

**CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
March 28, 2012**

The Bismarck Planning & Zoning Commission met on March 28, 2012, 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, Mike Schwartz, Ken Selzler, Lisa Waldoch, John Warford and Wayne Yeager.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Jason Tomanek – Planner and Kimberley Gaffrey – Office Assistant III.

Others present were Andrew Werder - 128 Soo Line Drive, Brent Erickson – 128 Soo Line Drive, Dave Patience – 909 Basin Avenue, Sam Turnbow – 3715 Centennial Road, Patrick Keller – 303 Easy Street, Kevin Turnbow – 1805 Harbor Drive, Brad Krogstad – 128 Soo Line Drive, Charles Bisnett – 2244 Grant Drive, Don & Jeanne Reuter – 901 Mouton Avenue, Jim Guttormson – 200 Cheyenne Avenue, Loran Galpin – 501 East Main Avenue, Matt Bunk – 209 Aspen Avenue, Ken Nysether – 3456 East Century Avenue, Art Goldammer – 3100 North 14th Street, Gerry Rudnick – 5425 Misty Waters Drive, Brad Stork – 702 Calypso Drive, Patty Dressler – 936 Canada Avenue, Joan Millner – 1315 North 3rd Street, James Warne – 3712 Lockport Street, Al Roll – 924 North 11th Street and Clark Gion – 1012 Canada Avenue.

MINUTES

Chairman Yeager called for consideration of the minutes of the February 22, 2012 meeting.

MOTION: Commissioner Armstrong made a motion to approve the minutes of the February 22, 2012 meeting as received. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

CONSIDERATIONS –

- A. ZONING CHANGE FROM MA, CG & RR TO MA, CG & P AND PRELIMINARY PLAT – REVOLUTIONARY ADDITION**
- B. PRELIMINARY PLAT – AIRWAY AVENUE ADDITION**
- C. PRELIMINARY PLAT – EXPRESSWAY INDUSTRIAL PARK**
- D. ZONING CHANGE FROM A TO MA AND PRELIMINARY PLAT – HAMBURG INDUSTRIAL PARK 1ST ADDITION**
- E. ZONING CHANGE FROM RM30, RT & CG TO RM30, RT & CG AND PRELIMINARY PLAT – NORTHERN SKY ADDITION**

- F. ZONING CHANGE FROM A TO PUD – BLOCK 2, THE RIDGE AT HAWKTREE 2ND SUBDIVISION**
- G. ZONING CHANGE FROM CG & MA TO MA – BLOCKS 1 & 2, MAYFAIR MANAGERS ADDITION, LOT 2, BLOCK 2, WACHTER'S 17TH ADDITION AND LOT 1, BLOCK 1, WACHTER'S 18TH ADDITION**

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

- A. A zoning change from the MA-Industrial, CG-Commercial and RR-Residential zoning districts to the MA-Industrial, CG-Commercial and P-Public zoning districts and preliminary plat for Revolutionary Addition. The property is 8 lots in 4 blocks on 17.80 acres and is located in northeast Bismarck, along the south side of East Century Avenue approximately ¼ mile west of Centennial Road (replat of Auditor's Lot A of the NE¼, Auditor's Lot A of Tract 4, Auditor's Lot A of Lot 3, Block 1, Mr. B's West Addition and part of Tract 3 in the NE¼ of Section 26, T139N-R80W/Hay Creek Township).
- B. A preliminary plat for Airway Avenue. The property is 12 lots in 1 block on 20 acres. The property is located in southeast Bismarck, along the south side of Airway Avenue and the west side of South 26th Street (the S½ of the S½ of the NE¼ of Section 10, T138N-R80W/Lincoln Township).
- C. A preliminary plat for Expressway Industrial Park. The property is 18 lots in 1 block on 39.28 acres. The property is located on either side of Yegen Road, between Apple Creek Road and the BNSF railway line in southeast Bismarck (part of Sections 2, 11 & 12, T138N-R80W/Lincoln Township).
- D. A zoning change from the A-Agriculture zoning district to the MA-Industrial zoning district and preliminary plat for Hamburg Industrial Park 1st Addition. The property is 7 lots in 2 blocks on 17.09 acres and is located east of the Bismarck Airport along Airway Avenue in southeast Bismarck (part of the NW¼ of the SW¼ of Section 13, T138N-R80W/Lincoln Township).
- E. A zoning change from the RM30-Residential, CA-Commercial and RT-Residential zoning districts to the RM30-Residential, CA-Commercial and RT-Residential zoning districts and preliminary plat for Northern Sky Addition. The property is 3 lots in 2 blocks on 14.64 acres and is located in north Bismarck, along the west side of North Washington Street approximately 1/8 mile north of 43rd Avenue NE/Ash Coulee Drive (part of the SE¼ of Section 17, T139N-R80W/Hay Creek Township).
- F. A zoning change from the A-Agriculture zoning district to the PUD-Planned Unit Development zoning district for Block 2, The Ridge at Hawktree Second Subdivision (being replatted as The Meadows at Hawktree Subdivision). The property is 29 lots in 1 block on 13.37 acres and is located approximately ¼ mile east of North Dakota Highway 1804 along the north side of Burnt Creek Drive, northwest of Bismarck (part of the N½ of Section 1, T139N-R80W/Hay Creek Township).

