

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

The Bismarck Planning & Zoning Commission met on November 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, Vernon Laning, Ken Selzler, Lisa Waldoch, John Warford and Wayne Yeager.

Commissioners Curt Juhala, Doug Lee and Mike Schwartz were absent

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

Others present were Randy Bakke, Dave Patience, Herman Kesterke, Ryan Nelson, Kyle Holwager, Joan Millner and Dan Waldoch.

MINUTES

Chairman Yeager called for consideration of the minutes of the October 24, 2012 meeting.

MOTION: Commissioner Wardord made a motion to approve the minutes of the October 24, 2012 meeting as distributed. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

CONSIDERATIONS –

- A. ZONING CHANGE AND PRELIMINARY PLAT – BREI ESTATES FIRST ADDITION**
- B. ZONING CHANGE – LOT 7, BLOCK 1, CAPITAL ELECTRIC HEADQUARTERS ADDITION**
- C. ZONING CHANGE – LOTS 1-3, BLOCK 1 AND LOTS 1-4, BLOCK 3, SONNET HEIGHTS SUBDIVISION**
- D. ZONING ORDINANCE TEXT AMENDMENT – UTILITY USE GROUP**

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

- A. A zoning change from the A-Agricultural zoning district to the R10-Residential, RM10-Residential, RM15-Residential, RM30-Residential and RT-Residential zoning districts and the preliminary plat for Brei Estates First Addition. The proposed plat includes five lots in four blocks containing 23.05 acres and is located north of Ash

Coulee Road/43rd Avenue NE along the west side of North Washington Street (part of the NE¼ of Section 17, T139N-R80W/Hay Creek Township).

- B. A zoning change from the RT-Residential zoning district to the RMH-Residential zoning district for Lot 7, Block 2, Capital Electric Headquarters Addition. The property is located south of 43rd Avenue NE approximately ½ mile west of North 19th Street.
- C. A zoning change from the RM15-Residential zoning district to the RM30-Residential zoning district for Lots 1-3, Block 1 and Lots 1-4, Block 3, Sonnet Heights Subdivision. The property is located along the north side of Niagara Drive, south of 57th Avenue NE, approximately ¼ mile west of US Highway 83.

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

FINAL CONSIDERATION – ANNEXATION – AUDITOR’S LOT B OF THE SE ¼ OF SECTION 15, T139N-R80W/HAY CREEK TOWNSHIP

Chairman Yeager called for final consideration of the annexation of part of the SE¼ of Section 15, T139N-R80W/Hay Creek Township (to be known as Auditor’s Lot B of the SE¼ of Section 15, T139N-R80W/Hay Creek Township). The property is located in northeast Bismarck, north of 43rd Avenue NE and west of North 26th 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 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 said based on the above findings, staff recommends approval of annexation of part of the SE¼ of Section 15, T139N-R80W/Hay Creek Township (to be known as Auditor’s Lot B of the SE¼ of Section 15, T139N-R80W/Hay Creek Township), with the understanding that the required all-weather access road to a fire hydrant will be installed as soon as possible.

There was no discussion of this item.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the annexation of part of the SE¼ of Section 15, T139N-R80W/ Hay Creek Township (to be known as Auditor's Lot B of the SE¼ of Section 15, T139N-R80W/Hay Creek Township), with the understanding that the required all-weather access road to a fire hydrant will be installed as soon as possible. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION – PART OF LOT 3 AND ALL OF LOTS 4 AND 5, WUTZKE'S SUBDIVISION

Chairman Yeager called for final consideration of the annexation of part of Lot 3 and all of Lots 4 and 5, Wutzke's Subdivision. The property is located in north Bismarck, along the east side of Ottawa Street north of 43rd Avenue NE.

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 said that based on the above findings, staff recommends approval of the annexation of part of Lot 3 and all of Lots 4 and 5, Wutzke's Subdivision.

Commissioner Armstrong asked if the City had a rule as to how long islands of un-annexed land could be surrounded by the City before they were annexed. Ms. Lee replied that there was not a rule; however, staff will initiate an annexation for the unannexed parcels in this area.

Commissioner Armstrong then asked if there was a requirement for annexation when municipal water and sewer were available. Ms. Lee replied that there was a requirement for annexation when sanitary sewer was within a certain distance under the State Plumbing Code.

MOTION: Based on the findings contained in the staff report, Commissioner Selzler made a motion to approve the annexation of part of Lot 3 and all of Lots 4 and 5, Wutzke's Subdivision. Commissioner Warford seconded the motion and it was

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

**PUBLIC HEARING – SPECIAL USE PERMIT
PART OF LOT 8, BLOCK 3, HARRY GALLUP ADDITION**

Chairman Yeager called for the public hearing on the special use permit to allow a drive-through window in conjunction with a financial institution on part of Lot 8, Block 3, Harry Gallup Addition. The property is located along the west side of South 3rd Street, at the intersection with East Bowen Avenue.

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

1. A bank with a drive-through window is allowed as a special use in the CG zoning district, provided specific conditions are met. The proposed drive-through window meets all six provisions outlined in Section 14-03-08(4)(g) and meets the required vehicle stacking outlined in Section 14-03-10(2) of the City Code of Ordinances (Zoning).
2. The proposed special use would not adversely affect the public health, safety and general welfare.
3. The proposed special use would not be detrimental to the use or development of adjacent properties.
4. The use would be designed, operated and maintained in a manner that is compatible with the appearance of the existing character of the surrounding area.
5. Adequate public facilities and services are in place.
6. This use would not cause a negative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.
7. Adequate measures have been taken to minimize traffic congestion in the public streets and provide for appropriate on-site circulation of traffic, in particular, adequate off-street parking would be provided.

Ms. Wollmuth said that based on the above findings, staff recommends approval of a special use permit to allow a drive-through window in conjunction with a financial institution on Lot 8 less the South 20 feet, Block 3, Harry Gallup Addition, with the following conditions:

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

Chairman Yeager called for the public hearing for the special use to allow a drive-through window in conjunction with a financial institution on part of Lot 8, Block 3, Harry Gallup Addition.

There was no public comment on this request.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Armstrong made a motion to approve the special use permit to allow a drive-through window in conjunction with a financial institution Lot 8 less the South 20 feet, Block 3, Harry Gallup , with the following conditions: 1) the construction and operation of a drive-through window must meet all applicable requirements for such a use in the CG zoning district; and 2) development of the site must generally conform to the site plan submitted with the application. Commissioner Selzler seconded the motion and it was unanimously approved with Armstrong, Atkinson, Bullinger, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

OTHER BUSINESS

Chair Yeager mentioned that this was Kimberley Tomanek's last meeting. The Commissioners indicated that they had enjoyed working with her and wished her well.

ADJOURNMENT

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:11 p.m. to meet again on December 19, 2012.

Respectfully submitted,

Kim L. Lee
Recording Secretary

Wayne Lee Yeager
Chairman