

**CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
February 27, 2013**

The Bismarck Planning & Zoning Commission met on February 27, 2013 at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Vice Chairman Armstrong presided.

Commissioners present were Mark Armstrong, Mel Bullinger, Doug Lee, Mike Schwartz, Ken Selzler, Lisa Waldoch, John Warford and Wayne Yeager.

Commissioners Tom Atkinson, Curt Juhala and Vernon Laning were absent.

Staff members present were Hilary Balzum - Office Assistant, Kim Lee – Planning Manager, Jason Tomanek – Planner, Jenny Wollmuth – Planner, and Charlie Whitman – City Attorney.

Others present were Sarita Turman, Rich Turman, Bill Lea, Addie Lea, Neil Modin (Hay Creek Township), Art Thompson, Robert Krom, Anthony Sattler, Dave Heilman, Shelli Langerud, Richard Olson, Emory Splitt, Seth Sandness, Amber Sandness, Perry Glatt, Rick Geloff, David Griffin, Ora Ferebee, Emmanuel Geiger, Bernice Geiger, Dave Patience (Swenson, Hagen & Co), Steve Langlie (Houston Engineering), Sam Turnbow, Brett Gurholt (KLJ) and Ben Turnbow.

MINUTES

Chairman Yeager called for consideration of the minutes of the January 23, 2013 meeting. Consideration was postponed to the March 27, 2013 meeting to allow time for review of the minutes, which were distributed at the meeting.

MOTION: Commissioner Armstrong made a motion to continue action on the minutes to the March 27, 2013 meeting. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Schwartz, Selzler and Warford voting in favor of the motion.

CONSIDERATIONS –

- A. PRELIMINARY PLAT –
GELOFF ESTATES ADDITION**
- B. ZONING CHANGE AND PRELIMINARY PLAT –
EAGLE CREST 6TH ADDITION**
- C. ZONING CHANGE AND PRELIMINARY PLAT –
WEST REGION MEDICAL ADDITION**
- D. LAND USE PLAN AMENDMENT, ZONING CHANGE AND PRELIMINARY
PLAT – JMAC INDUSTRIAL PARK**
- E. ZONING CHANGE AND PRELIMINARY PLAT –
UNIVERSITY OF MARY SUBDIVISION**

**F. ZONING CHANGE, FRINGE AREA ROAD MASTER PLAN AND
PRELIMINARY PLAT – COUNTRY NORTH ESTATES 4TH SUBDIVISION**
**G. ZONING CHANGE – LOT 4 & E30' OF LOT 3, BLOCK 1, SLEEPY
HOLLOW HEIGHTS 1ST ADDITION**

Vice Chairman Armstrong called for consideration of the following consent agenda items:

