Boyeff. **NAYS:** None. **ABSENT/NOT VOTING** None. **ABSTAINED:** None.

Discussion prior to motion for Future Land Use Amendment as to how the affected lot(s) should be identified in a motion. It was agreed that it was best to name the specific lot and block.

MOTION BY FLECK, SECOND BY HAUGEN, to recommended approval of the Future Land Use amendment for approximately 26 acres to change from the "Residential" designation to "Public/Institutional" designation for Lot 1, Block 2 of future National Guard Armory, City of Williston, contingent on addressing all staff comments and recordation of the final plat. AYES: Long, Haugen, Fleck, Maristuen, Aafedt, Christensen, Boyeff. NAYS: none. ABSENT/NOT VOTING: None. ABSTAINED: None.

#### **COMMITTEE REPORT:**

#### **UNFINISHED BUSINESS:**

Kress addressed the Commission and stated that there are three items under unfinished business each of which will be/remain tabled for this meeting. He stated he would give a short explanation of the status of each.

- a. Special Use Permit (SPU) request for the expansion of an existing oil well drill pad site located on Section 2, Lot 3, T154N R101W, City of Williston – Statoil Oil & Gas LP/Nancy Beard

An agreement regarding payment of specials, as directed by the ad hoc committee, has not been reached as of the date of this fact sheet. The applicant has requested this item be tabled until the December 15, 2014 Planning Commission meeting.

- b. Special Use Permit (SPU) request to allow a contractor yard in the A: Agricultural zone located at the corner of 54th St. W and 16th Ave. W, City of Williston – Zack Lebsock/Spyder Oilfield Services

The applicant's representative advised Planning staff on November 13, that the applicant is still not prepared to take this project forward and requests it be table until the December 15, 2014 Planning Commission meeting.

- c. Special Use Permit (SPU) request for a gravel pit in and A:Agricultural zone, Lot 1, Block 2, Saddle Ridge Subdivision, City of Williston – Go Aggregate, LLC

The City Commission heard the request for the zone change at their November 12, 2014 meeting. After three votes that all ended in a 2-2 tie (with one Commissioner absent), the matter was tabled until a future City Commission meeting.

The SPU will not come before your Commission unless the City Commission approves the zone change at a future meeting.

Motion by LONG, second by CHRISTENSEN to table Items a, b and c of Unfinished Business. Carried on voice call.

#### **NEW BUSINESS:**

- a. Special Use Permit (SPU) request for oil well pad expansion located at 13786 54th St. W SW1/4 NW1/4, Sec. 3, 154N, 101W, City of Williston – Statoil Oil & Gas/Orville Erickson

Boyeff introduced this item of new business (as above) and asked Kress to present. Kress first shows the location of the item on the map and states that this request is for a special permitted use to increase the number of oil wells on an existing oil well drilling pad, known as the Charles-Cherrey site, from three wells to 10 wells, and expand the existing pad to the west.

Kress said that this pad site is outside the City Limits but is in the City's extra-territorial jurisdiction.

The project site takes access from a gravel section line road that is also a township road on the boundary between Missouri Ridge and Williston Townships. Kress expresses that this road is not a city street, though it does align with County Road 7/ 58<sup>th</sup> Street. There is no developed road, or planned for road development to the east of the pad site connecting to County 7 at 16<sup>th</sup> Avenue West.

Kress stated that discussion during the November 3, 2014 ad hoc included:

**STATUS OF THE ACCESS ROAD;** At ad hoc, the committee directed the applicants to talk to the boards of both Missouri Ridge and Williston Townships about use of this road prior to the Planning Commission meeting, and report the results of those conversations to the Planning Department, or to the Planning Commission at the November 17 meeting. Kress stated that the applicant was in attendance and would report on those conversations at the conclusion of staff presentation.

**BUFFERING AND LANDSCAPING;** Kress stated that the landscaping plan provided by the applicant does not depict landscaping along the roadway (north edge of the pad) or a portion of the northwest side of the well pad, nor along the pond. Kress said that in an e-mail after the ad hoc (November 6, 2014), the applicant stated "The landscaping is not shown on the north side of the site because there is not room between the well site and the 66-foot statutory right-of-way line. The northwest corner of the well site was not shown with trees due to the trees being a snow fence for the entrance to the fresh water pit. We do not intend to buffer the fresh water pit because Lindale Pipeline holds the lease on the fresh water pit to operate and maintaining the pit. We are in the process of working with the NDIC to transfer Statoil's permit for the fresh water pit to Lindale Pipeline." Planning staff recommends that the landscape plan be revised to provide some landscaping along the section line road appropriate to the space available, and along the northwest side of the pad site along the pond, while still allowing an entrance to the pond.

