

**CITY PLANNING & ZONING COMMISSION**  
**MEETING MINUTES**  
**June 27, 2012**

The Bismarck Planning & Zoning Commission met on June 27, 2012, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Chairman Yeager presided.

Commissioners present were Mark Armstrong, Tom Atkinson, Mel Bullinger, Curt Juhala, Vernon Laning, Doug Lee, Mike Schwartz, Ken Selzler, John Warford and Wayne Yeager.

Commissioner Lisa Waldoch was absent.

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

Others present were Jill & Josh Yri, Dave Carlson, Cory Vatnsdal, Neil Delabarre, Connie Volk, Linda Aberle, Aaron Schommer, Jenelle Bortke, Larry Jechort, Barney Halldorson, Richard & Sarita Turman, Kelly Goebel, Leslie Boray, Bruce Jenkins, Joan Eckroth, Doug & Kristina Nelson, Christopher Michaels, Kelvin Williams, Steven Lee, Delrae Baumgartner, Jamie Thelen, Neil Fortier, Jeremy Bork, Jason Thorpe, Dale Gossett, Rochelle Schommer, Brady Boyd, Jerri Carlson, Matt Ragen, Justin & Rayetta Fettig, Doran & Tatum Hirschhorn, Jim & Pam McGinnis, Crystal Kraft, Carol & Clyde Thompson, Art Goldammer, Brenda Jechort, Brian & Nancy Haider, Dave Wetzel and Brad Hoines.

**INTRODUCTION OF NEW COMMUNITY DEVELOPMENT STAFF**

Mr. Hokenstad introduced Jenny Wollmuth, the new planner for the Planning Division.

**CONSIDERATIONS –**

- A. ZONING CHANGE AND PRELIMINARY PLAT – GARY NELSON ADDITION**
- B. LAND USE PLAN AMENDMENT, ZONING CHANGE AND PRELIMINARY PLAT – TRENTON ADDITION**
- C. ZONING CHANGE – LOT 5, BLOCK 1, LOTS 8-15, BLOCK 7 AND LOTS 1-6, BLOCK 8, CENTENNIAL PARK 4<sup>TH</sup> ADDITION**
- D. ZONING CHANGE – LOT B OF LOT 1, BLOCK 1, BARBIE’S NEIGHBORHOOD SUBDIVISION**
- E. ZONING CHANGE – LOT 9, BLOCK 16, SONNET HEIGHTS SUBDIVISION**

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

- A. A zoning change from the A–Agricultural zoning district to the R5–Residential and R10–Residential zoning districts and preliminary plat for Gary Nelson Addition. The

property is six lots in two blocks on 2.28 acres and is located in north Bismarck between Coleman Street and Normandy Street, approximately ¼ mile south of 43<sup>rd</sup> Avenue NE.

- B. A Land Use Plan amendment to extend the commercial land use designation between Trenton Drive and I-94 approximately 350 feet to the east to include the southern portion of what is now Tract 1 in the NW¼ of Section 25, T139N-R80W/Hay Creek Township; a zoning change from the A–Agricultural zoning district to the RM15–Residential, RT– Residential and Conditional CG–Commercial zoning districts; and a preliminary plat for Trenton Addition. The property is seven lots in three blocks on 25.11 acres and is located along an extension of Trenton Drive east of Centennial Road between I-94 and East Century Avenue.
- C. A zoning change from the R5–Residential, R10–Residential and RM30–Residential zoning districts to the R10–Residential, RM10–Residential and Conditional CG–Commercial zoning districts for Lot 5, Block 1, Lots 8-15, Block 7 and Lots 1-6, Block 8, Centennial Park 4<sup>th</sup> Addition. The property is 15 lots in three blocks on 5.94 acres and is located along both sides of Trenton Drive east of Centennial Road between I-94 and East Century Avenue.
- D. A zoning change from the CG–Commercial zoning district to the MA–Industrial zoning district for Lot B of Lot 1, Block 1, Barbie’s Neighborhood Subdivision. The property is part of a platted lot containing 2.00 acres and is located along the south side of County Highway 10 between 52<sup>nd</sup> Street NE and 66<sup>th</sup> Street NE.
- E. A zoning change from the R5–Residential zoning district to the R10–Residential zoning district for Lot 9, Block 16, Sonnet Heights Subdivision. The property is one lot containing 12,843 square feet and is located in the southwest quadrant of the intersection of Coleman Street and Bremner Avenue, along the west side of Coleman Street and the south side of Bremner Avenue.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Warford made a motion to approve Consent Agenda Items A, B, C, D and E, 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, Warford and Yeager voting in favor of the motion.

