

Planning the county's future

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Photo by Tyler Bell/Williston Herald

Williams County Planning Director Ray Pacheco leads a small staff that is tasked with enforcing county zoning and land-use regulations while updating the existing laws.

By Tyler Bell | Posted 53 minutes ago

The Williams County Planning and Zoning office is like any other office in the county building at 302 E. Broadway. It's small, clean and new, lightly staffed and bustling with activity.

A planning and zoning department, whether for a city, county or any other entity, is one of those small but critical components of governance that's easy to overlook and isn't usually covered in the average American's primary education. That leads to misunderstandings of the department and how it works.

Ray Pacheco is Williams County's planning director. He's middle-aged, affable and has worked in some aspect of planning for about 19 years, including eight years in Georgia and another eight years in Wyoming.

"It pretty much is the same," he said, answering a question about how planning works from place to place. "Different setting is what it comes down to."

"Our job is to administer the land use regulations that we have and to plan and manage the growth of the community," Pacheco said, summarizing the duties of the planning and zoning department.

Planning and zoning is also in charge of subdivisions and plats. A great deal of people have the misconception that subdivisions and plats are done through other departmental agencies, Pacheco said. That's simply not true. The process starts here.

The department has no executive power of its own, nor can it legislate. Department members

work with the community and developers to gather as much information as possible on each individual issue, and then present the information to the county commission with their recommendations on how to proceed.

“The key to successful planning is the elected officials,” Pacheco said.

“We bring it all in front of the commission, they decide what happens,” said Kameron Hymer, Williams County zoning investigator.

At the county commission

The Williams County Commission is five individuals, elected by district, who represent the voice and will of the public on the bench. The commission holds public meetings at 8 a.m. every first and second Tuesday of the month where they handle the county’s business.

The planning and zoning portions of those meetings are usually the longest, and deliberation on a single issue can sometimes take as long as an hour. Proponents and opponents of each issue are given time to present their cases for or against the issue.

The planning department’s recommendations are provided in the form of staff reports, publicly available briefs prepared by staff planners to get commissioners caught up on the issues at hand.

After all is said and done, a commissioner can make a motion to approve or deny whatever is being applied for, or a similar motion for business matters that require different wording.

Another commissioner will second the motion, and the motion will be passed by a majority vote. If the motion doesn’t pass, another motion must be made, because the order of business — the issue at hand — must be deliberated until a consensus is reached by the commission, even if that consensus is to table the motion.

Tabling a motion means the commission will vote on it at another date.

“There’s always three options,” said Williams County Commission Chairman Dan Kalil. Kalil confirmed the manner of operations of the county commission as outlined above.

Usually, a failed motion to approve is followed by a motion to deny, he said, with occasional exceptions.

The commission also votes to confirm that an entity is committing zoning violations and how much the entity should be fined. The planning department makes a recommendation in this respect, but the final judgment is the commission’s purview.

“That’s how [the public] get their voice,” Hymer said of the commission’s role in the planning process. “They vote for them.”

Zoning violations and other issues

With the boom in full swing, it’s a forgone conclusion to say an organization in northwestern North Dakota is overburdened.

Williams County Planning and Zoning is taking its lumps in stride, but sprawling development,

outdated regulations and a precedent of lax code enforcement haven't made things easy.

"The old regulations are from '87, and they were amended in 2003," said Taylor Corbett, a Williams County staff planner.

The staff planners act as adjuncts to Pacheco. They work as liaisons between him and developers, ensuring the developers have dotted their I's and crossed their T's before moving up to the next stage of the development process.

They are also tasked with drafting up-to-date regulations for the county, preparing various paperwork and performing various other administrative tasks as they arise. Corbett, for instance, works with minor subdivisions and plats, and Staff Planner Yana Ness works on plats, design standards and new signage regulations, because of her architectural background.

"We're pretty much go-betweens between Ray and project managers," Corbett said.

Bringing the county's zoning regulations and zoning violation standards up to date is critical to the department.

The current regulations are lax because they were finalized during a time when Williams County didn't need to deal with rapid expansion and the various special needs of the oil industry and the sorts of businesses and organizations needed to support it.

"The good ole' boy handshake system and the promises of the west" were all that was needed to get a development in motion, Corbett said. "What the project person was bringing was what was built."

This system created a big misconception among the public on how to properly manage their land legally.

It wasn't uncommon for somebody to go to the county auditor or to the courthouse to subdivide his or her land by just changing the deed, Pacheco said, describing the situation with an anecdote. Unfortunately, that method of subdivision isn't legal in the eyes of the law, and just because it was the way it was done, doesn't mean it was the right way to have been done.

Some citizens have erroneously suggested, "that we're making up rules as we go along and we're trying to take away people's rights for their land," Pacheco said. "We're trying to enforce rules that have been in place since 1987. Just because rules weren't followed, doesn't mean that's the way you can do it," he said.

"Some people don't know there is a violation," Hymer said. He related an anecdote of somebody who didn't know he or she couldn't run a large business out of his or her home, because the person in question had been doing it for nearly two decades.

"There was just nobody telling them they were wrong," he said. "That's why it's happening now."

Williams County Planning and Zoning is a relatively young operation, and most of the staff is new to area.