Kress reminded the Commissioners that the landscaping plan, draft findings and locator map were in their packets and concluded his presentation reminding the Commission that Mr. Putney from BP Land and Mr. Skluzacek from Statoil were present and would address them at that time.

Haugen asked about the landscaping plan and why the buffering is less on the south than elsewhere; also mentioned that ad hoc had discussed some sort of buffering along the north even though it is so close to the road. He stated that he felt if there were no room for landscaping there should be at least an 8 or 10 foot fence, which does not take much room, with an agreement with the City that be allowed. Josh Skluzacek with Statoil addressed the Commission stating that it was their intention to erect a 6 ft. chain-link fence with privacy slats around the perimeter of the well site and added that on the north side that fence would go into the statutory right-of-way. Skluzacek said that this site was built right up to that right-of-way prior to his involvement and could not say why or how that happened. Haugen stated again that he believed a higher fence on the north side would be appropriate and asked what logic there



was to only a 6 ft. fence. Skluzacek stated that there is natural buffering there from the coulee to the south but they could look at an 8 ft. fence. Discussion is had about eventual development around the site and the need to have that buffered. Skluzacek stated that there is no way to build up to the south side because of the coulee. Haugen stated he still believed that they should do the same there as on the east and west sides. Kress re-stated what he believed Haugen was asking for; an 8 ft. fence around the entire site and buffering on the south equal to the east and west. Further, and with support of Fleck, Haugen asked for possibly a 10 ft. fence or as tall as can be done stating that he would ask for that now but would ask for an agreement that when and if the City asks for a taller fence in the future that Statoil would not protest. Skluzacek stated that he felt Statoil could agree to those terms. He will submit this to his contractors for review and will provide comments to planning staff.

Fleck asked about a berm. Skluzacek said that there is a berm already in place and added that throughout the expansion area that would be included as well.

Question was raised, discussion had as to whether the buffering would be built to commercial or industrial standards. Industrial standards are much less than any other so it was decided that the buffering should meet commercial/residential standards as either of those could build up around the site.

Maristuen asked about a flare shield around the flare pit. Skluzacek stated that they are rarely used and assures the Commission that all pits and flares are governed by NCIC. He adds that the site will only be flared occasionally. Finally, Putney addressed the Commission with an update on discussions with the townships regarding road use. He stated that he spoke with Mr. Hugh's with Missouri Ridge Township who agreed that the pad is already there and Statoil already uses the road, there is no issue with continuing. Putney stated that he had also spoken with Mr. Christensen of Williston Township who also agreed to their continued use with their continued maintenance of the roadway.

**MOTION BY HAUGEN, SECOND BY FLECK** to approve the Special Use Permit (SPU) request for oil well pad expansion located at 13786 54th St. W, SW1/4 NW1/4, Sec. 3, 154N, 101W, City of Williston, contingent upon addressing all staff comments and a revised landscape plat approved by staff that will meet the standards discussed. **AYES:** Long, Fleck, Haugen, Maristuen, Aafedt, Christensen, Boyeff. **NAYS:** None. **ABSENT/NOT VOTING:** None **ABSTAINED:** None.

- b. Special Use Permit (SPU) request for a quasi-institutional home in an R-2: Single Family and Townhouse zone located at 308 4th Ave. E, City of Williston - The Guardian House

Boyeff introduced Item (b) of New Business (as above) and asked Ressler to present. Ressler first corrected the request stating that it should be a quasi-institutional home, not facility. Ressler then explains that his property has been proposed for a quasi-institutional facility in an R-4 zone. The property is currently operating as such. They were asked to apply for a special use permit in order to come into compliance with the City code of ordinances.

Ressler said that the applicant is operating a quasi-institutional facility for 11-13 veterans. These veterans are referred to the Guardian Foundation by a variety of sources, including the county veteran service office, the VA clinic, the Salvation Army, and their own facilities in other cities. They aim to house veterans who have a chance to find work and housing with help to overcome barriers such as lack of housing, driver's licenses and vehicles. They do not work with barriers such as mental illness or drug or alcohol addiction. When veterans cannot find work or housing, the Guardian Foundation provides them with the means to move elsewhere. The veterans are

subjected to both military and police background checks, and the Guardian House was looking into contracting with Checkers, a company that facilitates background and drug checks. Ressler said that those service agreements had just been provided to the Planning Department.

At the home, each resident is given a space to sleep, and keep their belongings there while job searching. After they have found a job, they are asked to contribute financially to the house. Most residents stay 60-90 days.