Commissioner Juhala arrived at 5:03p.m.

**FINAL CONSIDERATION – ANNEXATION  
PART OF EAGLE CREST 4<sup>TH</sup> ADDITION**

Chairman Yeager called for final consideration of the annexation of part of Eagle Crest 4<sup>th</sup> Addition. The property is 22 lots in four blocks containing 10.94 acres and is located west of Valley Drive along High Creek Road and Round Top Road.

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 added that with the annexation of Eagle Crest 5<sup>th</sup> Addition and this portion of Eagle Crest 4<sup>th</sup> Addition, there will continue to be a portion of Eagle Crest 4<sup>th</sup> Addition that is outside of the corporate limits but surrounded by the corporate limits.

Ms. Lee said based on the above findings, staff recommends approval of the annexation of Lots 6-7, Block 1, Lots 14-15, Block 2, Lots 1-11, Block 3 and Lots 8-15, Block 4, Eagle Crest 4<sup>th</sup> Addition. She added that staff further recommends that the remainder of Eagle Crest 4<sup>th</sup> Addition also be annexed (Lots 1-13, Block 2, Lots 2-7, Block 4 and Lots 1-4, Block 5).

Mr. Patience with Swenson, Hagen & Co. said that the owner, Jack Knutson, would like to hold off on annexing those 23 lots until next spring because Mr. Knutson said it will save him \$200.00 per lot in taxes. He added that it will save Mr. Knutson approximately \$5000 and this was the way the application was originally submitted.

Ms. Lee stated that staff would like to see that area annexed, but if it will be annexed in the next six months, staff has no objection to delaying the annexation of these lots.

**MOTION:** Based on the findings contained in the staff report, Commissioner Armstrong made a motion to approve the annexation of Lots 6-7, Block 1, Lots 14-15, Block 2, Lots 1-11, Block 3 and Lots 8-15, Block 4, Eagle Crest 4<sup>th</sup> Addition. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Warford and Yeager voting in favor of the motion.

## **FINAL CONSIDERATION – ANNEXATION PROMONTORY POINT V**

Chairman Yeager called for final consideration of the annexation of all of Promontory Point V. The property is 134 lots in 11 blocks on 70.73 acres and is located along the top of the plateau north of Burnt Board Drive, between River Road and Tyler Coulee.

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 said based on the above findings, staff recommends approval of the annexation of Lots 1-9, Block 1, Lots 1-10, Block 2, Lots 1-15, Block 3, Lots 1-19, Block 4, Lots 1-21, Block 5, Lots 1-10, Block 6, Lots 1-15, Block 7, Lot 1, Block 8, Lots 1-7, Block 9, Lots 1-15, Block 10 and Lots 1-12, Block 11, Promontory Point V.

Commissioner Schwartz asked if any land will be dedicated to the Bismarck Park & Recreation District for green space. Mr. Tomanek responded by saying he is unaware of any conversations between the developer and the Bismarck Parks & Recreation.

Dave Patience indicated that the developer would contact the Park Board during the development of this phase to see if the Bismarck Parks & Recreation District is interested in the green space he has reserved.

**MOTION:** Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the annexation of Lots 1-9, Block 1, Lots 1-10, Block 2, Lots 1-15, Block 3, Lots 1-19, Block 4, Lots 1-21, Block 5, Lots 1-10, Block 6, Lots 1-15, Block 7, Lot 1, Block 8, Lots 1-7, Block 9, Lots 1-15, Block 10 and Lots 1-12, Block 11, Promontory Point V. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Warford and Yeager voting in favor of the motion.

