

**CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
November 16, 2011**

The Bismarck Planning & Zoning Commission met on November 16, 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, Doug Lee, Ken Selzler, Mike Schwartz, Lisa Waldoch and Wayne Yeager.

Commissioner John Warford was absent.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Jason Tomanek – Planner, Kimberley Gaffrey – Office Assistant III, Charlie Whitman – City Attorney and Ray Ziegler – Building Official.

Others present were Edward Weigel – 1319 Sorrento Circle, Bede Frank – 1412 North 35th Street, Robert Brown, 1412 North 35th Street, Mel Rodenburg – 1212 North 35th Street, Matthew Reichert – 3712 Lockport Street, Jake Axtman – 909 Basin Avenue, Alexis Duxbury – 1014 North 4th Street and Scott Bittner – Bismarck.

MINUTES

Chairman Yeager called for consideration of the minutes of the October 26, 2011 meeting.

MOTION: Commissioner Armstrong made a motion to approve the minutes of the October 26, 2011 meeting as received. Commissioner Lee seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

CONSIDERATIONS –

PRELIMINARY – MAPLETON ADDITION

ZONING CHANGE – LOT 5, BLOCK 1, CENTINNIAL PARK FOURTH ADDITION AND TRACT 1 OF THE N½ OF SECTION 25, T139N-R80W

ZONING ORDINANCE TEXT AMENDMENT – DEFINITIONS

Chairman Yeager called for consideration of the following consent agenda items:

- A. A preliminary plat for Mapleton Addition. The property is 2 lots in 1 block on 2.57 acres, located along the north side of Century Avenue between North 15th Street and Ohio Street (an unplatted portion of the east 264 feet of the south 330 feet of the SW¼ of Section 22, T139N - R80W/Hay Creek Township).
- B. A zoning change from the RM30-Residential and A-Agricultural zoning districts to the CG-Commercial zoning district for Lot 5, Block 1, Centennial Park 4th Addition and Tract 1 of the

N½ of Section 25, T139N-R80W/ Hay Creek Township. The property is one lot and one unplatted tract on 6.37 acres, located along the south side of Trenton Drive approximately ¼ mile east of Centennial Road.

- C. A zoning ordinance text amendment relating to definitions. The proposed amendments would modify the definitions of family and single-family dwelling.

At the request of Commissioner Lee, Chairman Yeager pulled item B from the consent agenda for further discussion.

MOTION: Based on the findings contained in the staff reports, Commissioner Armstrong made a motion to approve Consent Agenda items A and C, calling for public hearings on the items. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

Ms. Lee said the staff recommendation included in the agenda packet is to deny the zoning change for Lot 5, Block 1, Centennial Park 4th Addition and Tract 1 of the N½ of Section 25, T139N-R80W/ Hay Creek Township because of the adverse impact it would have on the adjacent single family residential area.

MOTION: Commissioner Lee made a motion to call for a public hearing on Consent Agenda item B. Commissioner Atkinson seconded the motion, with Armstrong, Atkinson, Juhala, Laning, Lee, Selzler, Schwartz, Waldoch Yeager voting in favor of the motion and Commissioner Bullinger voting against. The motion passed 9 to 1.

PUBLIC HEARING – ZONING CHANGE FROM RM15- RESIDENTIAL TO R10- RESIDENTIAL AND MINOR SUBDIVISION FINAL PLAT – SHANNON VALLEY FOURTH ADDITION FIRST REPLAT

Chairman Yeager called for the public hearing for the zoning change from the RM15-Residential zoning district to the R10-Residential zoning district and the minor subdivision final plat for Shannon Valley Fourth Addition First Replat. The property is 8 lots in 1 block on 1.33 acres and is located along the west side of North 35th Street between Baltus Drive and Shannon Drive (a replat of Lots 1-4, Block 2, Shannon Valley 4th Addition).