- G. A zoning change from the CG-Commercial zoning district to the MA-Industrial zoning district for Lots 1-3, Block 1, Lots 1-4, Block 2 and the vacated Mayfair Avenue, Mayfair Managers Addition, Tract S of the SE1/4 of Section 4, T138N-R80W, Lot 2, Block 2, Wachter's 17th Addition and Lot 1, Block 1, Wachter's 18th Addition. The property is 7 lots in 2 blocks on 17.09 acres and is located along the west side of South 12th Street just south of Bismarck Expressway.

Commissioner Bullinger removed Items B and C 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, D, E, F and G, calling for public hearings and/or tentative approval on the items. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

Mr. Tomanek indicated that with Item B, there are concerns with the existing buildings within the proposed plat. In particular, the proposed lot lines bisect existing buildings that were not constructed with the construction elements required to meet current building code requirements. He said the proposed lot lines will need to be adjusted so the buildings comply with all applicable Building Code and Zoning requirements. Mr. Tomanek went on to say that there are also concerns with the current condition of South 26th Street and Airway Avenue and there is a need for roadway improvements. In particular, the roads are not identified truck routes and the condition of the roads has deteriorated. He added that the Public Works Department is intending to remove any remaining asphalt surface on 26th Street in the near future and replace the driving surface with a gravel material until such time a street improvement district can be established to construct the roads in a manner sufficient for supporting truck traffic.

MOTION: Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve Consent Agenda Item B, calling for a public hearing and tentative approval. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

Ms. Lee said there are concerns with Item C, relating to the proposed roadway and lot configuration; in particular, Yegen Road and Apple Creek Road are both functionally classified as arterial roadways. The City of Bismarck's Access Control Policy restricts the use of private driveways onto arterial roadways. She continued by saying that waiver requests have been submitted to exceed the maximum block length, citing the existing rail lines. Based on the existing conditions, the waiver request is reasonable.

Mr. Patience indicated that there is a meeting already scheduled to address the issues to get them resolved.

MOTION: Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve Consent Agenda Item C, calling for a public hearing and

tentative approval with the understanding that the access issues are resolved. Commissioner Bullinger seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION OF PART OF HORIZON HEIGHTS FIFTH ADDITION

Chairman Yeager called for the final consideration for the annexation for Lots 1-9, Block 1; Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-10, Block 4; Lots 5-7 & 16, Block 6; and Lots 1-3 & 7, Block 7, Horizon Heights Fifth Addition. The property is located in northwest Bismarck, north of Medora Avenue, northwest of Horizon Middle School (part of Section 17, T139N-R80W/Hay Creek Township).

Mr. Tomanek provided an overview of the request and listed 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 said based on the above findings, staff recommends approval of the annexation of Lots 1-9, Block 1; Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-10, Block 4; Lots 5-7 & 16, Block 6; and Lots 1-3 & 7, Block 7, Horizon Heights Fifth Addition.

