

**CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
June 22, 2011**

The Bismarck Planning & Zoning Commission met on June 22, 2011, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Yeager presided.

Commissioners present were Mark Armstrong, Tom Atkinson, Mel Bullinger, Curt Juhala, Vernon Laning, Ken Selzler, Lisa Waldoch and Wayne Yeager.

Commissioner John Warford was absent.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Gregg Greenquist – Planner, Jason Tomanek – Planner, Kimberley Gaffrey– Office Assistant III, Charlie Whitman – City Attorney and Marcus Hall – County Engineer.

Others present were Paul Zent (Apple Creek Township) – 5100 93rd Street Southeast, John & Myrna Hauck (Gibbs Township) – 6420 TJ Lane, Gabe Brown (Gibbs Township), Jake Axtman (Swenson Hagen & Co.) – 909 Basin Avenue, Brad Krogstad (Kadmas Lee & Jackson) – 128 Soo Line Drive, Wade Moser – 1105 West Burleigh Avenue, Wayne Munson – 2043 North 2nd Street and Jesse Kalberer & Susan Dressler Kalberer – 12552 Highway 1804 South.

MINUTES

Chairman Yeager called for consideration of the minutes of the May 25, 2011 meeting.

MOTION: Commissioner Armstrong made a motion to approve the minutes of the May 25, 2011 meeting as received. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Selzler, Waldoch and Yeager voting in favor of the motion.

CONSENT AGENDA

There were no consent agenda items.

PUBLIC HEARING – ZONING CHANGE FROM RM15-RESIDENTIAL AND R10-RESIDENTIAL TO R10-RESIDENTIAL AND MINOR SUBDIVISION FINAL PLAT – EDGEWOOD VILLAGE FIFTH ADDITION

Chairman Yeager called for the public hearing for the zoning change from the RM15-Residential and R10-Residential zoning districts to the R10-Residential zoning district and minor subdivision final plat for Edgewood Village Fifth Addition. The property is 18 lots in one block on 6.25 acres and is located in northeast Bismarck, north of Century Avenue, between Colorado Drive and Nebraska Drive (a replat of Lots 11, 18, 65 and part of Lot 64, Block 1, Edgewood Village Second Addition, in part of the W½ of Section 23, T139N-R80W/Hay Creek Township).

Mr. Tomanek provided an overview of the request and listed the following findings for the zoning change:

1. The proposed zoning change is consistent with the Land Use Plan which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan).
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developed single, two and multi-family subdivisions to the south, southeast and southwest, Edgewood Village care facility to the west, undeveloped, single, two and multi-family zoning to the north and undeveloped multi-family zoned property to the east.
3. The property is already annexed; 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 minor subdivision final plat:

1. The proposed plat meets the criteria for a minor subdivision final plat.
2. All technical requirements for approval of a minor subdivision final plat have been met.
3. The storm water management plan amendment has been approved by the City Engineer.
4. The proposed minor subdivision final plat is compatible with adjacent land uses. Adjacent land uses include developed single, two and multi-family subdivisions to the south, southeast and southwest, Edgewood Village to the west, undeveloped, single, two and multi-family zoning to the north and undeveloped multi-family zoned property to the east.
5. The property is already annexed therefore; the proposed subdivision will not place an undue burden on public services.
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek then listed the following additional information:

1. The large lot (Lot 18) along the west side of the property would be combined with Lot 63, Block 1, Edgewood Village Second Addition. Currently Lot 63, Block 1 is owned by a separate entity. The developers of the proposed lot (Lot 18) have stated that the ownership of the new lot would be transferred to the current owners of Lot 63 and combined with their lot so the new lot (Lot 18) would not be landlocked without access.
2. The design of the subdivision includes the use of a private drive (Lot 17) with a cul-de-sac. The proposed access and cul-de-sac would be an extension of an existing private roadway; therefore, the use of the cul-de-sac is reasonable as it would not negatively impact City services or maintenance requirements. Written justification for the use of a cul-de-sac is attached.