- A. A preliminary plat for Geloff Estates Addition. The proposed plat includes six lots in one block on 1.85 acres and is located along the south side of Colt Avenue west of North Washington Street (A replat of Lot 5, Block 2, KMK Estates 2nd Subdivision).
- B. A zoning change from the A-Agricultural zoning district to the R5-Residential zoning district and the preliminary plat for Eagle Crest 6th Addition. The proposed plat includes 131 lots in 13 blocks on 56.3 acres and is located south of an extension of Ash Coulee Drive and west of North Washington Street (part of the SE $\frac{1}{4}$ of Section 18, T139N-R80W/Hay Creek Township).
- C. A zoning change from the RT-Residential and CG-Commercial zoning districts to the RT-Residential and CG-Commercial zoning districts and the preliminary plat for West Region Medical Addition. The proposed plat includes nine lots in two blocks on 16.65 acres and is located along the south side of East Calgary Avenue, west of North 19th Street (Replat of Lots 1 & 2, Block ,1 Pebble Creek 6th Addition).
- D. A Land Use Plan Amendment, zoning change from the A-Agricultural and CG-Commercial zoning districts to the MA-Industrial and P-Public zoning districts and the preliminary plat for JMAC Industrial Park Subdivision. The proposed plat includes 13 lots in three blocks on 78.45 acres and is located north of Bismarck along the south side of 71st Street NE approximately $\frac{1}{4}$ mile east of US Highway 83 (A replat of Auditor's Lots A & B in the NW $\frac{1}{4}$ of Section 10, T139N-R80W/Hay Creek Township).
- E. A zoning change from the A-Agricultural and RR-Residential zoning districts to the P-Public zoning district and the preliminary plat for University of Mary Subdivision. The proposed plat includes 12 lots in one block on 308.0 acres and is located along the west side of ND Highway 1804 approximately two miles south of 48th Avenue SE (Government Lots 13 and 14 of the SE $\frac{1}{4}$ of Section 34, T138N-R80W/Lincoln Township; part of the SW $\frac{1}{4}$ and a replat of parts of Lots 4-7, Block 1, Rockstad Subdivision in the NW $\frac{1}{4}$, all in Section 35, T138N-R80W/Lincoln Township; part of Government Lot 1 of the NE $\frac{1}{4}$ of Section 3, T137N-R80W/Fort Rice Township; and Government Lot 3 and part of Government Lot 4 of the S $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 2, T137N-R80W/Fort Rice Township).
- F. A zoning change from the A-Agriculture zoning district to the RR-Residential zoning district and the preliminary plat for Country North Estates Fourth Subdivision. The proposed plat includes two lots in two blocks on 10.0 acres and is located east of Centennial Road approximately $\frac{1}{4}$ mile, and $\frac{1}{2}$ mile south of 71st Avenue NE (An unplatted portion of the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 12, T139N-R80W/Hay Creek Township).

- G. A zoning change from the R10-Residential zoning district to the RM10-Residential zoning districts for Lot 4 and the East 30 feet of Lot 3, Block 1, Sleepy Hollow Heights 1st Addition.

MOTION: Based on the findings contained in the staff reports, Commissioner Bullinger made a motion to approve consent agenda items A, B, C, D, E, F and G, calling for public hearings and/or tentative approval on the items. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT - ENGLAND ACRES SUBDIVISION

Vice Chairman Armstrong called for the public hearing on a zoning change from the A-Agricultural and RR-Residential zoning districts to the RR – Residential zoning district and the final plat of England Acres Subdivision. The proposed plat is 6 lots in 1 block on 17.5 acres and is located along the west side of England Street, approximately ¼ mile north of 48th Avenue SW (All of the E ½ of the E ¾ of the N ½ of the NE ¼ of the SE ¼ of the SE ¼ Section 19, T138N/R80W/Lincoln Township)

Ms. Wollmuth provided an overview of the requests, including the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Land Use Plan, which identifies the use of this area as urban residential (Bismarck-Mandan Regional Future Land Use Plan).
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include rural residential to the north and west, and agriculturally zoned property to the east and south.
3. The proposed subdivision would be served by South Central Regional Water District and would have direct access to England Street; therefore, the proposed zoning change would not place an undue burden on public services.
4. The proposed zoning change would not adversely affect property in the vicinity
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth then listed the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer, with written concurrence of the County Engineer.
3. The proposed subdivision generally conforms to the Fringe Area Road master Plan, which identifies England Street as a north south arterial.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include partially developed rural residential to the north and west, and agriculturally zoned property to the east and south.
5. The proposed subdivision would be served by South Central Regional Water District and would have direct access to England Street; therefore, the proposed subdivision would not place an undue burden on public services.
6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on these findings, staff recommends approval of the zoning change and final plat for England Acres Subdivision.

Chairman Yeager opened the public hearing on the zoning change and final plat for England Acres Subdivision.

With there being no public comment on these items, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve the zoning change from the A-Agricultural and RR-Residential zoning districts to the RR-Residential zoning district, and final plat of England Acres Subdivision. Commissioner Waldoch seconded the motion and it was approved with Commissioners Armstrong, Bullinger, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT – KOCH CREST ADDITION

Chairman Yeager called for the public hearing on the zoning change from the A-Agricultural and CG-Commercial zoning districts to the RM30-Residential and CG-Commercial zoning districts and final plat of Koch Crest Addition. The proposed plat is 15 lots in two blocks on 10.32 acres

and is located in northeast Bismarck along the west side of Centennial Road approximately ½ mile north of East Century Avenue (Auditor's Lot B of the NE ¼ of Section 23, T139N-R80W/Hay Creek Township).