**FINAL CONSIDERATION – ANNEXATION  
PUBLIC HEARING – ZONING CHANGE (A, RM15, RM30 & MA TO R10 & RM30),  
FRINGE AREA ROAD MASTER PLAN AMENDMENT FOR SECTION 23, T139N-  
R80W/HAY CREEK TOWNSHIP AND FINAL PLAT  
EDGEWOOD VILLAGE SIXTH ADDITION**

Chairman Yeager called for final consideration of the annexation and the public hearing for the zoning change from the A – Agricultural, RM15 – Residential, RM30 – Residential and MA – Industrial zoning districts to the R10 – Residential and RM30 – Residential zoning districts; the Fringe Area Road Master Plan amendment to extend Calgary Avenue west of Nebraska Drive as an east-west collector to complete the east-west collector route for Section 23; and the final plat

for Edgewood Village Sixth Addition. The property is 59 lots in six blocks on 63.61 acres and is located in northeast Bismarck, north of East Century Avenue, between Colorado Drive and Centennial Road (part of the S½ of the NW¼ of Section 23, part of the N½ of the SW ¼ of Section 23, part of the SW ¼ of the NE ¼ of Section 23 and part of the E ½ of Section 22 T139N-R80W/Hay Creek Township).

Commissioner Atkinson recused himself from this agenda item.

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 then 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 single and two-family zoned property to the southwest, multi-family-zoned property to the south, industrially-zoned undeveloped property to the southeast and undeveloped property to the east and north. The undeveloped property to the east and north is included in the master plan and identified as future single, two and multi-family dwellings.
3. An annexation request has been submitted in conjunction with this request and the property would be annexed prior to development; therefore the proposed zoning change would not place an undue burden on public services.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.

6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek also listed the following findings for the Fringe Area Road Master Plan amendment:

1. The Fringe Area Road Master Plan was adopted by the Board of City Commissioners on September 9, 2003.
2. The City is initiating an amendment to the Fringe Area Road Master Plan for Section 23, Hay Creek Township, to add an extension of Calgary Avenue west of the Nebraska Drive as an east-west collector for this section. Calgary Avenue between North 19<sup>th</sup> Street and Nebraska Drive is classified as a collector on the Metropolitan Planning Organization's Functional Classification Network Map (2004).
3. The amendment will add an extension of Calgary Avenue west of Nebraska Drive as an east-west collector for this section in order to provide a continuous east-west collector.
4. The proposed subdivision (Edgewood Village Sixth Addition) would conform to the Fringe Area Road Master Plan as amended.
5. The Fringe Area Road Master Plan (FARMP) does not identify an east-west collector roadway between North 19<sup>th</sup> Street and Nebraska Drive in Sections 22 and 23/Hay Creek Township. The FARMP was amended in 2006 with Edgewood Village First Addition, and Calgary Avenue was adopted as the east-west collector roadway east of North 19<sup>th</sup> Street to the section line in Section 22. An amendment to the FARMP is necessary to identify the remaining portion of the east-west collector roadway in Section 23, Hay Creek Township. The proposed subdivision would conform to the FARMP as amended.

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

1. All technical requirements for approval of a final plat have been met.
2. The Fringe Area Road Master Plan (FARMP) does not identify an east-west collector roadway between North 19<sup>th</sup> Street and Nebraska Drive in Sections 22 and 23/Hay Creek Township. The FARMP was amended in 2006 with Edgewood Village First Addition, and Calgary Avenue was adopted as the east-west collector roadway east of North 19<sup>th</sup> Street to the section line in Section 22. An amendment to the FARMP is necessary to identify the remaining portion of the east-west collector roadway in Section 23, Hay Creek Township. The proposed subdivision would conform to the FARMP as amended.
3. The storm water management plan has been approved by the City Engineer.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single and two-family zoned property to the southwest, multi-family-zoned

property to the south, industrially zoned property to the southeast and undeveloped property to the east and north. The undeveloped property to the east and north is included in the master plan and identified as future single, two and multi-family dwellings.

5. An annexation request has been submitted in conjunction with this request and the property would be annexed prior to development; therefore the proposed subdivision would not place an undue burden on public services.
6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. 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; the zoning change from the A–Agriculture, RM15–Residential, RM30–Residential and MA–Industrial zoning districts to the R10–Residential and RM30–Residential zoning districts, the Fringe Area Road Master Plan amendment for Section 23, T139N-R80W/Hay Creek Township (Map 9), to extend the east-west collector (Calgary Avenue) west of Nebraska Drive to the section line; and the final plat, including granting waivers to allow the use of a cul-de-sac and to exceed the maximum block length, for Edgewood Village Sixth Addition.

Chairman Yeager opened the public hearing for the zoning change, Fringe Area Road Master Plan amendment and final plat for Edgewood Village Sixth Addition.