Mr. Tomanek said based on the above findings, staff recommends approval of the zoning change for Lots 1-17, Block 1 from the RM15-Residential and R10-Residential zoning districts to the R10-Residential (Lot 18 would remain in the RM15-Residential zoning district) and the minor subdivision final plat for Edgewood Village Fifth Addition, with the following condition: 1) The large lot without access (Lot 18, Block 1) will be transferred to the adjacent landowner and combined with Lot 63, Block 1, Edgewood Village Second Addition.

Commissioner Armstrong questioned the use of a cul-de-sac in the plat. Mr. Tomanek relied that since the cul-de-sac is part of a private street and City services such as snow plowing and garbage collection would not be provided, staff had no concerns with the use of a cul-de-sac in this location.

Commissioner Lanning asked about the plans for Lot 18. Mr. Tomanek replied that Lot 18 is unbuildable and would be transferred to the adjacent land owner to the south and combined with that parcel. Commissioner Laning then asked how the property would be taxed. Mr. Tomanek replied that since it would be combined with the adjacent parcel, it would be taxed as part of that parcel.

Chairman Yeager called for the public hearing for the zoning change and minor subdivision final plat for Edgewood Village Fifth Addition.

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve the zoning change for Lots 1-17, Block 1 from the RM15-Residential and R10-Residential zoning districts (Lot 18 would remain in the RM15-Residential zoning district) and the minor subdivision final plat for Edgewood Village Fifth Addition, with the following condition: 1) The large lot without access (Lot 18, Block 1) will be transferred to the adjacent landowner and combined with Lot 63, Block 1, Edgewood Village Second Addition. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL AND RR-RESIDENTIAL TO RR-RESIDENTIAL AND FINAL PLAT – ROCK CREEK 3RD SUBDIVISION

Chairman Yeager called for the public hearing for the zoning change from the A-Agricultural and RR-Residential zoning districts to the RR-Residential zoning district and final plat for Rock Creek 3rd Subdivision. The property is 1 lot in 1 block on 2.34 acres and is located 4.6 miles east of US Highway 83, north of 71st Avenue NE (part of the SE $\frac{1}{4}$ of Section 5, T139N-R79W/ Gibbs Township, including a replat of Lot 1 Block 5, Rock Creek 2nd Subdivision).

Mr. Greenquist provided an overview of the request and listed the following findings for the zoning change:

1. The proposed zoning change is consistent with the Land Use Plan which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan).
2. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include developed rural residential lots to the north, east, and south with agricultural land to the west.
3. The proposed zoning change is consistent with the Future Land Use Plan which identifies this area as Urban Residential.
4. The property included in the proposed subdivision is already developed, has an existing access to Siltstone Road, and is served by South Central Regional Water District; therefore, the zoning change will not place an undue burden on public services.
5. The proposed zoning change would not adversely affect property in the vicinity.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

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

1. All technical requirements for approval of a final plat have been met.
2. The proposed subdivision has no effect on the Fringe Area Road Master Plan.
3. The Gibbs Township Board of Supervisors has recommended approval of the proposed subdivision.
4. A Storm Water Master Plan was approved for Rock Creek 2nd Subdivision in 2005. It was determined that the minor expansion of this existing lot would not negatively alter any

existing surface water drainage patterns. The Storm Water Master Plan has been waived by the City Engineer.

5. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include developed rural residential lots to the north, east, and south with agricultural land to the west.
6. The property included in the proposed subdivision is already developed, has an existing access to Siltstone Road, and is served by South Central Regional Water District; therefore, the proposed plat will not place an undue burden on public services.
7. The proposed subdivision would not adversely affect property in the vicinity.
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Greenquist then listed the following additional information:

1. Because the proposed subdivision is within the joint 2 to 4-mile ETA, it is subject to the joint jurisdiction legislation. As the underlying subdivision was established prior to May 1, 2009, the City has primary jurisdiction. However, Burleigh County will have the opportunity to comment and may request negotiation within 30 days of the final decision of the City Commission.

Mr. Greenquist said based on the above findings, staff recommends approval of the zoning change from the A-Agricultural and RR-Residential zoning districts to the RR-Residential zoning district and the final plat for Rock Creek 3rd Subdivision.

Chairman Yeager called for the public hearing for the zoning change from the A-Agricultural and RR-Residential zoning districts to the RR-Residential zoning district and final plat for Rock Creek 3rd Subdivision.