Pacheco was hired as planning director May 2013, and he hired Hymer about a week later. Corbett was hired in September 2013.

There was a long period where Hymer's position was left open, and the absence subsequently led the public to believe the lax regulations and punishments for zoning violations were the norm.

Everybody has to be up to code, Hymer said, but neither he nor the planning department are out to shut anybody down.

"I can send out violation notices and set fines," he said, but the actual judgment and subsequent punishments are up the county commission.

Still, he said, about 75 percent of the violations he encounters never make it that far. If a business or property owner is found to be in violation, it's usually easier to let them get up to code and let bygones be bygones.

The department is steadily straightening up and strengthening regulations, as Pacheco gets deeper into his tenure as planning director.

Stronger regulations and a more intensive approval process have slowed the rate at which developers' projects are approved, however, and that has led to some blowback toward the department.

"People became accustomed to that quick and easy system, and that's just not good planning," Pacheco said.

Rapidly approved developments have caused dissatisfaction among more than a few county residents, many of whom show up in force at county commission meetings to stonewall unwanted projects near where they live.

There are cases in which developments were approved, or land rezoned for use in ways that didn't meet code or were planned to be developed for purposes and in locations at odds with the public's desires.

Two weeks ago, for instance, a fine of \$29.5 million was levied against Pilot Logistics and Western Petroleum, LLC, for having unapproved buildings on a lot and failing to renew their conditional use permit for two years. Fines for zoning violations are \$1,000 per violation, per day, and they stack up quickly.

However, the commission has set a precedent of significantly lowering similar large fines. In January, a \$2.6 million fine was lowered to just \$26,000 dollars.

The planning department can recommend high fines, but it's up to the county commission to decide whether or not to follow through with the punishment.

Pacheco would rather companies and property owners be compliant, than have to pursue them for violations.

Updating the regulations and hitting big time repeat offenders would go a long way in ensuring compliance and citizen satisfaction across the board.

"We don't have very good signage regulations, our subdivision regulations need help," Pacheco said. "Ten years ago oil regulations didn't even apply to those types of businesses."

Oil drilling support industries, particularly those involved in new extraction technologies like fracking, have vague definitions at best in the old regulations. Dealing with byproduct and waste disposal and transportation isn't easy.

"There's more to drilling for oil than just drilling for it," Pacheco said. Natural resource extraction — such as oil and coal — are unregulated in North Dakota, but the majority of the satellite industries are.

"People are a little concerned about the unknown, what are these regulations going to allow or not allow," he said of the new regulations being drafted. He believes the positives of stricter regulations will outweigh the negatives.

Williams County P&Z and you

Citizens with concerns about planning and zoning violations can and must be proactive in seeking a solution.

"I deal with complaints, phone calls — whether it's from neighbors or business owners," Hymer said. "I will ask property owners to send me pictures, to email them to me."

Hymer is the county's only zoning compliance investigator, though the staff planners and Pacheco chip in to help when possible.

"We all kind of go out and look for things," Pacheco said.

Still, Hymer said, he can't be at a property 24/7 to enforce code, particularly in circumstances where the violation is the sort that can only occur at night, such as people working in a residential area after nightfall.

His job is to build cases against violators if they don't comply on first notice, and he will use evidence obtained by neighbors — such as photos or video — to do so.

Hymer's primary goal is to field complaints from the public, he said. He could spend time driving through Williams County, trying to spot violations, but would rather focus on solving issues that are an immediate problem for citizens in the community.

His most common complaint, he said, is RVs and temporary housing facilities.

"To have a temporary structure like an RV permanently occupied, they have to have a CUP," he said.

It's a simple enough ordinance, but enforcing it isn't so easy.

Some people just have personal RVs, which is completely legal, and letting friends and family stay in the vehicle for a while is fine, too. Checking for pop-outs being out and satellites on the roof helps, but Hymer has no power to execute a search without a warrant, which isn't worth it for a single, potential RV violation.

If somebody suspects a neighbor is letting somebody live in an RV on their property fulltime, they're more likely to find the weeks of necessary evidence than Hymer is.

Even if Hymer finds a violation, however, it's up to the commission to judge whether or not the

violation is what it is and how to proceed with a punishment.

There are also issues the county has no jurisdiction over, because there simply aren't ordinances against them.

Hymer gets a lot of calls about RV owners dumping their septic tanks on people's land or tearing up trees near a pond.

"As much as I disagree with it, we don't have ordinances on it," he said. The above situations fall under the purview of other departments, like the Upper Missouri Health Unit.

The city has much, much stronger ordinances for those sorts of things, Hymer said, but there's nothing he can do about a violation for which there's no county regulation.

If the county citizenry wants such things to be illegal at the county level, then they're going to have to make their legislators make it illegal at the county level.

Regardless of whether the department can or can't help, it still maintains an open-door policy with the public.

"As busy as we are, we appreciate phone calls," Pacheco said. "We want to know what people are thinking."

Schedules are tight at the planning and zoning office, and Pacheco suggests calling ahead or sending an email to schedule a meeting.

For more information on Williams County Planning and Zoning, call the planning and zoning office at 701-577-4565.

Planning Director Ray Pacheco can be emailed at rayp@co.williams.nd.us.

County commission meetings are open to the public. The commission meets the first and second Tuesday of every month in the basement of the courthouse.