There was no public comment.

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, RM15–Residential, RM30–Residential and MA–Industrial zoning districts to the R10–Residential and RM30–Residential zoning district, the Fringe Area Road Master Plan amendment for Section 23, T139N-R80W/Hay Creek Township (Map 9), to extend the east-west collector (Calgary Avenue) west of Nebraska Drive to the section line; and the final plat, including granting waivers to allow the use of a cul-de-sac and to exceed the maximum block length, for Edgewood Village Sixth Addition. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

Commissioner Atkinson returned to the Commission.

**FINAL CONSIDERATION – ANNEXATION  
PUBLIC HEARING – FINAL PLAT  
EXPRESSWAY INDUSTRIAL PARK**

Chairman Yeager called for final consideration of the annexation and the public hearing for the final plat for Expressway Industrial Park. The property is 15 lots in two blocks on 43.38 acres and is located on either side of Yegen Road, between Apple Creek Road and the BNSF railway line in southeast Bismarck (Tracts 910A and 910B, part of the SE¼ of Section 2, part of the NE¼ of Section 11 and part of the NW¼ of Section 12, 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 final plat:

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision generally conforms to the Fringe Area Road Master Plan, which identifies Yegen Road and Apple Creek Road as arterial roadways.
4. The proposed subdivision would be generally compatible with adjacent land uses. Adjacent land uses include industrial uses to the northwest, west, and south, undeveloped land to the east, and the Missouri Valley Complex to the northeast.
5. The City and other agencies would be able to provide necessary public services and facilities to serve the development allowed by the proposed subdivision at the time the property is developed; therefore, it would not place an undue burden on public services and facilities.
6. The proposed subdivision would not adversely affect the adjacent properties.
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 annexation of that portion of the plat not previously annexed and the final plat for Expressway Industrial Park, including granting waivers to exceed the maximum block length and to allow the use of a cul-de-sac.

Chairman Yeager opened the public hearing for the final plat for Expressway Industrial Park.

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 annexation of that portion of the plat not previously annexed and the final plat for Expressway Industrial Park, including granting waivers to exceed the maximum block length and to allow the use of a cul-de-sac. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE (R5 & RT TO R5)  
LOT 10, BLOCK 11 AND THE NORTH 3 FEET OF LOT 6 AND THE VACATED  
OWENS AVENUE (AVENUE N) ADJACENT, BLOCK 12, JENNING 2<sup>ND</sup> ADDITION**

Chairman Yeager called for the public hearing for the zoning change from the R5–Residential and RT–Residential zoning districts to the R5–Residential zoning district for Lot 10, Block 11 and the North 3 feet of Lot 6 and the vacated Owens Avenue (Avenue N) adjacent, Block 12, Jennings 2<sup>nd</sup> Addition. The property is two parcels containing 16,236 square feet and is located along both sides of North 8<sup>th</sup> Street, north of East Divide Avenue.

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

1. This area developed in the 1950s and 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 south and single-family residential to the north, east and west.
3. The property is already developed; 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 said based on the above findings, staff recommends approval of the of the City-initiated zoning change from the R5–Residential and RT–Residential zoning districts to the R5–Residential zoning district on Lot 10, Block 11 and the North 3 feet of Lot 6 and the vacated Owens Avenue (Avenue N) adjacent, Block 12, Jennings Second Addition.

Chairman Yeager called for the public hearing for the City-initiated zoning change from the R5–Residential and RT–Residential zoning districts to the R5–Residential zoning district on Lot 10, Block 11 and the North 3 feet of Lot 6 and the vacated Owens Avenue (Avenue N) adjacent, Block 12, Jennings Second Addition.

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 City-initiated zoning change from the R5–Residential and RT–Residential zoning districts to the R5–Residential zoning district for Lot 10, Block 11 and the North 3 feet of Lot 6 and the vacated Owens Avenue (Avenue N) adjacent, Block 12, Jennings Second Addition. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE (RM30 TO R10)  
LOTS 1-6, BLOCK 1, IMPERIAL VALLEY SUBDIVISION**

Chairman Yeager called for the public hearing for the zoning change from the RM30 – Residential zoning district to the R5–Residential zoning district for Lots 1-6, Block 1, Imperial Valley Subdivision. The property includes six lots on 5.41 acres and is located along Princeton Avenue at the intersection of Burleigh Avenue and South 12<sup>th</sup> Street.