Mr. Tomanek provided an overview of the requests, including the following findings for the zoning change:

1. The proposed zoning change is outside the boundaries of the Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developing single and multi-family residential and commercially-zoned property to the south, the KOA Campground to the north and the future high school site to the west.
3. The proposed subdivision is already annexed; therefore, it would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek then provided the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The proposed subdivision is consistent with the Fringe Area Road Master Plan for Section 23, T139N-R80W/Hay Creek Township, which identifies East Calgary Avenue as the east-west collector roadway and Centennial Road as the north-south arterial roadway for this section.
3. The storm water management plan has been approved by the City Engineer
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include developing single and multi-family residential and commercially-zoned property to the south, the KOA Campground to the north and the future high school site to the west.
5. The proposed subdivision is already annexed; therefore, it would not place an undue burden on public services and facilities.
6. The proposed subdivision would not adversely affect property in the vicinity.

7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said that the applicant has requested that the public hearing on the zoning change and final plat be continued until the March 27, 2013 Planning & Zoning Commission meeting to allow for discussion with City staff and adjacent land owners.

Chairman Yeager opened the public hearing on the zoning change and final plat for Koch Crest Addition.

With there being no public comment on these items, Chairman Yeager closed the public hearing.

MOTION: Based on the applicant's request for continuation, Commissioner Warford made a motion to continue the public hearing for the zoning change and final plat of Koch Crest Addition until the next meeting, in order to provide time for further discussion with City staff and adjacent land owners. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ANNEXATION, ZONING CHANGE AND FINAL PLAT – KILBER NORTH 2ND ADDITION

Chairman Yeager called for final consideration of the annexation and the public hearing on a zoning change from the A-Agricultural zoning district to the R5-Residential, R10-Residential, RM10-Residential and RT-Residential zoning districts and the final plat of Kilber North 2nd Addition. The proposed plat is 23 lots in two blocks on 17.65 acres and is located south of 43rd Avenue NE between North Washington Street and US Highway 83 (Tract L and Tract X-1 of the NW¹/₄ of Section 21, T139N-R80W/Hay Creek Township).

Ms. Lee provided an overview of the requests, including the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time the property is developed.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of Title 14 of the City Code of Ordinances.

4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee then provided the following findings for the zoning change:

1. The proposed zoning change is outside of the area covered by the Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developing mixed density residential and office uses to the west, P-Public zoned open space and developing one and two-family residential to the south, mixed density residential and office uses to the east, and developing mixed density residential to the north across 43rd Avenue NE.
3. The subdivision would be annexed prior to development; therefore, the proposed zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee also listed the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for this area, which identifies 43rd Avenue NE as an arterial roadway. Normandy Street is classified as a collector roadway to the north across 43rd Avenue NE.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include developing mixed density residential and office uses to the west, P-Public zoned open space and developing one and two-family residential to the south, mixed density residential and office uses to the east, and developing mixed density residential to the north across 43rd Avenue NE.
5. The entire subdivision would be annexed prior to development; therefore, it would not place an undue burden on public services and facilities.
6. The proposed subdivision would not adversely affect property in the vicinity.

7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said based on these findings, staff recommends approval of the annexation of that part of Kilber North 2nd Addition not previously annexed, the zoning change as proposed, and the final plat of Kilber North 2nd Addition including granting a waiver to allow the use of a cul-de-sac in Block 1.

Chairman Yeager opened the public hearing on the zoning change and final plat for Kilber North 2nd Addition.