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Armstrong made a motion to approve the zoning change from the A-Agricultural and RR-Residential zoning districts to the RR-Residential zoning district and the final plat for Rock Creek 3rd Subdivision. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL TO RR-RESIDENTIAL AND FINAL PLAT – COPPER RIDGE 3RD SUBDIVISION

Chairman Yeager called for the public hearing for the zoning change from the A-Agricultural zoning district to the RR-Residential zoning district and final plat for Copper Ridge 3rd Subdivision. The property is 161 lots in 9 blocks on 367.75 acres and is located South of 62nd Avenue SE between 52nd Street SE and 66th Street SE (Section 31, T138N-R79W/Apple Creek Township, less those parts previously platted as Copper Ridge and Copper Ridge 2nd Subdivisions).

As this request is located in Apple Creek Township, Township Supervisor Paul Zent joined the Planning Commission for this item.

Ms. Lee provided an overview of the request and listed the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as rural residential (Bismarck-Mandan Regional Land Use Plan).
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include rural residential to north in this section, agricultural land to the east and south, and state-owned undeveloped land to the west.
3. The subdivision proposed for this property would be the third phase of a rural residential subdivision, would be served by South Central Regional Water District, and would have access to Lincoln Road via 52nd Street and 66th Street; therefore, the 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 subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

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

1. All technical requirements for approval of a final plat have been met.
2. The revised stormwater management plan for the proposed subdivisions has been approved by the City Engineer, with concurrence from the County Engineer and a representative from the Burleigh County Water Resource District.
3. A written response has not been received from Apple Creek Township for this subdivision; however, a verbal recommendation of approval was received.

4. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for this area, which identifies Derek Drive as the north-south collector and Woodrow Drive as the east-west collector for this section.
5. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include rural residential to the north in this section, agricultural land to the east and south, and state-owned undeveloped land to the west.
6. The subdivision proposed for this property would be the third phase of a rural residential subdivision, would be served by South Central Regional Water District, and would have access to Lincoln Road via 52nd Street and 66th Street; therefore, the proposed subdivision would not place an undue burden on public services.
7. The proposed subdivision would not adversely affect property in the vicinity.
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following additional information:

1. The proposed plat includes all of the property included in the previously approved plats for Copper Ridge 3rd, 4th, 5th, 6th and 7th Subdivisions. These were approved in 2007 but were not recorded.
2. The proposed plat is a redesign of the original layout and was done in order to better address stormwater management within the development; however, the overall layout of the subdivision is very similar to the previously approved version.
3. The proposed plat includes several cul-de-sacs in generally the same locations as shown in the previously approved version. The City's current cul-de-sac provisions were adopted after the previous layout was approved.
4. The applicant has requested waivers to exceed the maximum block length of 1320 feet, to use cul-de-sacs because of the topography in this area and to include lots with minimum widths of less than 150 feet for lots on cul-de-sacs and curved roadways (although all lots will have an average width of 150 feet or greater). A copy of the request is attached. Waivers for the same requirements were granted in conjunction with approval of the previous plats.
5. As the applicant is platting the rest of the section, he has requested that the plat be approved with a modification of the paving requirements. Normally, all interior roadways within a subdivision would have to be paved prior to the plat being recorded, or a bond or letter of credit would need to be posted to cover the cost of the paving. In this case, the applicant would like to enter into a separate agreement that identifies a

phased development for this subdivision and only pave the roadways within a specific phase before that phase is developed. A copy of the proposed phasing plan is attached.

6. In order to provide right-of-way for the construction of 52nd Street on the western edge of the proposed plat and 76th Avenue on the southern edge of the proposed plat, the applicant has already obtained easements from the adjacent property owners. As an easement could not be obtained from the adjacent property owner for 66th Street on the eastern edge of the proposed plat, that roadway has been moved west of the section line so that 117 feet of the required right-of-way (150 less 33 feet provided along the section line) is located within this plat. The applicant has been working with the County Engineer on a plan to improve only those portions of the adjacent section line roads necessary for development of the property.
7. Because the Copper Ridge development is within five miles of the operations area of the Bismarck Municipal Airport, questions were raised whether or not the development was subject to the provisions of FAA Advisory Circular AC 150/5200-33A "Hazardous Wildlife Attractants On or Near Airports." In particular, because the storm water areas do not have outlets, concerns were expressed that they would function as retention ponds rather than detention ponds. Documentation has been submitted by Kadrmass Lee & Jackson indicating that the infiltration rates are such that the ponds will drain in less than 48 hours, which would make them detention ponds rather than retention ponds and not subject to the FAA Advisory Circular requirements. Staff has reviewed this information and concurs that because they are detention ponds, a Hazardous Wildlife Opinion will not be required for the development.