MOTION: Based on the findings contained in the staff report, Commissioner Warford made a motion to approve the annexation of Lots 1-9, Block 1; Lots 1-8, Block 2; Lots 1-8, Block 3; Lots 1-10, Block 4; Lots 5-7 & 16, Block 6; and Lots 1-3 & 7, Block 7, Horizon Heights Fifth Addition. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING –FINAL PLAT – MEADOWLARK COMMERCIAL 6TH ADDITION

Chairman Yeager called for the public hearing for the final plat for Meadowlark Commercial Sixth Addition. The property is 5 lots in 1 block on 45.64 acres and is located North of 43rd Avenue NE along the west side of North 19th Street (a replat of Lots 1-6, Block 2, Lots 1-6,

Block 4 and Lots 1-4, Block 5, Meadowlark Commercial 3rd Addition in the W½ of Section 15, T139N-R80W/Hay Creek Township).

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

1. All technical requirements for consideration of a final plat have been met.
2. The proposed subdivision is consistent with the Fringe Area Road Master Plan for this area, which identifies North 19th Street as the north-south collector and 51st Avenue between US Highway 83 and North 19th Street as the east-west collector 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 retail commercial uses to the west, undeveloped CG-zoned property to the north and south and P-Public zoned property to the east.
5. The proposed subdivision is partially annexed and would be completely annexed prior to development; therefore, it will 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 the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said based on the above findings, staff recommends approval of the final plat of Meadowlark Commercial 6th Addition and granting a waiver to exceed the maximum block length.

Chairman Yeager called for the public hearing for the final plat of Meadowlark Commercial 6th Addition.

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the final plat for Meadowlark Commercial 6th Addition and granting a waiver to exceed the maximum block length. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION AND PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL TO RT-RESIDENTIAL, R10-RESIDENTIAL, RM30-RESIDENTIAL AND RT-RESIDENTIAL AND FINAL PLAT – KILBER NORTH ADDITION

Chairman Yeager called for the final consideration for the annexation and the public hearing for the zoning change from the A-Agricultural zoning district to the RT-Residential, R10-Residential, RM30-Residential and RT-Residential zoning district and the final plat for Kilber North Addition. The property is 21 lots in 2 blocks on 12.22 acres and is located south of 43rd Avenue NE between North Washington Street and US Highway 83 (part of the NW¼ of Section 21, T139N-R80W/Hay Creek Township).

Ms. Lee provided an overview of the request and listed 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 listed 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 multi-family residential to the west, P-Public zoned open space to the south, undeveloped land to the east and a combination of one and two-family residential and undeveloped CA-zoned property to the north across 43rd Avenue.
3. The subdivision proposed for the property would be annexed prior to development; therefore, the 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 then listed the following findings for the 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.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include multi-family residential to the west, P-Public zoned open space to the south, undeveloped land to the east and a combination of one and two-family residential and undeveloped CA-zoned property to the north across 43rd Avenue.
5. The proposed 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 the above findings, staff recommends approval of the annexation, zoning change from the A–Agricultural zoning district to the R5–Residential, R10–Residential, RM30–Residential and RT–Residential and final plat for Kilber North Addition and granting a waiver to use a private roadway in Block 1.

Chairman Yeager called for the public hearing for the zoning change from the A–Agricultural zoning district to the R5–Residential, R10–Residential, RM30–Residential and RT–Residential zoning districts and the final plat for Kilber North Addition.

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 annexation, zoning change from the A–Agricultural zoning district to the R5–Residential, R10–Residential, RM30–Residential and RT–Residential zoning districts and the final plat for Kilber North Addition and granting a waiver to use a private roadway in Block 1. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Armstrong, Atkinson, Bullinger, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

Commissioner Juhala arrived at the meeting at 5:19.