Ressler state that the property was inspected by the Building Department, Fire Department and Planning Department. The property was given a list of items to complete in order to come into compliance with the code; enumerated in the Commission packets for their review.

Ressler added that there were people living in the basement at the time of inspection, which is against code. The Guardian Foundation does not own the house, and does not have control over the basement. It was requested that this issue should be resolved prior to the property being granted an SPU, and in fact had been informed that that problem had already been resolved. As of November 13, 2014 building permits had been pulled in order to address these issues.

Ressler said that the ad hoc committee meeting held on November 3, 2014, the committee made a request that if the applicant had made progress on the above items, they would hear the case at the Planning Commission meeting. If they had not, the item would be tabled until the December meeting. If the applicant had not completed the list by December, they should be given 30 days to discontinue the program on the property.

Haugen stated that at ad hoc the committee discussed making the building handicapped accessible. The applicant, Mike Shaw, spoke and stated that that possibility had been looked at and explained how it could possibly work. Discussion was had as to what a handicapped ramp would access. Bill Tracy, Building Department, spoke and stated that they could put in a handicapped ramp at the house to the first floor but the house is not and cannot be made handicapped accessible. Shaw suggested that in the future he would like to look at the possibility of creating a men's home, a woman's home and an ADA compliant home for handicapped veterans. Shaw said that the Veteran's Administration has committed \$11M dollars to veteran's services in Williston.

Boyeff asked Bill Tracy what he knew about the progress on the house since the inspection; Tracy stated they are working on it. Shaw spoke of some of the thing on the list, stated that he has contractors working and others ready to start. Shaw said that the fire alarms were proving to be the biggest problem at this point but he sees no reason not be completed by the December 15, 2014 P & Z Commission Meeting. Christensen questioned whether it was realistic to have it all done by that time; Tracy stated that he could help make sure that it would be. It was also mentioned that Home Depot had given a grant to assist this project.

Mayor Klug spoke and stated that it was his suggestion to not allow approval of this SPU request until all items noted in the inspection were completed. He said however that seeing the progress now he would have no problem with removing that condition and having this move forward at this time. Ressler added that The Guardian House was first inspected in July 2014 and between that time and the most recent inspection there had been little corrected and that was the reason for wanting to hold off until the correction list was completed.

Long asked if it was a rule of the house that no alcohol would be allowed? Shaw stated that there is that condition in the house agreement but that does not stop them from stopping off for a drink after work before returning to the house. Some discussion was had about the issues surrounding any alcohol use, in the house or not, while someone is a resident there. Long felt

that given that it was or would be government funds supporting the program, the house and ultimately its residents is should be restricted from any use.

Ressler reminded the Commission that Staff recommended this item be tabled and not decided on until December, 2014 to allow the applicant time to make necessary improvements. Shaw expressed a desire to get an idea of what support there may be for the project with concern of moving too far along and putting out a lot of money if there would be a denial of the project.

Motion by MARISTUEN, Second by HAUGEN make a show of hands from the Commissioners who would be in support of granting this SPU at a future meeting. Support was unanimous.

MOTION BY LONG, SECOND BY MARISTUEN to table the Special Use Permit (SPU) request for a quasi-institutional home in an R-2: Single Family and Townhouse zone located at 308 4th Ave. E, City of Williston, until the December 15, 2014 Planning and Zoning Commission Meeting. Carried on Voice Call.

- c. Vacation of alley Right of Way, 1623 2nd Ave. W., Lot 7-13 and 18, Block 1, Ferndale Subdivision, City of Williston – El Rancho Hotel

Boyeff introduced Item (c) of new business (as above) and asked Kress to present. The application petitioned the City to vacation a 20-foot wide by 50-foot long section of a dedicated public alley between Lots 7 and 12 of the Ferndale Subdivision. This portion of alley is partly covered by the El Rancho Hotel and is not usable. The El Rancho owns the land on both sides of the alley to be vacated. The alley south of the El Rancho property, between the parking lot on the west side and the Tesoro on the east side, is not affected by this vacation.

The City Commission has scheduled a public hearing for the vacation for the November 25, 2014 City Commission meeting.

At the November 3, 2014 ad hoc, the committee heard the project as presented by staff. The committee understood that this section of alley is no longer usable, and recommended approval of the vacation.

Clarification was made that the remaining section of this alleyway would remain as entry to the Tesoro car wash and access the rear parking lot of the El Rancho complex.