Ms. Lee said based on the above findings, staff recommends approval of the zoning change from the A–Agricultural zoning district to the RR–Residential zoning district and the final plat for Copper Ridge 3rd Subdivision; granting waivers to exceed the maximum block length of 1320 feet, to use cul-de-sacs because of the topography in this area and to include lots with minimum widths of less than 150 feet for lots on cul-de-sacs and curved roadways; and with the understanding that:

1. The subdivision will be developed in phases, with each phase being developed in chronological order (Phase 1 before Phase 2, Phase 2 before Phase 3, etc).
2. Each phase will only be allowed to develop (ie, building permits issued) when written documentation is received from the Burleigh County Engineer that the roadways required for that particular phase have been constructed to minimum County standards and paved.
3. Each phase will only be allowed to develop (ie, building permits issued) when a storm water management plan certification is received for that phase indicating that the storm water facilities required for that particular phase have been installed in accordance with the approved stormwater management plan and said certifications have been accepted by both the City Engineer and the County Engineer.

Commissioner Zent asked that a condition be added requiring that all traffic control and street signs be installed by the developer in conjunction with roadway improvements. It was the consensus of the Commission to add this request to the conditions.

Chairman Yeager called for the public hearing for the zoning change from the A-Agricultural zoning district to the RR-Residential zoning district and final plat for Copper Ridge 3rd Subdivision.

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Selzler made a motion to approve the zoning change zoning change from the A–Agricultural zoning district to the RR–Residential zoning district and the final plat for Copper Ridge 3rd Subdivision; granting waivers to exceed the maximum block length of 1320 feet, to use cul-de-sacs because of the topography in this area and to include lots with minimum widths of less than 150 feet for lots on cul-de-sacs and curved roadways; and with the understanding that: 1) the subdivision will be developed in phases, with each phase being developed in chronological order (Phase 1 before Phase 2, Phase 2 before Phase 3, etc); 2) each phase will only be allowed to develop (ie, building permits issued) when written documentation is received from the Burleigh County Engineer that the roadways required for that particular phase have been constructed to minimum County standards and paved, and that all roadway identification and speed limit signs required by Apple Creek Township have been installed; and 3) each phase will only be allowed to develop (ie, building permits issued) when a storm water management plan certification is received for that phase indicating that the storm water facilities required for that particular phase have been installed in accordance with the approved stormwater management plan and said certifications have been accepted by both the City Engineer and the County Engineer. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Selzler, Waldoch, Yeager and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM R5-RESIDENTIAL AND RT-RESIDENTIAL TO P-PUBLIC – PART OF THE SE¼ OF SECTION 30, T139N-R80W/HAY CREEK TOWNSHIP

Chairman Yeager called for the public hearing for the City-initiated zoning change from the R5-Residential and RT-Residential zoning districts to the P-Public zoning district for part of the SE¼ of Section 30, T139N-R80W/Hay Creek Township. The property is part of one parcel on 2.95 acres and is located in northwest Bismarck on the campus of Bismarck State College, along the south side of Canary Avenue approximately 200 feet west of Schafer Street.

Mr. Tomanek provided an overview of the request, indicated that BSC was contacted and had no objections to the zoning change, and listed the following findings for the zoning change:

1. This area is outside of the area covered by the Bismarck-Mandan Regional Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include the Bismarck State College campus, the Frances Leach High Prairie Arts and Science Complex, and office buildings.
3. The property is already annexed; 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 said based on the above findings, staff recommends approval of the zoning change from the R5-Residential and RT-Residential zoning districts to the P-Public zoning district for part of the SE¼ of Section 30, T139N-R80W/Hay Creek Township, more specifically described as the South 180 feet of the West 715.29 feet of the East 924 feet of the SE¼ of the SE¼ of Section 30.