With there being no public comment on these items, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the annexation, the zoning change from the A-Agricultural zoning district to the R5-Residential, R10-Residential, RM10-Residential and RT-Residential zoning districts and final plat of Kilber North 2nd Addition. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ANNEXATION, ZONING CHANGE AND FINAL PLAT – EDGEWOOD VILLAGE 7TH ADDITION

Chairman Yeager called for final consideration of the annexation and the public hearing on the zoning change from the RR-Residential, RM15-Residential, RM30-Residential and RT-Residential zoning districts to the R5-Residential, RM15-Residential, RM20-Residential, RM30-Residential, CG-Commercial and P-Public zoning districts and the final plat of Edgewood Village 7th Addition. The proposed plat is 63 lots in seven blocks on 258.45 acres and is located in northeast Bismarck, along the south side of 43rd Avenue NE and the west side of Centennial Road (Auditor's Lots A, B and C and Lots 1-3, Block 4, Lot 1, Block 5, Lot 1, Block 6 of Edgewood Village 6th Addition of the N½ of Section 23, T139N-R80W/Hay Creek Township).

Mr. Tomanek provided an overview of the requests, including the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time the property is developed.
2. The proposed annexation would not adversely affect property in the vicinity.

3. The proposed annexation is consistent with the general intent and purpose of Title 14 of the City Code of Ordinances.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Mr. Tomanek then provided the following findings for the zoning change:

1. The proposed zoning change is outside the boundaries of the Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include single and two-family zoned property to the southwest; multi-family-zoned property to the south near the intersection of Nebraska Drive and East Calgary Avenue; property zoned as a PUD-Planned Unit Development that allows the development of limited light industrial uses, shop/storage condos and limited commercial uses at the intersection of Hamilton Street and Calgary Avenue; developing single-family property along the south side of Calgary Avenue east of Hamilton street; multi-family zoned property and the KOA campground and undeveloped land to the east; and rural residential, single-family dwellings to the north.
3. An annexation request has been submitted in conjunction with this request and the entire property would be annexed prior to development; therefore the proposed zoning change would not place an undue burden on public services.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek then listed the following findings for the final plat:

1. All technical requirements for consideration of a preliminary plat have been met.
2. The proposed subdivision would conform to the Fringe Area Road Master Plan, which identifies Nebraska Drive as the north-south collector roadway and Calgary Avenue as the east-west collector roadway for this section.
3. The storm water management plan has been approved by the City Engineer.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single and two-family zoned property to the southwest; multi-family-zoned property to the south near the intersection of Nebraska Drive and East Calgary Avenue; property zoned as a PUD-Planned Unit Development that allows the development of

shop/storage condos at the intersection of Hamilton Street and Calgary Avenue; developing single-family property along the south side of Calgary Avenue east of Hamilton street; multi-family zoned property and the KOA campground and undeveloped land to the east; and rural residential, single-family dwellings to the north.

5. An annexation request has been submitted in conjunction with this request and the entire property would be annexed prior to development; therefore the proposed subdivision would not place an undue burden on public services.
6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on these findings, staff recommends approval of the annexation, zoning change from the RR-Residential, RM15-Residential, RM30-Residential and RT-Residential zoning districts to the R5-Residential, RM15-Residential, RM20-Residential, RM30-Residential, RT-Residential, CG-Commercial and P-Public zoning districts for Edgewood Village 7th Addition.

Chairman Yeager opened the public hearing on the zoning change and final plat of Edgewood Village 7th Addition

Mr. Tomanek stated before leaving the podium that he has received a number of calls from adjacent property owners along 43rd Street NE in the Grand Prairie Estates neighborhood regarding traffic and annexation. Chairman Bullinger informed everybody that a study is underway but nothing immediate will take place on 43rd Avenue NE as Washington, Divide Avenue and Centennial Road will be the first main roads to receive upgrades.

Chairman Armstrong asked if there are any examples of other two-acre residential developments that have no transitional zoning. Mr. Tomanek responded that the city does not force annexation, citing KMK Estates and others like it. He added that there are no immediate plans for annexation unless there is an issue of rural water and/or drainfield.