MOTION BY LONG, SECOND BY MARISTUEN, to approve the Vacation of alley Right of Way, 1623 2nd Ave. W., Lot 7-13 and 18, Block 1, Ferndale Subdivision, City of Williston. AYES: Long, Christensen, Maristuen, Fleck, Haugen, Boyeff. NAYS: None. ABSENT/NOT VOTING: None ABSTAINED: Aafedt.

- d. Final plat of Code Estates, proposed 57 lot single-family, duplex and townhouse subdivision on 11.08 acres located at 917 42nd Street East, City of Williston – Code Estates, LLC/Sanderson Stewart

Boyeff introduced Item (d) of new business (as above) and asked Ressler to present. Ressler states that this final plat is for 11.97 acres of property in the SE ¼ of Section 1, T154N R101W, currently with one dwelling unit on it. The preliminary plat and zone change was approved by the City Commission on November 12, 2014.

Ressler explained that concept plan shows 7 buildings of 3-8 townhouses, for 38 townhouse units total, 2 twinhomes (4 units total), and 14 single family homes, not including the Code

house, which is a total 15 single family homes on the project. Ressler stated that there is another existing single family home on the Benth property.

The townhouse lots range from 21 to 29 feet wide. It also shows a private street running along the back of most properties, as well as a public street (9<sup>th</sup> Ave E) that allows access to the development at 45<sup>th</sup> St and 42<sup>nd</sup> St.

Ressler said the plat also includes Lot 45 of Block 1, currently owned by Dave Benth in order to facilitate a lot line adjustment for Mr. Benth. Mr. Benth's lot will not change zoning from A: Agricultural, therefore the area of his lot was not included in the area of the zone change.

Ressler reminds that this property requires a unique viewpoint when reviewing, due to the unusual configuration of the property and the circumstances of the surrounding properties. To the east is the US Army Corps of Engineers' property, which is unlikely to be developed at any point. To the west is a large multifamily development.

The project takes access from 42<sup>nd</sup> St through an existing driveway to become 9<sup>th</sup> Ave E, and from 45<sup>th</sup> St on the north side of the development. Ressler said 45<sup>th</sup> is unable to be fully developed due to not being able to acquire the full right of way width. The developer will develop the south 38' feet of road, with the stipulation that they will install full curb and gutter, boulevard and sidewalks on the south side of that temporary access road, as well as will build curb and gutter on the north side of the road. Ressler stated there would also be no parking allowed on 45<sup>th</sup> St within this property.

The majority of townhomes in this project are accessed from a private drive behind the houses, noted "24' Wide Reciprocal Access Easement" on the plat. Ressler said this allows the avoidance of the "garage only" look from the street, as well as provides space for visitors to park on the public street. Trash pickup will take place through the private drive. The City does not normally promote private drives functioning as alleys, but due to the physical constraints of the property and the desire to still have an attractive neighborhood, have determined this to be acceptable. Homes along the east side of the property are not accessed through private drives. The ad hoc committee and staff determined that, again due to the configuration of the property, allowing garage access from the street was acceptable, since there is parking and snow removal space on the opposite side of the public street. Garages must have at least a 25' driveway. Ressler said that staff had amended the development agreement to include doors to the houses being at the garage line or closer to the front property line, in order to avoid snout nosed homes. This appears to be depicted in the concept plan.

Water will run through the public street and a specifically designated easement that is noted on the plat. Sanitary sewer will run from the property to the west, through an easement noted on the plat. It will also run through the public street and an easement for storm water drainage is noted on the plat. Ressler stated that is to allow overflows from 42<sup>nd</sup> St and the adjacent North Gate development. Engineering has asked for clarification that this easement will be capable of handling 100 year storm events. The applicant has assured them that it is possible.

An ad hoc committee meeting was held on October 6, 2014, attended by:

Ressler said that Jason Catrambone, fire, chief was asked if emergency vehicles could fit through the alley and he said the 24' width met code, though he does have concerns. He asked that the alley be signed for no parking.

Snow removal was a discussion at the ad hoc meeting in October, 2014. Ressler said the alley is to be signed no parking, and if snow removal in the alley will not fit in the 8 ft. to the west of the townhomes, then the Homeowners Association will need to remove it. The development agreement and CC&Rs reflect this.

Parking on either side of 9<sup>th</sup> and "Anna" were discussed; the applicant did not have an issue with only parking on one side of the street. Both are dedicated public streets. Ressler stated that the storm water detention pond would need to be a separate lot owned by the Homeowners Association, and will need to be screened according to the storm water ordinance. This is stated in the CC&Rs.

The development agreement will need language that allows the City to collect trash from the alley and does not hold the city responsible for any damage. Public works also clarified that the alley will need to be cleared by the HOA, and that if it is not, trash will not get cleared. This is also stated in the CC&Rs.