Chairman Yeager called for the public hearing for the zoning change from the R5-Residential and RT-Residential zoning districts to the P-Public zoning district for part of the SE¼ of Section 30, T139N-R80W/Hay Creek Township.

No public comment was received.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Armstrong made a motion to approve the City-initiated zoning change from the R5-Residential and RT-Residential zoning districts to the P-Public zoning district for part of the SE¼ of Section 30, T139N-R80W/Hay Creek Township, more specifically described as the South 180 feet of the West 715.29 feet of the East 924 feet of the SE¼ of the SE¼ of Section 30. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Selzler, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT FOR PART OF LOT 10, BLOCK 1,
REGISTER COMMERCIAL PARK 1ST (928 EAST INTERSTATE AVENUE)**

Chairman Yeager called for the public hearing for a special use permit to allow the operation of a day care facility. The property is located along the north side of East Interstate Avenue just east of North 9th Street (928 East Interstate Avenue).

Mr. Tomanek provided an overview of the request and listed the following findings for the special use permit:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use would not adversely affect the public health, safety and general welfare.
3. The proposed special use would not be detrimental to the use or development of adjacent properties.
4. The use would be designed, operated and maintained in a manner that is compatible with the appearance of the existing character of the surrounding area.
5. Adequate public facilities and services are in place.
6. The use would not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.
7. Adequate measures have been taken to minimize traffic congestion in the public streets and provide for appropriate on-site circulation of traffic. In particular, adequate off-street parking would be provided.

Mr. Tomanek then listed the following additional information:

1. The day care is intended to accommodate up to 110 children ranging in age from 0-12 years.
2. The applicants have been working with the Building Official to satisfy all the requirements necessary to meet the guidelines set forth to establish and operate a day-care facility. In particular, the appropriate accommodations have been made to allow for adequate outdoor play space for the children, appropriate parking and ADA compliant restroom facilities.
3. Section 14-03-08(4)(r) of the City Code of Ordinances outlines the requirements for a day care center. A copy of this section of the City Code is attached.

Mr. Tomanek said that based on the above findings, staff recommends approval of the special use permit to allow the operation of a day care facility on part of Lot 10, Block 1, Register Commercial Park 1st Addition (928 East Interstate Avenue) with the following conditions:

1. The configuration of the day care facility closely resembles the proposed layout included with the application.
2. The number of children allowed to occupy the day care facility be limited to a maximum of 110.
3. All the required building permits must be obtained prior to commencement of the building renovation project.
4. The license for the day care center will not be issued until such time that all building and fire codes have been met.
5. The special use permit must be put into use within twenty-four (24) months from (the date of approval) or it shall lapse.

Commissioner Armstrong questioned if there was adequate interior recreation space to meet the 35 square feet per child requirement. Mr. Tomanek provided an overview of the proposed floor plan, indicating that the layout does appear to meet the requirements and adding that the exact number of children allowed will be determined by the State during its licensing procedure.

Commissioner Waldoch questioned if there was adequate outdoor recreation area to meet the 40 square feet per child requirement. Mr. Tomanek responded that staff recognizes that the outdoor recreation area is small; however, the State does allow a smaller area provided children use that outdoor area in shifts. He added that the applicant is looking at an adjacent vacant lot to supplement the outdoor recreation area, but did not want to take any action until the special use permit was approved.

Chairman Yeager called for the public hearing for the special use permit to allow the operation of a day care facility on part of Lot 10, Block 1, Register Commercial Park 1st Addition (928 East Interstate Avenue).

No public comment was received.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Atkinson made a motion to approve the request for a special use permit to allow the operation of a day care facility on part of Lot 10, Block 1, Register Commercial Park 1st Addition (928 East Interstate Avenue) with the following conditions: 1) the configuration of the day care facility closely resembles the proposed layout included with the application; 2) the number of children allowed to occupy the day care facility be limited to a maximum of 110; 3) all the required building

permits must be obtained prior to commencement of the building renovation project; 4) the license for the day care center will not be issued until such time that all building and fire codes have been met; and 5) the special use permit must be put into use within twenty-four (24) months from (the date of approval) or it shall lapse. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Waldoch and Yeager voting in favor of the motion. Commissioner Selzler abstained.