Chairman Armstrong also inquired if road modifications would take place without there being an annexation of this addition. Mr. Tomanek said that he had spoken with the City Traffic Engineer and he indicated that Washington Street and Centennial Road would be improved prior to 43rd Avenue NE. Mr. Tomanek continued by saying that the Traffic Engineer had stated 43rd Avenue NE will likely resemble Century Avenue as a five-lane roadway once it is fully urbanized because it has been identified as an arterial roadway.

Matt Sagaser spoke on behalf of the Grand Prairie Estates Association and submitted Exhibit A. The Association is opposed to high density residential development on the south side of 43rd Avenue NE.

Emery Splitt is a resident of Bohe Acres and spoke on the concern of 43rd Ave NE Avenue NE already experiencing increased traffic. He added that a zoning change will increase this problem and threaten safety. He expressed his desire to leave it single family zoning.

Edgewood Village 7th Addition owner Phil Gisi approached the podium and stated that 43rd Ave NE Ave NE will get busier no matter what and that single family homes might not work on this property due to the smaller lots and lack of developed trees. The plan is for residential, not single family, to avoid buffer and transition problems in the future. He stated that although the zoning allows for 30 units per acre, that density is unlikely and the plan is for only 46 units per building with underground parking to minimize parking issues in the area. To the west of these will be twin homes and then 2 or 4-plex or even lighter density west of that with the highest density being between the commercial zoning and the new school.

Jason Tomanek responded that along an arterial roadway is an appropriate location for multi-family.

Chairman Yeager inquired how far out improvements to 43rd Ave NE potentially are. Commissioner Bullinger responded that plans are only made out for two years. Right now the plan is for improvements to East Divide Ave in 2014 and Washington Street in 2015.

Commissioner Armstrong asked how it is determined by staff that a zoning change or plat will not have an adverse effect on the surrounding areas. Mr. Tomanek explained that the findings are based on common planning practice and past examples.

Commissioner Warford stated that the concerns of the public are shared and are similar to those of the neighbors of BREI Estates and Good Shepherd North Addition as far as there being struggles with growth. He added the development will be a quality development and he supports the recommendation.

Commissioner Lee agreed that at this time, single family development in this area is not the best use due to the future growth surrounding the new high school.

Commissioner Waldoch said that a lot of non-buildable land here will relieve the density, and that the flow and design of the development will be comfortable as Edgewood appreciates openness and does quality development.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the annexation; the zoning change from the RR-Residential, RM15-Residential, RM30-Residential and RT-Residential zoning districts to the R5-Residential, RM15-Residential, RM20-Residential, RM30-Residential, CG-

Commercial and P-Public zoning districts; and final plat of Edgewood Village 7th Addition. Commissioner Schwartz seconded the motion and it was approved with Commissioners Bullinger, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion. Commissioner Armstrong opposed the motion.

PUBLIC HEARING – ANNEXATION, ZONING CHANGE, FRINGE AREA ROAD MASTER PLAN AMENDMENT AND FINAL PLAT – MEADOW VILLAGE ADDITION

Chairman Yeager called for final consideration of the annexation and the public hearing on a zoning change from the A-Agricultural, RR-Residential and P-Public zoning districts to the R10-Residential, RM30-Residential and P-Public zoning districts; the Fringe Area Road Master Plan to move the southern portion of Boston Drive, and the final plat of Meadow Village Addition. The proposed plat is 19 lots in three blocks on 70.79 acres and is located along the north side of Burleigh Avenue between South Washington Street and South 12th Street (That part of Auditor’s Lot “H” & “I” of SE¼ of SW¼ and the SW¼ of the SE ¼ and Part of Cottonwood Park Addition and Part of the Northeast Quarter of the Southwest Quarter and Part of the Northwest Quarter of the Southeast Quarter and Part of the Southeast Quarter of the Northwest Quarter and Part of the Southwest Quarter of the Northeast Quarter of Section 16, T138N-R80W/Lincoln Township).