PUBLIC HEARING – ZONING CHANGE FROM R10-RESIDENTIAL TO PUD-PLANNED UNIT DEVELOPMENT AND MINOR SUBDIVISION FINAL PLAT – MADISON LANE ADDITION

Chairman Yeager called for the public hearing for the zoning change from the R10-Residential zoning district to the PUD-Planned Unit Development zoning district and the minor subdivision final plat for Madison Lane Addition. The property is 41 lots in 1 block on 6.51 acres and is located in north Bismarck along the south side of Canada Avenue approximately ¼ mile west of US Highway 83 (a replat of Lots 3-36, Block 2, Sonnet Heights Subdivision First Replat (in the E½ of Section 16, 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 portion of the US Highway 83 Corridor Transportation Study, which identifies this area as residential.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developing residentially-zoned land in each direction.
3. The proposed subdivision is annexed; therefore, the zoning change would not place an undue burden on public services and facilities. The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. 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. 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 developing residentially-zoned land in each direction.
4. The proposed subdivision is annexed; therefore, the zoning change would not place an undue burden on public services and facilities. The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development allowed by the new zoning classification at the time the property is developed.
5. The proposed zoning change 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 zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek then listed the following additional information:

1. The applicant is planning on developing the proposed subdivision accessed off Canada Avenue through the use of a private street and has submitted a request to allow the use of a private street.
2. The PUD zoning request is based on the desire to have a reduced front yard setback from 25-feet to 20-feet.
3. The density is slightly higher than a traditional R5 – Residential district, which allows for 5 units per acre. The density for this development is approximately 6 units per acre.
4. A private park/playground area would be included with the development.

Mr. Tomanek said based on the above findings, staff recommends approval of the zoning change from the R10-Residential zoning district to the PUD–Planned Unit Development zoning district as outlined in the PUD ordinance and the minor subdivision final plat for Madison Lane Addition and granting a waiver to allow the use of a private roadway.

Chairman Yeager called for the public hearing for the zoning change from the R10-Residential zoning district to the PUD–Planned Unit Development and the minor subdivision final plat for Madison Lane Addition.

Patty Dressler said she just purchase property across the street from the proposed plat and asked what PUD stands for, if it is going to be apartment buildings, and how many access there will be. She also stated that she is concerned with Canada Avenue because she feels it is a dangerous street. Ms. Dressler added that she is also concerned that her specials are going to increase because of this new development.

Mr. Tomanek explained that PUD stands for Planned Unit Development that it would be single family homes and there will be two access points to Madison Lane.

Clark Gion stated the he lives on Canada Avenue and was also worried it was going to be an apartment complex. He said that he agrees with Ms. Dressler, that the road can be a concern at times.

Dave Patience presented a computer generated picture of what the development will look like.

Patty Dressler inquired whether or not this development will have sidewalks, because the City of Bismarck required her to install sidewalks.

Mr. Tomanek explained that sidewalks are found on the public right-of-way and since this will not be public property, it is not a requirement of the City. He went on to say that they will not receive City services such as snow removal or road maintenance, and that these maintenance activities will be paid by the homeowners association.

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 R10-Residential zoning district to the PUD-Planned Unit Development zoning district and the minor subdivision final plat for Madison Lane Addition and granting a waiver to allow the use of a private roadway. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL TO R5-RESIDENTIAL AND FINAL PLAT – SATTLER’S SUNRISE NINTH ADDITION

Chairman Yeager called for the public hearing for the zoning change from the A-Agricultural zoning district to the R5-Residential zoning district and the final plat for Sattler’s Sunrise Ninth Addition. The property is 94 lots in 5 blocks on 32.06 acres and is located in northeast Bismarck, one-half mile east of Centennial Road and north of East Century Avenue, east of the existing Sattler’s developments (part of Section 24, 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 Bismarck-Mandan Regional Future Land Use Plan, which identifies the area as urban residential.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include agricultural land to the east and developing single lots to the west.
3. 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.

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

1. All technical requirements for approval of the 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 Calgary Avenue as the east-west collector roadway through this section. Calgary Avenue is just north of the proposed boundary for this subdivision.
4. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include agricultural land to the east and developing single-family lots to the west.
5. The proposed subdivision would not adversely affect the adjacent properties.
6. The City and other agencies would be able to provide necessary public services, facilities, and programs to serve the development allowed by the proposed subdivision at the time the property is developed.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.