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

1. The proposed zoning change would be generally consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (South 12th Street Watershed Storm Water Management and Land Use Master Plan).

2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include one and two-family residential to the south, undeveloped RM30-zoned property to the east, and agricultural land to the north and west.
3. The proposed zoning change will not place an undue burden on public services, provided utilities and roadway improvements are in place prior to development.
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 said based on the above findings, staff recommends approval of the of the zoning change from the RM30–Residential zoning district to the R10–Residential zoning district for Lots 1-6, Block 1, Imperial Valley Subdivision.

Chairman Yeager called for the public hearing for the zoning change from the RM30–Residential zoning district to the R10–Residential zoning district for Lots 1-6, Block 1, Imperial Valley Subdivision.

Joe Heimann said he lives in Imperial Valley and is concerned about the access to this development and wants to make sure a road will be put in. Ms. Lee responded by saying that it is her understanding that prior to any development, an approach permit does need to be issued by the County Engineer since it is outside corporate limits. She added that the roadway would need to be improved in order to serve the lots as they are developed.

Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Armstrong made a motion to approve the zoning change from the RM30–Residential zoning district to the R10–Residential zoning district for Lots 1-6, Block 1, Imperial Valley Subdivision. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Selzler, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – LAND USE PLAN AMENDMENT FOR THE E½ OF SECTION 17 AND ZONING CHANGE (CONDITIONAL RT TO PUD)  
LOT 1, BLOCK 1, GOOD SHEPHERD NORTH ADDITION**

Chairman Yeager called for the public hearing for the Land Use Plan amendment to extend the mixed-use land use classification approximately 1,635 feet to the south in part of the E½ of Section 17, T139N-R80W/Hay Creek Township (south to the southern edge of Good Shepherd

North Addition) and the zoning change from the Conditional RT–Residential zoning district to the PUD–Planned Unit Development zoning district. The property is one lot containing 18.178 acres and is located along the west side of North Washington Street and the north side of Medora Avenue.

Mr. Tomanek provided an overview of the request and listed the following findings for the Land Use Plan amendment:

1. The proposed change in the Land Use Plan would be compatible with adjacent land uses; adjacent land uses include single-family dwellings to the west and undeveloped land to the north, east and south.
2. The proposed Land Use Plan amendment reflects a change to the current condition since the Land Use Plan was established; in particular, the church facility is now vacant and under private ownership. The amendment would allow an adaptive reuse of the facility.
3. The property is already annexed; therefore, the City would be able to provide necessary public services, facilities or programs to serve the development.
4. The proposed Land Use Plan amendment would not adversely affect property in the vicinity.
5. The proposed Land Use Plan amendment is consistent with other aspects of the master plan, other adopted plans, policies or planning practice.

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

1. The proposed zoning change is not completely consistent with the future land use component of the US Highway 83 Corridor Transportation Study (Study), which identifies the area as institutional and residential. The proposed zoning change would be consistent with the Study as amended.
2. The proposed zoning change may not be completely compatible with adjacent land uses. Adjacent land uses include single-family dwellings adjacent to a portion of the site along the west and agricultural land to the north, south and east. However, a landscape buffer yard would be required along the entire western property line of Lot 1, Block 1, Good Shepherd North Addition. The buffer yard plant types and quantities would need to be installed in conjunction with site development and are outlined in the attached draft PUD ordinance.
3. The property is already annexed; therefore proposed zoning change would not place an undue burden on public services.
4. The proposed zoning change may adversely affect property in the vicinity. In particular; multi-family land uses are not typically directly adjacent to single-family dwellings. However, through the use of vegetative buffer yards, screening and significant separation

between the apartments and the existing single-family dwellings, the impact of the proposed apartments would be mitigated.

5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations. In particular, multi-family dwellings, commercial uses and developments that have the sizeable structures, large numbers of dwelling units and potential to generate large volumes of traffic, are generally compatible with arterial roadways such as North Washington Street.
6. The proposed zoning change is not completely consistent with the master plan, other adopted plans, policies and accepted planning practice. In particular, the existing land use plan identifies this area for institutional and residential uses; however the zoning change would be consistent with the adoption of the proposed Land Use Plan amendment that would extend the mixed-use land use classification approximately 1,635 feet to the south in part of the E½ of the section (south to the southern edge of Good Shepherd North Addition).