Ms. Wollmuth provided an overview of the requests, including the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time the property is developed.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of Title 14 of the City Code of Ordinances.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Wollmuth then provided the following findings for the zoning change:

1. The Land Use Plan identifies this area as residential (land use portion of the South 12th Street Watershed Stormwater Management and Land Use Master Plan).
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developing mixed density residential to the west, undeveloped residential to the north and south, and Park property to the east.

3. The entire subdivision would be annexed prior to development; therefore, the proposed zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change may not be consistent with the general intent and purpose of the zoning ordinance. In particular, if the R10-Residential were to develop as single family homes, there would no longer be a zoning transition between the higher density RM30-Residential multi-family and the single family homes.
6. The proposed zoning change may not be consistent with the master plan, other adopted plans, policies and accepted planning practice. In particular, locating R10- Residential, with the potential to develop as single family homes adjacent to RM30 – Residential, is contrary to the concept of transitional zoning.
7. The proposed zoning would not be consistent with the general intent and purpose of the zoning ordinance and may not be compatible with adjacent land uses, adversely affecting properties located within the proposed subdivision. In particular, locating R10 – Residential adjacent to RM30 – Residential is contrary to the concepts of transitional zoning. If the R10 – Residential were to develop as single-family homes, there would no longer be a zoning transition between the higher density multi-family and the single family homes.

Ms. Wollmuth then listed the following findings for the Fringe Area Road Master Plan amendment:

1. The Fringe Area Road Master Plan was adopted by the Board of City Commissioners on September 9, 2003.
2. The developer of Meadow Village Addition is requesting an amendment to the Fringe Area Road Master Plan for Section 16, T138N-R80W/Lincoln Township, to relocate the southern portion of Boston Drive, the north-south collector for this section, approximately 650 feet to the west. Boston Drive will have the potential to extend north from Burleigh Avenue to Santa Fe Avenue with future development.
3. The proposed subdivision (Meadow Village Addition) would conform to the Fringe Area Road Master Plan as amended.

Ms. Wollmuth then listed the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The stormwater management plan has been approved by the City Engineer.
3. The proposed subdivision does not conform to the Fringe Area Road Master Plan for this area; however, an amendment is being initiated in conjunction with this plat to move the

south end of the north-south collector approximately 650 feet to the west. The proposed subdivision will conform to the Fringe Area Road Master Plan as amended.

4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include developing mixed density residential to the west, undeveloped residential to the north and south, and P-Public zoned open space to the east.
5. The entire subdivision would be annexed prior to development; therefore, it would not place an undue burden on public services and facilities.
6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on these findings, staff recommends approval of the annexation; zoning change from the A-Agricultural to the Conditional R10-Residential, RM-30 Residential and P-Public zoning districts; the Fringe Area Road Master Plan amendment to move the southern portion of Boston Drive approximately 650 feet to the west; and final plat of Meadow Village Addition.

Chairman Yeager opened the public hearing on the zoning change, Fringe Area Road Master Plan Amendment and final plat of Meadow Village Addition.

With there being no public comment on these items, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Selzler made a motion to approve the annexation; the zoning change from the A-Agricultural to the Conditional R10-Residential, RM-30 Residential and P-Public zoning districts; the Fringe Area Road Master Plan amendment to move the south portion of Boston Drive approximately 650 feet to the west, and final plat of Meadow Village Addition. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT – PRIDE ADDITION

Chairman Yeager called for the public hearing on the minor subdivision final plat of Pride Addition. The proposed plat is six lots in one block on 5.98 acres and is located at the northeast corner of North 19th Street and Koch Drive (A replat of Auditor's Lots A & B of Lot 1, Block 1, Edgewood Village First Addition).

Ms. Wollmuth provided an overview of the request, including the following findings for the minor subdivision final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north and west, multi-family residential to the east and single and two-family residential to the south.
4. The proposed subdivision is annexed; therefore it would not place an undue burden on public services.
5. The proposed subdivision would not adversely affect property in the vicinity.
6. The proposed subdivision is consistent with the general intent and purpose of the subdivision regulations.
7. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on these findings, staff recommends approval of the minor subdivision final plat of Pride Addition.

