

**CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
July 25, 2012**

The Bismarck Planning & Zoning Commission met on July 25, 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 Tom Atkinson, Mel Bullinger, Curt Juhala, Vernon Laning, Mike Schwartz, Ken Selzler, Lisa Waldoch and Wayne Yeager.

Commissioners Mark Armstrong and John Warford were absent.

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

Others present were Dave Patience, Harley Swenson, Renae & John Craven, Richard Sander, Jon & Myrna Hauck, Joan Millner, Harvey Schneider, Art Goldammer, Ken Nysether and LeAnn Eckroth.

CONSIDERATIONS –

- A. ZONING CHANGE AND PRELIMINARY PLAT – HARVEST RIDGE SUBDIVISION**
- B. FRINGE AREA ROAD MASTER PLAN AMENDMENT, ZONING CHANGE AND PRELIMINARY PLAT – WHISPERING RIDGE 1ST SUBDIVISION**
- C. ZONING CHANGE – PART OF LOT 7, BLOCK 1, SONNET HEIGHTS SUBDIVISION 1ST REPLAT**

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

- A. A zoning change from the A–Agricultural zoning district to the RR–Residential zoning district and preliminary plat for Harvest Ridge Subdivision. The property is 30 lots in 4 blocks containing 68.3 acres and is located along the east side of North Washington Street, north of 90th Avenue and approximately ½ mile west of US Highway 83 (part of the NW¼ of Section 33, T140N-R80W Burnt Creek Township).
- B. A Fringe Area Road Master Plan amendment to eliminate Bridger Drive as a collector in Section 6, Hay Creek Township; a zoning change from the A–Agricultural zoning district to the RR–Residential zoning district; and preliminary plat for Whispering Ridge 1st Subdivision. The property is 49 lots in 6 blocks containing 110.83 acres and is located along the north side of an extension of Burnt Creek Drive at the intersection with the future 28th Street NW (part of Auditor’s Lot “A” of the NE¼ of Section 1, T139N-R81W/West Hay Creek Township and part of Government Lots 3 & 4 and the SE¼ of the NW¼ of Section 6, T139-R80W/Hay Creek Township).

- C. A zoning change from the RM30–Residential zoning district to the R10–Residential zoning district for the East 5 feet of Lot 7, Block 1, Sonnet Heights Subdivision 1st Replat. The property is part of one lot containing 604 square feet and is located along the south side of Calvert Street, between Normandy Street and Superior Drive, approximately ¼ of a mile west of US Highway 83.

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

FINAL CONSIDERATION – ANNEXATION LOT 2, BLOCK 1, KMK ESTATES

Chairman Yeager called for final consideration of the annexation of Lot 2, Block 1, KMK Estates. The property is one lot containing 4.36 acres and is located along the north side of Colt Avenue west of North Washington Street.

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, as the property is already 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 the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee said based on the above findings, staff recommends approval of the annexation of Lot 2, Block 1, KMK Estates, along with the north half of the adjacent Colt Avenue.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the annexation of Lot 2, Block 1, KMK Estates, along with the north half of the adjacent Colt Avenue. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Juhala, Laning, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT – MEADOWLARK
COMMERCIAL 5TH ADDITION REPLAT**

Chairman Yeager called for the public hearing for the minor subdivision final plat for Meadowlark Commercial Fifth Addition Replat. The property is 6 lots in 1 block containing 12.08 acres and is located in north Bismarck along the north side of 43rd Avenue NE approximately ¼ mile east of US Highway 83 (a replat of Lots 1-7, Block 1, Meadowlark Commercial 5th Addition in part of the SW¼ of Section 15, T139N-R80W/Hay Creek Township).

Mr. Tomanek provided an overview of the request and listed the following findings for the minor subdivision final plat:

1. The proposed plat meets the criteria for a minor subdivision final plat.
2. The technical requirements for approval of a minor subdivision final plat have been met.
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 surrounding the proposed subdivision include partially developed commercial property.
5. The property is already annexed; therefore, the proposed subdivision will not place an undue burden on public services.
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on the above findings, staff recommends approval of the minor subdivision final plat of Meadowlark Commercial Fifth Addition Replat.

Chairman Yeager called for the public hearing for the final plat of minor subdivision final plat of Meadowlark Commercial Fifth Addition Replat.

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Schwartz made a motion to approve the minor subdivision final plat of Meadowlark Commercial Fifth Addition Replat. Commissioner Atkinson seconded the motion and it was

unanimously approved with Commissioners Atkinson, Bullinger, Juhala, Laning, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – RURAL RESIDENTIAL LOT SPLIT – LOT 1, BLOCK 1, CRAVEN SUBDIVISION

Chairman Yeager called for the public hearing for the rural residential lot split for Lot 1, Block 1, Craven Subdivision. The property is located along the east side of 66th Street SE, between County Highway 10 and Apple Creek Road (529 66th Street SE).