Mr. Tomanek said based on the above findings, staff recommends approval of the Land Use Plan amendment to extend the mixed-use land use classification approximately 1,635 feet to the south in part of the E½ of Section 17, T139N-R80W/Hay Creek Township (south to the southern edge of Good Shepherd North Addition) and the zoning change from the Conditional RT–Residential zoning district to the PUD–Planned Unit Development zoning district as outlined in the PUD ordinance included with the staff report.

Mr. Tomanek read a letter in support of the zoning change and Land Use Plan amendment, attached as Exhibit A.

Commissioner Laning questioned what heights the buffer yard will be for the proposed property. Mr. Tomanek responded by saying the buffer yard would be varying heights, as outlined in Item 4d. of the PUD-Planned Unit Development ordinance.

Commissioner Atkinson asked for clarification about the current land use allowing for a two-story building and the proposed PUD-Planned Unit Development ordinance is allowing for a three-story building. Mr. Tomanek explained that the representatives from the Sand Companies would like to build three-story buildings and that is one of the reasons for the request because from a design perspective it is much easier to go up than out, while still meeting the height requirement of 50 feet. Mr. Tomanek added that the proposed density is much less with the proposed three-story units, than it could be if someone came in and proposed two-story buildings with greater density.

Chairman Yeager called for the public hearing on the Land Use Plan amendment and zoning change for Lot 1, Block 1, Good Shepherd North Addition.

Jamie Thelen with Sand Companies indicated that they have been looking in Bismarck for a multi-family site for over a year and think the proposed site would be a good candidate for what they are proposing. He went on to say that their goal is to build three stories above grade and

below grade parking to make it more compact. Mr. Thelen said that Sand Companies wants to set itself apart with this type of development and has developed over 1700 similar units in other communities already.

Jeremy Bork, with Sand Companies, pointed out that their market studies show that people want larger units and this could be accomplished with this type of building. He stated that since this is a multi-family unit, they would rather have more green space. Mr. Bork said the plan includes outdoor picnic areas and utilization of the existing gymnasium as an activity center for the residents and opening it up to the community. He concluded by saying with this product, it is only at 19% lot coverage and the setbacks have been increased.

Commissioner Atkinson asked if they have built anywhere else in North Dakota. Mr. Bork answered by saying no, this would be the first. The closest development would be in St. Michael, Minnesota.

Commissioner Lee wanted to know the timeline of the phased development. Mr. Bork said the overall completion date would be approximately 2.5 years.

Jill Yri, a nearby resident, said she is opposed to the development of a three-story apartment building and collected 171 signatures of adjacent property owners that have concerns regarding the proposed apartments located on the site currently occupied by the north campus of Good Shepherd Lutheran Church. She went on to say that the concerns are with the schools, safety, views, property values and traffic.

Dave Carlson, an adjacent property owner, said their school district would be affected by the addition of a 288 unit apartment complex. He stated that currently the Bismarck school system is over loaded with portables at several of the schools. Mr. Carlson said that 13 of the 16 elementary schools are at or over capacity.

Jill Yri stated that another concern is the views that will be blocked from the residents of Horizon Heights Second Addition.

Dave Carlson said that residents in the Horizon Heights and Boulder Ridge feel the property values would drop as a result of the proposed apartment building.

Jill Yri indicated that another concern is noise and the buffer yard. She said that it will take a long time for the buffer zone to really do anything for noise and views and act as a buffer zone. Dave Carlson added that many homes would have an apartment building less than 50 feet away from their property line and this would diminish the sense of security and privacy. He said that in a normal residential neighborhood, condos or twin homes would be between single-family homes and an apartment building, which is not the case with this proposed apartment building.

Jill Yri stated that another concern is light pollution.

Dave Carlson added that another concern is the increased traffic this development would cause and as of January 2012, between the hours of 6:00 a.m. and 10:00 p.m., there are over 10,000

vehicles counted at the intersection of Washington Street and 43<sup>rd</sup> Avenue. He further explained that he estimated with the 288 unit apartment building, this would increase the amount of traffic by 2,500 cars per day.

Jill Yri concluded by saying that she is against the proposed zoning change and Land Use Plan amendment.