Mr. Tomanek said based on the above findings, staff recommends approval of the zoning change from the A-Agriculture zoning district to the R5-Residential zoning district for Lots 1-24, Block 1, Lots 1-28, Block 2, Lots 1-28, Block 3, 1-11, Block 4, and Lots 1-2, Block 5 and from the A-Agriculture zoning district to the P-Public zoning district for Lot 25, Block 1 and the final plat for Sattler's Sunrise Ninth Addition.

Chairman Yeager called for the public hearing for the zoning change from the A-Agriculture zoning district to the R5-Residential zoning district for Lots 1-24, Block 1, Lots 1-28, Block 2, Lots 1-28, Block 3, 1-11, Block 4, and Lots 1-2, Block 5 and from the A-Agriculture zoning district to the P-Public zoning district for Lot 25, Block 1 and the final plat for Sattler's Sunrise Ninth Addition.

Don Reuter said that he owns property adjacent to the proposed plat and does not have a problem with the development, but does have issues with where the roads will come out onto his property. He went on to say that the road location keeps changing.

Mr. Tomanek presented a copy of the Fringe Area Road Master Plan map for this area that outlines the projected street alignments, adding that it would be reasonable and preferred to see the road Mr. Reuter is referring to on the quarter line. He added that if Mr. Reuter and Mr. Sattler can collectively work out the development of this area and come to an agreement, the road could be put on the quarter line where it belongs.

Mr. Patience stated that something can be agreed upon after taking into consideration the City's design standards, topographic restrictions and the master plans. He said that he can meet with the Reuters and explain everything in detail.

Jeanne Reuter said she would like to have a meeting with the developer to see what the future plans are for this area.

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-Agriculture zoning district to the R5-Residential zoning district for Lots 1-24, Block 1, Lots 1-28, Block 2, Lots 1-28, Block 3, 1-11, Block 4, and Lots 1-2, Block 5 and from the A-Agriculture zoning district to the P-Public zoning district for Lot 25, Block 1 and the final plat for Sattler's Sunrise Ninth Addition. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION AND PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL TO RR-RESIDENTIAL AND RM10-RESIDENTIAL, FINAL PLAT – SOUTHBAY FOURTH ADDITION

Chairman Yeager called for the final consideration for the annexation and the public hearing for the zoning change from the A-Agricultural zoning district to the RR-Residential and RM10-Residential zoning districts and the final plat for SouthBay Fourth Addition. The property is 95 lots in 2 blocks on 21 acres and is located south of Burleigh Avenue between Calypso Drive and England Street (part of the NW¼ of Section 20, T138N-R80W/Lincoln Township).

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

1. The proposed zoning change is consistent with the Land Use Plan, which identifies this area as urban residential (Bismarck-Mandan Regional Future Land Use Plan).
2. The proposed subdivision would be compatible with adjacent land uses, provided required landscape buffers are installed between the townhomes and the surrounding

single-family residential. Adjacent land uses include single-family residential to the east and south, rural residential to the west and P-zoned land to the north across Burleigh Avenue.

3. The multi-family portion of the proposed subdivision would be annexed prior to development; therefore, the 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 then listed the following findings for the plat:

1. All technical requirements for approval of a final plat have been met.
2. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for this area, which identifies Burleigh Avenue as an arterial roadway.
3. The proposed subdivision would be compatible with adjacent land uses, provided required landscape buffers are installed between the townhomes and the surrounding single-family residential. Adjacent land uses include single-family residential to the east and south, rural residential to the west and P-zoned land to the north across Burleigh Avenue.
4. The storm water management plan has been approved by the City Engineer.
5. The multi-family portion of the proposed 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 added that that one of the adjacent property owners, Cindy Anderson, submitted an email that is attached as Exhibit A.

Ms. Lee said based on the above findings, staff recommends approval of the annexation of all of SouthBay Fourth Addition, except Lot 1, Block 1, the zoning change from the A-Agricultural zoning district to the RR-Residential and RM10-Residential zoning districts and the final plat for SouthBay Fourth Addition, granting a waiver to allow the use of private roadways, and with the understanding that any further subdivision of Lot 1, Block 1 (the RR lot) will require annexation of the entire lot.