Chair Yeager suggested that the City should have a minimum width for outdoor recreation areas and questioned whether or not such a provision would be in conflict with the State's requirements. Mr. Tomanek responded that staff will follow up on this suggestion with Inspections and the State and report back.

PUBLIC HEARING – SPECIAL USE PERMIT FOR THE SW¹/₄ OF SW¹/₄ OF SECTION 16, T139N-R80W/GIBBS TOWNSHIP

Chairman Yeager called for the public hearing for a special use permit to allow development of a new County Highway Department office/garage building and several unheated garage/storage buildings. The proposed facility is intended to replace the existing facility on 52nd Street NE. The property is located along the east side of 80th Street NE north of 43rd Avenue NE.

As this request is located in Gibbs Township, Township Supervisor John Hauck joined the Planning Commission for this item.

Ms. Lee provided an overview of the request and listed the following findings for the special use permit:

1. The proposed use is in harmony with the purpose and intent of the zoning ordinance and the master plan of the City of Bismarck.
2. The proposed special use would not adversely affect the public health, safety and general welfare.
3. The proposed use would not be detrimental to the use or development of adjacent properties.
4. The proposed use would comply with all special regulations established by Section 14-03-08 of the City Code of Ordinances, all provisions included in Section 14-03-08(4)(w) of the City Code of Ordinances, and all special conditions necessary for the safety and welfare of the public.

Ms. Lee then listed the following additional information:

1. A roadway maintenance facility necessary for the provision of services by a governmental entity is allowed as a special use permit in the A – Agricultural district.

Section 14-03-08 (4)(w) of the City Code of Ordinances outlines the provisions for such a use. A copy of this section is attached.

2. Gibbs Township was notified of the request for a special use permit; however, a recommendation on the request has not been received from the Township.

Ms. Lee said that based on the above findings, staff recommends approval of the special use permit to allow a roadway maintenance facility necessary for the provision of services by a governmental entity to be located on the SW¹/₄ of the SW¹/₄ of Section 16, T139N-R79W/Gibbs Township, with the following conditions:

1. Development of the site shall generally conform to the site plan submitted with the application for a special use permit and shall be subject to the City's site plan review procedure.
2. The special use must be put into use within twenty-four (24) months from (the date of approval) or it shall lapse.

Commissioner Hauck questioned the overall height of the buildings being proposed and whether a height limitation should be added as a condition. County Engineer Marcus Hall indicated that the two storage buildings would be approximately 30 feet in height. After a brief discussion, it was the general consensus that a height limitation of 35 feet could be added as a condition.

Commissioner Hauck then asked if the property could be converted to an industrial use. Ms. Lee replied that the special use is specifically for a roadway maintenance facility for services provided by a governmental entity. If there was any interest in converting the property to an industrial use, the zoning would have to be changed.

Chairman Yeager opened the public hearing for the special use permit to allow a roadway maintenance facility necessary for the provision of services by a governmental entity to be located on the SW¹/₄ of the SW¹/₄ of Section 16, T139N-R79W/Gibbs Township.

No public comment was received.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Waldoch made a motion to approve the request for a special use permit to allow a roadway maintenance facility necessary for the provision of services by a governmental entity to be located on the SW¹/₄ of the SW¹/₄ of Section 16, T139N-R79W/Gibbs Township, with the following conditions: 1) development of the site shall generally conform to the site plan submitted with the application for a special use permit and shall be subject to the City's site plan review procedure; 2) the special use must be put into use within twenty-four (24) months from (the date of approval) or it shall lapse; and 3) the height of all buildings and structures shall be limited to thirty-five (35) feet. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger,

Hauck, Juhala, Laning, Selzler, Waldoch and Yeager voting in favor of the motion.

OTHER BUSINESS

RESOLUTION OF APPRECIATION FOR JO CONMY

Chairman Yeager read the resolution of appreciation for Jo Conmy.

ADJOURNMENT

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:46 p.m. to meet again on July 27, 2011.

Respectfully submitted,

Kimberley Gaffrey
Recording Secretary

Wayne Yeager
Chairman