Brief discussion was had on building height as talked about during the preliminary plat hearing. Ressler reminded the Commission that the zoning ordinance states building height in stories and not in feet. After further discussion it was agreed that homes would be two-stories, not to exceed 35 ft. excluding chimney. Additionally discussion was had about why only the south side of 45<sup>th</sup> St would be built with curb and gutter. It was determined that both sides should be done as long as the work is already happening there. The north side of 45<sup>th</sup> St. will not have boulevard installed.

MOTION BY FLECK, SECOND BY HAUGEN, to approve the final plat of Code Estates, proposed 57 lot single-family, duplex and townhouse subdivision on 11.08 acres located at 917 42nd Street East, City of Williston, contingent on addressing staff comments, building height being limited to two-stories not to exceed 35 feet (excluding chimney), 45<sup>th</sup> St. dedication, curb and gutter on both sides of 45<sup>th</sup> St. and an approved Development Agreement and CC&R's. AYES: Long, Christensen, Maristuen, Haugen, Fleck, Aafedt, Boyeff. NAYS: None. ABSENT/NOT VOTING: None ABSTAINED: None.

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

Boyeff introduced Item (e) of new business (as above) and asked Kress to present. Kress stated that on 23 September, 2014, the City Commission approved the preliminary plat of the Dyer Subdivision, a subdivision of Lot 10, Block 14, Fairhills Subdivision (1.48 acres) to create four lots, ranging in size from 13,623 to 20,617 square feet. Kress said the existing lot is zoned R-3: Lowrise Multifamily and Townhouse Residential and no zone change is proposed.

The lots will take access from 27<sup>th</sup> Avenue West by way of shared driveways within access and utility easements between Lots 1R and 2R and between Lots 3R and 4R. Kress explained that shared driveways are planned to limit the number of driveways onto 27<sup>th</sup> Avenue West, which will be the main connection of 26<sup>th</sup> Street West to future development to the north. Kress said that currently there is no development to the north but when that happens this road will be the main connection.

Water and sewer are available from mains in 27<sup>th</sup> Street.

Kress said that development of these lots will be subject to the Fairhills Subdivision development agreement; and developer will enter into a one-line individual development agreement stating that the applicant agrees that the provisions of the Fairhills Development

Agreement apply. Kress adds that under Staff Comments it is requested that the common driveways between Lots 1&2 and Lots 3&4 require Conditions, Covenants, and Restrictions (CC&R's) or a similar agreement will be required to address maintenance of the shared driveways.

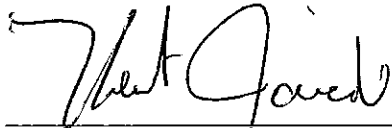
Kress asks City Engineer Hanson if he had anything to add, Hanson said he was good with it. Kress finishes with mentioning that there are a still a few technical things that need to be addressed prior to going to the City Commission and concludes his presentation.

Haugen asked if there would a chance to see an updated concept plan as he recalls some concern with layout and set-backs from the preliminary plat. The applicant, Darrell Dyer, assures that everything requested was incorporated. Kress explained that this is just to plat the land and at this point the Planning Department does not hold the developer to a site plan and asked Haugen if he remembered having any particular concerns. Haugen reiterated his concerns about the layout and set-backs and asked if the Commission would have another look at that or not. Kress said that this is the final plat request and would be the last time it came before the Planning and Zoning Commission. Haugen stated that going forward, he would like to see those preliminary site/concept plans in relation to the final to be sure that everything was actually addressed.

MOTION BY MARISTUEN, SECOND BY CHRISTENSEN, to approve the final plat of Lot 10, Block 14, Fairhills Subdivision (east side of 27th Avenue north of 27th Street, City of Williston, contingent on addressing all staff comments and signing an approved Development Agreement and CC&R's regarding the shared driveways. AYES: Long, Christensen, Fleck, Maristuen, Aafedt, Haugen, Boyeff. NAYS: None ABSENT/NOT VOTING: None ABSTAINED: None

**DATE OF NEXT REGULAR MEETING:** December 15, 2014

**MEETING ADJOURNED.**



Kent Jarcik, Williston Planning Director

**APPENDIX**  
to the  
**NOVEMBER 17, 2014 PLANNING AND ZONING COMMISSION MINUTES**

- a. Special Use Permit (SPU) request for for oil well pad expansion located at 13786 54th St. W SW1/4 NW1/4, Sec. 3, 154N, 101W, City of Williston – Statoil Oil & Gas/Orville Erickson