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

1. This area 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 multi-family to the north, east and south and one and two-family residential to the west.
3. The property is already annexed; therefore, the proposed zoning change will 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.

Ms. Lee then listed 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 is compatible with adjacent land uses. Adjacent land uses include multi-family to the north, east and south and one and two-family residential to the west.
4. The proposed subdivision is already annexed and utilities are in place in North 35th Street.
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. Lee then listed the following additional information:

1. The applicants are proposing to replat and rezone the property for twinhome development. The current zoning would allow the construction of four two-unit buildings on the property, but they would have to be on a large common lot as a condo association. The proposed changes will allow the same style of development with individual ownership of each unit and lot.

Ms. Lee said based on the above findings, staff recommends approval of the zoning change from the RM15-Residential zoning district to the R10-Residential zoning district and minor subdivision final plat for Shannon Valley Fourth Addition First Replat.

Chairman Yeager called for the public hearing for the zoning change from the RM15-Residential zoning district to the R10-Residential zoning district and the minor subdivision final plat for Shannon Valley Fourth Addition First Replat.

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 from the RM15-Residential zoning district to

the R10-Residential zoning district and the minor subdivision final plat for Shannon Valley Fourth Addition First Replat. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM RT-RESIDENTIAL TO CA-COMMERCIAL – LOTS 3 & 4, LESS THE EAST 80.63 FEET OF LOT 4, BLOCK 1, EASTDALE ADDITION

Chairman Yeager called for the public hearing for the zoning change from the RT-Residential zoning district to the CA-Commercial zoning district for Lots 3 & 4, less the East 80.63 feet of Lot 4, Block 1, Eastdale Addition. The property is located in east Bismarck, along the north side of East Rosser Avenue just east of North 26th Street.

Mr. Tomanek listed the following findings for the zoning change:

1. The proposed zoning change is in an area outside the boundaries of the Bismarck-Mandan Regional Future Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include a church and developed single-family residential to the north, developed multi-family property to the east, partially-developed commercial property to the south and commercial property to the west.
3. The property is already annexed; therefore the proposed zoning change would not place an undue burden on public services.
4. With the installation of the required buffer yard landscaping, 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 RT-Residential zoning district to the CA-Commercial zoning district for Lots 3 & 4, less the East 80.63 feet of Lot 4, Block 1, Eastdale Addition.

Chairman Yeager called for the public hearing for the zoning change from the RT-Residential zoning district to the CA-Commercial zoning district for Lots 3 & 4, less the East 80.63 feet of Lot 4, Block 1, Eastdale Addition.

No public comment was received.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Schwartz made a motion to approve the zoning change from the RT-Residential zoning district to the CA-Commercial zoning district for Lots 3 & 4, less the East 80.63 feet of Lot 4, Block 1, Eastdale Addition. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT FOR LOT 1, BLOCK 1, EASTDALE ADDITION

Chairman Yeager called for the public hearing for a special use permit to allow a bank drive-through to be located on Lot 1, Block 1, Eastdale Addition. The property is located in east Bismarck, along the north side of East Rosser Avenue just east of North 26th Street.

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

1. A bank with a drive-through window is allowed as a special use in the CA-Commercial zoning district, provided specific conditions are met. The proposed drive-through window meets all six provisions outlined in Section 14-03-08(4)(g) of the City Code of Ordinances (Zoning).
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. This use would not cause a negative 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 is available on-site and stacking space for seven vehicles in the two drive-through lanes would be provided.
8. The City Traffic Engineer has reviewed the proposed site plan and has no opposition to the special use permit to allow the operation of a drive-through.

Mr. Tomanek then listed the following additional information:

1. The site plan submitted with the application demonstrates the required stacking spaces as those proposed with recent amendment to the vehicle stacking requirements. Previous to the proposed amendment, the required stacking spaces for a bank facility was 12. The proposed ordinance amendment would reduce the number off stacking spaces for a bank facility to 3 spaces per lane for an ATM and 4 spaces per teller lane. The amendment was considered by the Board of City Commissioners on November 8th and a public hearing has been scheduled for November 22nd.