Chairman Yeager opened the public hearing on the minor subdivision final plat of Pride Addition.

With there being no public comment on this item, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the minor subdivision final plat of Pride Addition. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ANNEXATION, ZONING CHANGE AND FINAL PLAT – SUNRISE TOWN CENTRE ADDITION

Chairman Yeager called for final consideration of the annexation and the public hearing on the zoning change from the CA-Commercial and MA-Industrial zoning districts to the CA-Commercial and CG-Commercial zoning districts and the final plat of Sunrise Town Centre Addition. The proposed plat is 11 lots in five blocks on 40.56 acres and is located along the east side of Centennial Road, north of East Century Avenue (A replat of all of Block 3 Lots 5 & 6, Block 2, Lots 6-13, Block 4, Lots 4-6, Block 5, and Lots 1, 2, 3, 9 & 10, Block 6 Turnbow Industrial Park First Addition and Lots 20-22, Block 1, Sattler's Sunrise First Addition).

Ms. Wollmuth provided an overview of the requests, including the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time the property is developed.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of Title 14 of the City Code of Ordinances.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.
5. Prior to the approval of the final plat, an alternative roadway configuration must be developed to provide for the extension of Yorktown Drive north of East Century Avenue and west of Centennial Road into Stonecrest 2nd Addition or a street name change for the extension of Yorktown Drive must be provided and deemed acceptable to all affected parties.

Ms. Wollmuth then provided the following findings for the zoning change:

1. The Land Use Plan identifies this area as general commercial (Bismarck-Mandan Future Regional Land Use Plan).
2. The proposed zoning change would be compatible with adjacent land uses; however, standard CA – Commercial zoning does not provide an acceptable zoning transition between the proposed commercial use located in Block 3 and the adjacent existing single family residential uses. Adjacent land uses include mixed density residential to the south, undeveloped MA-zoned land to the north, industrial uses to the west and single family residential uses to the east.
3. The entire subdivision proposed for this property would be annexed prior to development; therefore, the proposed zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change may adversely affect property in the vicinity. In particular, without conditions added to the existing CA-Commercial zoning district, there would not be an acceptable zoning transition between the CA-Commercial zoned property within the plat and the existing R5-Residential zoned property to the east.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance; however, a lower intensity zoning transition between the R5-Residential and CG-Commercial zoning districts would be more appropriate. By placing a condition on the existing CA-Commercial zoning in Block 3 limiting the height of new buildings to no more than two stories, combined with the required 20 foot landscape

buffer yard easement along the eastern edge of Block 3, there would be an acceptable transition between the higher intensity CG-Commercial zoning district and the existing lower intensity R5-Residential zoning district to the east.

6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice. However, without a conditional CA-Commercial zoning for Block 3, which would restrict the height of buildings, there would not be an acceptable transition between the proposed higher intensity CG-Commercial zoning district to the west and the existing lower intensity R5-Residential zoning district to the east.
7. Prior to the approval of the final plat, an alternative roadway configuration must be developed to provide for the extension of Yorktown Drive north of East Century Avenue and west of Centennial Road into Stonecrest 2nd Addition or a street name change for the extension of Yorktown Drive must be provided and deemed acceptable to all affected parties.

Ms. Wollmuth then listed the following findings for the plat:

1. All technical requirements for approval of a final plat have been met.
2. The stormwater management plan has been approved by the City Engineer.
3. The proposed subdivision is outside the area of study for the Fringe Area Road Master Plan.
4. The proposed subdivision would not be compatible with adjacent land uses. Adjacent land uses include mixed density residential to the south, undeveloped MA-zoned land to the north, industrial uses to the west and single family residential uses to the east.
5. The entire subdivision would be annexed prior to development; therefore, it would not place an undue burden on public services and facilities.
6. The proposed subdivision would not adversely affect property in the vicinity, provided that an alternative roadway configuration is accomplished or a street name change for the extension of Yorktown Drive in Stonecrest 2nd Addition is provided and deemed acceptable to all affected parties.
7. The proposed subdivision is not consistent with the general intent and purpose of the zoning ordinance and subdivision regulations. In particular, as proposed the roadway configuration would not provide for the extension of Yorktown Drive in Stonecrest 2nd Addition.
8. The proposed subdivision is not consistent with the master plan, other adopted plans, policies and accepted planning practice. In particular, as proposed the roadway configuration would not provide for the extension of Yorktown Drive north of East

Century Avenue, west of Centennial Road unless an alternative street name was provided and deemed acceptable to all parties within the affected subdivisions.