Jim McGinnis, an adjacent property owner, said whether or not this proposal is approved, the traffic issue needs to be addressed on North Washington Street by the entrance to the church.

Rochelle Schommer, a nearby resident, indicated that her biggest issues are with the privacy, the decrease in property values and the buffer zone.

Corrine Vatsndal, who lives Horizon Heights, explained that she used to live in Minot and the exact same thing happened there where a three-story apartment building was built next to single-family residential. She said that it looks horrible, the property values dropped, the school was greatly impacted, the traffic increased, the buffer yard was a joke and the quality is just not there.

Justin Fettig, an adjacent property owner, stated that his concern is with the Sand Companies. While he was at the neighborhood meeting he was told that the Sand Companies manage all the properties that they have built, but he has found out that of the 71 properties, they only manage 31. Mr. Fettig is concerned that the Sand Companies are an investment company and what could happen ten years down the road.

Stacy Dubel, a resident of Horizon Heights, said she is concerned with the increase in traffic and recommends that only two-story buildings be allowed.

Neil Delabarre, a nearby resident, said that he has issues with three-story building, the amount of units, the underground parking and his emotions are "no".

Rance Schmidt, an adjacent property owner, suggested that if the Sand Companies really want to develop three-story apartment buildings, then they should look at all the other land that Ron Knutson owns that would be more appropriate and not have any negative impacts on neighboring residential properties.

Bruce Jenkins lives in Horizon Heights and he has an issue with the impact this will have on his property values.

Chairman Yeager closed the public hearing.

There was a brief discussion amongst the Commissioners and staff regarding the uses allowed under the current ordinance.

**MOTION:** Based on the findings contained in the staff report and the testimony received at the meeting, Commissioner Lee made a motion to deny the request for the Land Use Plan amendment to extend the mixed-use land use classification

approximately 1,635 feet to the south in part of the E½ of Section 17, T139N-R80W/Hay Creek Township (south to the southern edge of Good Shepherd North Addition) and the zoning change from the Conditional RT–Residential zoning district to the PUD–Planned Unit Development zoning district as outlined in the PUD ordinance included with the staff report. Commissioner Laning seconded the motion. Commissioners Juhala, Laning, Lee, Schwartz, Selzler, Warford and Yeager voted in favor of the motion. Commissioners Armstrong, Atkinson and Bullinger voted against the motion. The motion passed 7 to 3.

**PUBLIC HEARING – SPECIAL USE PERMIT (MOVE HOUSE)  
LOT 4, BLOCK 3, HIGH PLAINS COUNTRY ESTATES**

Chairman Yeager called for the public hearing for a special use permit to move a house from south Bismarck to be occupied as a single family residence on Lot 4, Block 3, High Plains Country Estates. The property is one lot containing 85,260 square feet and is located on the east side of High Plains Drive approximately ½ mile south of Burleigh Avenue.

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

1. The proposed house relocation would meet the provisions of 14-03-08(3)(r) of the City Code of Ordinances.
2. The proposed house relocation is a permitted use and will comply with all requirements of the RR – Residential zoning district.
3. The house to be moved and proposed use of the property would be compatible with the neighborhood.
4. The request is compatible with adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on the above findings, staff recommends approval of the special use permit to move a house onto Lot 3, Block 4, High Plains Country Estates.

Chairman Yeager called for the public hearing on the special use permit to move a house to Lot 4, Block 3, High Plains Country Estates.

No public comment was received.

Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff report, Commissioner Armstrong made a motion to move a house onto Lot 3, Block 4, High Plains Country Estates. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Juhala, Laning, Lee, Schwartz, Sander, Selzler, Warford and Yeager voting in favor of the motion.

## **OTHER BUSINESS**

Ms. Lee informed the City Planning & Zoning Commission that staff is working on amendments to the Urban Service Area Boundary (USAB), which will be presented at a later meeting.

## **ADJOURNMENT**

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 6:47 p.m. to meet again on July 25, 2012.

Respectfully submitted,

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Kimberley Gaffrey  
Recording Secretary

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Wayne Lee Yeager  
Chairman

re: Proposed Zoning change  
Good Shepard North Campus

6-27-12

After looking at the proposal  
and request for rezoning I  
can only support the efforts of  
the Developer

Clayton A. Geyde  
Clayton Geyde

250 NW 57 Ave

Bismarck ND 58503

EXHIBIT A