Chairman Yeager called for the public hearing for the annexation of all of SouthBay Fourth Addition, except Lot 1, Block 1, the zoning change from the A-Agricultural zoning district to the RR-Residential and RM10-Residential zoning districts and the final plat for SouthBay Fourth Addition, granting a waiver to allow the use of private roadways, and with the understanding that any further subdivision of Lot 1, Block 1 (the RR lot) will require annexation of the entire lot.

Jack Neuman, representing Cindy Anderson, said she is not opposed to the annexation or zoning change, however she does not agree with RM10-Residential zoning because of the number of units that are allowed with that type of zoning.

Dave Patience said that with this type of zoning, the property will be required to have a 15 foot wide buffer yard along the perimeter because of the existing homes in the area. He added that the developer has a stock of mature pine trees that will be used for the buffer. Mr. Patience also commented that the way the units are organized, Ms. Anderson would only see three units in 600 feet and there are 30 to 40 feet in between the buildings.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Atkinson made a motion to approve the annexation of all of SouthBay Fourth Addition, except Lot 1, Block 1, the zoning change from the A-Agricultural zoning district to the RR-Residential and RM10-Residential zoning districts and the final plat for SouthBay Fourth Addition, granting a waiver to allow the use of private roadways, and with the understanding that any further subdivision of Lot 1, Block 1 (the RR lot) will require annexation of the entire lot. Commissioner Warford seconded the motion with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Warford and Yeager voting in favor and Commissioner Waldoch voting against. The motion passed 10 to 1.

FINAL CONSIDERATION – ANNEXATION AND PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL TO RT-RESIDENTIAL, FINAL PLAT AND SPECIAL USE PERMIT– LEGACY ADDITION

Chairman Yeager called for the final consideration for the annexation and the public hearing for the zoning change from the A-Agricultural zoning district to the RT-Residential zoning district, the final plat and a special use permit for Legacy Addition. The property is 2 lots in 1 block on 17.62 acres and is located along the west side of North Washington Street between Ash Coulee Drive and Medora Avenue (part of the SE¼ of Section 17, T139N-R80W/Hay Creek Township).

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

1. The City will be able to provide necessary public services to serve the property.
2. The proposed annexation will 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 listed the following findings for the zoning change:

1. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include undeveloped R5-Residential and RT-Residential zoned property to the north, undeveloped RT-Residential and RM-Residential zoned land to the south, the Horizon Middle School campus directly to the west and existing single-family and partially-developed single-family zoned lots along the east side of North Washington Street.
2. The proposed subdivision generally conforms with the US Highway 83 Future Land Use Plan, which identifies this area for institutional uses.
3. The zoning change would not place an undue burden on public services or 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 listed the following findings for the plat:

1. All technical requirements for approval of a final plat have been met.
2. The proposed subdivision would conform to the Fringe Area Road Master Plan for this section.
3. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include undeveloped R5 and RT-zoned property to the north, undeveloped RT and RM zoned land to the south, the Horizon Middle School campus directly to the west and developing single-family property along the east side of North Washington Street. The US Highway 83 Future Land Use Plan identifies this area for institutional uses.

4. The proposed subdivision would not place an undue burden on public services or facilities.
5. The final stormwater management plan has been approved by the City Engineer.
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 adopted plans, policies and accepted planning practice.

Mr. Tomanek then listed the following findings for the special use permit:

1. A church is allowed as a special use in the RT zoning district, provided specific conditions are met. The proposed church meets all five provisions outlined in Section 14-03-08(3)(f) of the City Code of Ordinances (Zoning). A copy of this section of the City Code is attached.
2. The use of the property for a religious facility is in harmony with the purpose and intent of the zoning ordinance and with the master plan of the City of Bismarck.
3. The use of the property for a religious facility would not adversely affect the health and safety of the public and the workers and residents of the area, nor will it be detrimental to the use or development of adjacent properties or the general neighborhood.
4. The use of the property for a religious facility would comply with all special regulations established by the zoning ordinance and the building code, as well as all special conditions necessary for the safety and welfare of the public.
5. The proposed subdivision 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 annexation, zoning change from the A-Agriculture zoning district to the RT-Residential zoning district, final plat and special use permit (Lot 1, Block 1) for Legacy Addition.