Ms. Wollmuth then added that since the staff report was completed, the issues with street names has been resolved and Yorktown will be renamed Greensboro and will run north of East Century Avenue parallel to Centennial Road as a backage road.

Based on the findings in the staff report, staff is now recommending approval of the annexation, the zoning change from the CA-Commercial and MA-Industrial zoning districts to the Conditional CA-Commercial and the CG-Commercial zoning districts; and the final plat of Sunrise Town Centre Addition with the following condition: building height will be limited to two stories on Block 3.

Commissioner Yeager opened the public hearing on the zoning change and final plat for Sunrise Town Centre Addition.

Resident Bill Lee spoke regarding whether or not the stormwater plans on the north side of Century Avenue where the addition is to be built will have special assessments that the existing residents will have to pay. Commissioner Bullinger explained that the stormwater that's currently in place should be sufficient for the new addition without specials being assessed.

Dave Griffin inquired on the height limitations for CG-Commercial as well as the existing MA-Industrial. Mr. Tomanek answered that the CG-Commercial height limit is 130 feet, the MA-Industrial height limit is 75 feet for structures and 50 feet for accessory buildings. Mr. Griffin then asked who will be responsible for putting in a buffer, as well as when this will be done and what it will be. Mr. Tomanek explained that it has to be installed in conjunction with site development requirements. The size, number and type of planting is dictated by ordinance and there is an option for a 6-foot screening fence with fewer plantings.

Emmanuel Geiger, who lives on Stonewall Drive which is adjacent to the proposed development site, asked what is expected to be built. He also stated that since the stormwater and sewer assessments have been paid by the existing residents, they should get some money back for new people tapping into it.

Brett Gurholt, KLJ, explained that the neighborhood aspect of the area will be embraced and businesses will most likely be 8 a.m. – 5 p.m. businesses, not apartment buildings.

With there being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Armstrong made

a motion to approve the annexation; the zoning change from the CA-Commercial and MA-Industrial zoning districts to the CA-Commercial and CG-Commercial zoning districts; and final plat of Sunrise Town Centre Addition. Commissioner Lee seconded the motion and it passed unanimously with Commissioners Armstrong, Bullinger, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting

in favor of the motion.

**PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT –
DAY CARE PROVISIONS**

Chairman Yeager called for the public hearing on the zoning ordinance text amendment relating to the day care provisions.

Ms. Lee provided an overview of the request, indicating the proposed amendments will change all uses of the phrase ‘day care’ to ‘child care’ as well as various requirements for all forms and definitions of child care. Ms. Lee added that staff recommends approval of the zoning ordinance text amendment relating to the day care provisions as presented.

Chairman Yeager opened the public hearing on the zoning ordinance text amendment relating to the day care provisions.

With there being no comment on this request, Chairman Yeager closed the public hearing.

MOTION: Commissioner Armstrong made a motion to approve the zoning ordinance text amendment relating to the day care provisions as presented. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

OTHER BUSINESS

ELECTION OF OFFICERS

Commissioner Warford made a motion to re-elect Wayne Yeager as chairman and Mark Armstrong as vice chairman for another term. Commissioner Waldoch seconded the motion and with all other Commissioners voting in favor, Chairman Yeager and Vice Chairman Armstrong were elected for another term.

ADJOURNMENT

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 6:18 p.m. to meet again on March 27, 2013.

Respectfully submitted,

Hilary Balzum
Recording Secretary

Wayne Lee Yeager
Chairman