Mr. Tomanek said that based on the above findings, staff recommends approval of the special use permit to allow a bank drive-through to be located on Lot 1, Block 1, Eastdale Addition, with the following conditions:

1. The construction and operation of a drive-through window must meet all applicable requirements for such a use in the CA-Commercial zoning district.
2. Development of the site must generally conform to the site plan submitted with the application.
3. The special use permit is contingent upon the final passage and adoption of the proposed amendments relating to vehicle stacking that will be considered by the Board of City Commissioners later this month.

Chairman Yeager called for the public hearing for the special use permit to allow a bank drive-through to be located on Lot 1, Block 1, Eastdale Addition.

No public comment was received.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the request for a special use permit to allow a bank drive-through to be located on Lot 1, Block 1, Eastdale Addition, with the following conditions: 1) the construction and operation of a drive-through window must meet all applicable requirements for such a use in the CA-Commercial zoning district; 2) development of the site must generally conform to the site plan submitted with the application; and 3) the special use permit is contingent upon the final passage and adoption of the proposed amendments relating to vehicle stacking that will be considered by the Board of City Commissioners later this month. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT FOR PART OF THE E½ OF THE SE¼ OF SECTION 28, T139N-80W/HAY CREEK TOWNSHIP (2000 NORTH 12TH STREET)

Chairman Yeager called for the public hearing for a special use permit for a restaurant drive-through to be located on an unplatted tract in the E½ of the SE¼ of Section 28, T139N-R80W. The property is

located along the west side of North 12th Street between Divide Avenue and Capitol Avenue (2000 North 12th Street).

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

1. A restaurant with a drive-through window is allowed as a special use in the CG-Commercial zoning district, provided specific conditions are met. The proposed drive-through window meets all six provisions outlined in Section 14-03-08(4)(g) of the City Code of Ordinances (Zoning). A copy of this section the ordinance is attached.
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. This use would not cause a negative 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, ample off-street parking is available on-site and stacking space for 12 vehicles in the drive-through lane would be provided.
8. The City Traffic Engineer has reviewed the proposed site plan and has no opposition to the special use permit to allow the operation of a drive-through.

Mr. Tomanek said that based on the above findings, staff recommends approval of the special use permit to allow a drive-through window in conjunction with a restaurant on an unplatted tract described as part of the E½ of the SE¼ of Section 28, T139N-80W/Hay Creek Township (2000 North 12th Street), with the following conditions:

1. The construction and operation of a drive-through window must meet all applicable requirements for such a use in the CG-Commercial zoning district.
2. Development of the site must generally conform to the site plan submitted with the application.

Chairman Yeager called for the public hearing for the special use permit to allow a drive-through window in conjunction with a restaurant on an unplatted tract described as part of the E½ of the SE¼ of Section 28, T139N-80W/Hay Creek Township (2000 North 12th Street).

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 drive-through window in conjunction with a restaurant on an unplatted tract described as part of the E½ of the SE¼ of Section 28, T139N-80W/Hay Creek Township (2000 North 12th Street), with the following conditions: 1) the construction and operation of a drive-through window must meet all applicable requirements for such a use in the CG-Commercial zoning district; and 2) development of the site must generally conform to the site plan submitted with the application. Commissioner Lee seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

OTHER BUSINESS

Alexis Duxbury appeared and expressed her concern with floodplain management and the flooding in Burleigh County. She suggested that a moratorium be placed on any new construction in the affected areas.

Commissioner Armstrong said that her suggestions are better suited for the County Planning Commission and the County Commission and urged her to attend the next County Planning Commission meeting.

ADJOURNMENT

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:36 p.m. to meet again on December 21, 2011.

Respectfully submitted,

Kimberley Gaffrey
Recording Secretary

Wayne Yeager
Chairman