Ms. Lee provided an overview of the request and listed the following findings for the rural residential lot split:

1. All technical requirements for approval of a rural residential lot split have been met.
2. The resulting parcels will meet the minimum lot width (150 feet), depth (200 feet) and area requirements (65,000 square feet) for the RR – Residential zoning district.
3. The proposed rural residential lot split will not be detrimental to the use or development of adjacent properties.
4. The proposed rural residential lot split will not place an undue burden on existing public services and facilities, provided access for the two new parcels is a shared access on 66th Street SE.
5. The proposed rural residential lot split 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 rural residential lot split for Lot 1, Block 1, Craven Subdivision into two parcels, a western parcel of 2.00 acres and an eastern parcel of 12.64 acres, with the understanding that a plat of irregular description will be prepared as required by the Burleigh County Auditor. The lot split will not be effective until the required plat of irregular description is recorded with the Burleigh County Recorder.

Chairman Yeager opened the public hearing for the rural residential lot split for Lot 1, Block 1, Craven Subdivision.

There was no public comment

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Selzler made a motion to approve the rural residential lot split for Lot 1, Block 1, Craven Subdivision into two parcels, a western parcel of 2.00 acres and an eastern parcel of 12.64 acres, with the understanding that a plat of irregular description will be prepared as required by the Burleigh County Auditor. The lot split will not be

effective until the required plat of irregular description is recorded with the Burleigh County Recorder. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Juhala, Laning, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE (R5 TO R10)
LOT 9, BLOCK 16, SONNET HEIGHTS SUBDIVISION**

Chairman Yeager called for the public hearing for the 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 in one block 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.

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

1. This area is identified in the Land Use portion of the US Highway 83 Transportation and Corridor Study as residential.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the west and north, single and two-family residential to the east, and partially developed RT-zoned land 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.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on the above findings, staff recommends approval of the zoning change from the R5–Residential zoning district to the R10–Residential zoning district on Lot 9, Block 16, Sonnet Heights Subdivision.

Chairman Yeager called for the public hearing for the zoning change from the R5–Residential zoning district to the R10–Residential zoning district on Lot 9, Block 16, Sonnet Heights Subdivision.

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 R5–Residential zoning district to the R10–Residential zoning district on Lot 9, Block 16, Sonnet Heights Subdivision. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Juhala, Laning, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT (MOVE QUONSET)
LOT B OF LOT 7, BLOCK 2, PEBBLE CREEK 8TH ADDITION**

Chairman Yeager called for the public hearing for a special use permit to move an existing quonset from rural lot northeast of Bismarck onto an industrial lot in northeast Bismarck on Lot B of Lot 7, Block 2, Pebble Creek 8th Addition. The property is one lot containing 447,026 square feet and is located on the west side of Hamilton Street north of East Century Avenue.

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

1. The proposed quonset relocation would meet the provisions of Section 14-03-08(3)(r) of the City Code of Ordinances.
2. The proposed quonset relocation will comply with all requirements of the MA - Industrial zoning district.
3. The quonset to be moved and the proposed use of the property would be compatible with the neighborhood, the site currently functions as a light industrial land use.
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 an existing quonset from rural lot northeast of Bismarck onto an industrial lot in northeast Bismarck on Lot B of Lot 7, Block 2, Pebble Creek 8th Addition, with the following conditions: 1) Development of the site must generally conform to the site plan submitted with the application of a special use permit; 2) Prior to moving the quonset, a detailed site plan must be submitted and approved through the City’s formal site plan review and approval process; 3) A permit to move the quonset must be obtained from the Building Official prior to moving the structure; and 4) The building must be inspected and a Certificate of Occupancy issued prior to use of the building in the new location.

Chairman Yeager called for the public hearing on the special use permit to move an existing quonset from rural lot northeast of Bismarck onto an industrial lot in northeast Bismarck on Lot B of Lot 7, Block 2, Pebble Creek 8th 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 special use permit to allow the move of an existing quonset from rural lot northeast of Bismarck onto an industrial lot in northeast Bismarck on Lot B of Lot 7, Block 2, Pebble Creek 8th Addition, with the following conditions: 1) Development of the site must generally conform to the site plan submitted with the application of a special use permit; 2) Prior to moving the quonset, a detailed site plan must be submitted and approved through the City's formal site plan review and approval process; 3) A permit to move the Quonset must be obtained from the Building Official prior to moving the structure; and 4) The building must be inspected and a Certificate of Occupancy issued prior to use of the building in the new location. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Juhala, Laning, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – SITE PLAN & BUILDING ELEVATION REVIEW LOTS 5 & 6, BLOCK 1, HAMILTON'S FIRST ADDITION

Chairman Yeager called for the public hearing for a site plan & building elevation review on Lots 5 & 6, Block 1, Hamilton's First Addition. The property is two lots in one block containing 4.9 acres and is located in northeast Bismarck along the east side of Hamilton Street approximately ¼ mile north of East Century Avenue.