Chairman Yeager called for the public hearing for the zoning change from the A-Agriculture zoning district to the RT-Residential zoning district, the final plat and a special use permit (Lot 1, Block 1) for Legacy Addition, with the following condition: 1) Development of the site shall generally conform to the site plan submitted in conjunction with the request for the special use permit.

No public comment was received.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve the annexation, the zoning change from the A-Agriculture zoning district to the RT-Residential zoning district, the final plat of Legacy Addition and a special use permit to allow a religious facility on Lot 1, Block 1, with the following condition: 1) Development of the site shall generally conform to the site plan submitted in conjunction with the request for the special use permit. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM RM15-RESIDENTIAL TO RT-RESIDENTIAL AND P-PUBLIC – LOTS A & B OF LOT 1, BLOCK 1, EDGEWOOD VILLAGE FIRST ADDITION

Chairman Yeager called for the public hearing for the zoning change from the RM15-Residential zoning district to the RT-Residential and P-Public zoning districts for Lots A& B of Lot 1, Block 1, Edgewood Village First Addition. The property is 2 parcels in 1 block in one block on 218,494 square feet and is located in northeast Bismarck, along the east side of North 19th Street between Koch Drive and 43rd Avenue NE.

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

1. The proposed zoning change is outside the area identified in the City's Land Use Plan.
2. The proposed zoning change 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.
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 if the property is developed as offices and multi-family dwellings owned and operated by Pride, Inc. Any future development on Lot A would require the installation of a landscape buffer yard along the north property line; the plant material requirements for the buffer yard would be based on the Landscaping and Screening Ordinance in place during development.
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 RM15-Residential zoning district to the RT-Residential zoning district on Lot A of Lot 1, Block 1 and to the P-Public zoning district on Lot B of Lot 1, Block 1, Edgewood Village First Addition.

Chairman Yeager called for the public hearing for the zoning change from the RM15-Residential zoning district to the RT-Residential zoning district on Lot A of Lot 1, Block 1 and to the P-Public zoning district on Lot B of Lot 1, Block 1, Edgewood Village First Addition.

No public comment was received.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Juhala made a motion to approve the zoning change from the RM15-Residential zoning district to the RT-Residential zoning district on Lot A of Lot 1, Block 1 and to the P-Public zoning district on Lot B of Lot 1, Block 1, Edgewood Village First Addition. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 6:27 p.m. to meet again on April 25, 2012.

Respectfully submitted,

Kimberley Gaffrey
Recording Secretary

Wayne Yeager
Chairman

Kim Lee

Subject: FW: Planning and Zoning Commission Meeting Wed. March 28th / SouthBay 4th Addition

-----Original Message-----

From: Cindy Anderson

Sent: Tuesday, March 27, 2012 6:02 PM

To: cobplan@nd.gov

Subject: Planning and Zoning Commission Meeting Wed. March 28th / SouthBay 4th Addition

Attn: Kim Lee

City Planning and Zoning Commission

I am opposed to your rezoning the property directly to the west of my 12 acres and home to RM10 Residential.

I bought my home with the intention of quiet country living and suddenly it is being rezoned not only to residential but to RM10 with plans for multiple units up next to my yard. I don't have a problem with regular residential lots and I realize I can not dictate what another land owner decides to develop yet it seems unreasonable to me to expect me to accept the idea of so many units on so little land right next to me.

Some day when I am annexed into the city, I will probably need to also divide my property into single family lots but I wouldn't expect to put RM-10 zoning out in front of my home and up next to the beautiful homes and property of my neighbors to the east or to the west of me no matter how profitable that may look to me personally.

When you look at the homes that exist in this area, you will see that so far they stand on nice sized lots with ample green space. I don't feel that RM 10 zoning belongs in this area, back away from the main streets but should be a buffer in between the busy streets and the types of homes you will find in this neighborhood.

Thank you so much for your consideration in this matter.

Cindy Anderson
987 W Burleigh Ave.
Bismarck ND 58504