Mr. Tomanek provided an overview of the request and listed the following findings for the site plan & building elevation review:

1. The proposed site plan, building elevations, building materials and colors have been submitted. The proposed building materials include pre-finished, non-corrugated metal architectural panels and a stucco-like material for the exterior. The roof material proposed is also non-corrugated metal panels.
2. A three-part color scheme is proposed for the exterior building colors. The colors include MS Colorfast 45 Paint System labeled as *Light Stone*, *Burnished Slate* and *Bright White*. The *Light Stone* color is proposed as the primary building color, the *Burnished Slate* color would be a 3-foot high wainscot band around the entire building and the *Bright White* color would be the accent color.
3. The 50-foot wide, 6-foot high berm has been partially constructed. However, as of July 19, 2012, the topsoil had not re-applied and none of the required vegetation was installed. The general shape and location of the berm is acceptable; in particular, the berm extends north-south along the entire east property line of Hamilton's First Addition and generally conforms to the previously-approved design submitted in conjunction with the plat and zoning change request from 2009. In contrast to the ordinance, the construction of the required berm did not commence until recently. The owners and the City of Bismarck

Engineering Department worked collectively to utilize soil removed from a regional storm water pond that is currently under construction on Lot 7, Block 1, Hamilton First Addition. The ordinance required that, “*The entire landscape buffer yard shall be installed within one (1) year of the subdivision plat being recorded, and shall include a berm no less than six (6) feet in height and be planted with a minimum of four (4) shade trees, three (3) ornamental trees, five (5) large upright coniferous trees and ten (10) small upright coniferous trees per one hundred (100) linear feet.*” The landscape buffer yard for Hamilton’s First Addition will need to be installed prior to any building permits being issued for this project.

4. The proposed parking meets the requirements of Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and indicated uses. The site plan application indicates that the uses proposed for the shop/storage condos would be storage units. The off-street parking requirement for warehouse and storage facilities is one space for every 600 square feet of gross floor area. Any change in use or occupancy from storage or warehouse facilities uses would require additional parking at the required ratio for the occupancy served.
5. The required steps were not taken to appropriately notify adjacent property owners within 300-feet of the proposed development, in particular, the letter indicating the notice of the time and place of the public hearing was advertised in the official newspaper of the City of Bismarck once per week for two (2) consecutive weeks prior to the date the hearing; however, all known property owners within three hundred (300) feet of the plat of Hamilton’s First Addition shall be given written notice not less than ten (10) days prior to the date of the public hearing. The necessary letters were mailed on July 20, 2012.

Mr. Tomanek said based on the above findings, staff recommends continuing the public hearing until a special meeting of the City Planning & Zoning Commission on Wednesday, August 1, 2012 to allow sufficient time for the adjacent property owners to receive the notification of the proposed shop/storage condo development, and with the understanding that staff has concerns regarding the completion of the required berm and the lack of buffer yard plant materials and will be recommending the applicants provide a date-certain relating to the completion of the berm and complete installation of the required buffer yard plantings. The required buffer yard for the entire subdivision, including the berm and plantings, must be installed prior to a building permit being issued for these lots.

Chairman Yeager called for the public hearing on the site plan & building elevation review on Lots 5 & 6, Block 1, Hamilton’s First Addition.

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 continue the public hearing until a special City Planning & Zoning Commission meeting on Wednesday, August 1, 2012 to allow sufficient time for

the adjacent property owners to receive the notification of the proposed shop/storage condo development, with the understanding that staff has concerns regarding the completion of the required berm and the lack of buffer yard plant materials and will be recommending the applicants provide a date-certain relating to the completion of the berm and complete installation of the required buffer yard plantings. The required buffer yard for the entire subdivision, including the berm and plantings, must be installed prior to a building permit being issued for these lots. Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Juhala, Laning, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

OTHER BUSINESS

Ms. Lee presented the proposed amendments to the Urban Service Area Boundary (USAB) to the City Planning & Zoning Commission.

MOTION: Based on the presentation, Commissioner Laning made a motion approve the proposed amendments to the Urban Service Area Boundary (USAB). Commissioner Juhala seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Laning, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

Harley Swenson made a presentation to the City Planning & Zoning Commission requesting their support so he can build storage units on his land located in Centennial Park Fourth Addition.

ADJOURNMENT

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:44 p.m. to meet again on August 22, 2012.

Respectfully submitted,

Kimberley Tomanek
Recording Secretary

Wayne Lee Yeager
Chairman