

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
May 28, 2014**

The Bismarck Planning & Zoning Commission met on May 28, 2014 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, Mel Bullinger, Mike Donahue, Vernon Laning, Lisa Waldoch, John Warford and Wayne Yeager.

Commissioners absent were Tom Atkinson, Doug Lee, Mike Schwartz and Ken Selzler.

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

MINUTES

Chairman Yeager called for consideration of the minutes of the April 23, 2014 meeting.

MOTION: Commissioner Warford made a motion to approve the minutes of the April 23, 2014 meeting as received. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Donahue, Laning, Waldoch, Warford and Yeager voting in favor of the motion.

CONSIDERATION

- A. MIDWEST BUSINESS PARK ADDITION –
PRELIMINARY PLAT**
- B. INLAND ADDITION –
PRELIMINARY PLAT & ZONING CHANGE**
- C. LOTS 3-6, BLOCK 1, KAMROSE ADDITION –
ZONING CHANGE**
- D. RM & RT ZONING DISTRICTS/ROW HOUSES –
ZONING ORDINANCE TEXT AMENDMENT**

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

- A. Midwest Business Park Addition – Preliminary Plat
- B. Inland Addition – Preliminary Plat and Zoning Change
- C. Lots 3-6, Block 1, Kamrose Addition – Zoning Change
- D. RM & RT Zoning Districts/Row Houses – Zoning Ordinance Text Amendment

MOTION: Commissioner Warford made a motion to approve consent agenda items A, B, C and D, granting tentative approval and/or calling for public hearings on the items as recommended by staff. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Donahue, Laning, Waldoch, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT –
UNIVERSITY OF MARY SUBDIVISION**

Commissioner Warford recused himself from the meeting for this agenda item.

Chairman Yeager called for the public hearing for the final plat and the zoning change from the A-Agriculture and RR-Residential zoning districts to the P-Public zoning district for University of Mary Subdivision. The property is located along the west side of ND Highway 1804 approximately two miles south of 48th Avenue SE (Government Lots 14, 15 & 16 of the SE 1/4 of Section 34, a replat of parts of Lots 4-7, Block 1, Rockstad Subdivision of the NW 1/4, and part of the SW 1/4 of Section 35, T138N-R80W/Lincoln Township; and part of Government Lot 1 of the NE 1/4 of Section 3, and part of Government Lot 4 and part of the NW1/4 of Section 2, T137N-R80W/ Fort Rice Township).

Ms. Lee indicated that these items had been continued at the April 23rd meeting because the storm water management plan had not yet been approved and to provide additional time for the University to meet with and attempt to resolve the issues raised by adjacent landowners. She then provided an overview of the requests, including the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan, which identifies this area as a civic or public facility.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include a combination of agricultural uses and rural residential to the north, east and south and to the west across Apple Creek.
3. The property is already developed and is served by public services and facilities; 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 presented the following findings for the final plat:

1. The preliminary plat received tentative approval on February 27, 2013, with the understanding that the issues relating to the lot layout and the section lines are resolved prior to the submittal of the final plat. The size of the plat has been reduced since that time, with the area south of the main roadway through the campus being removed from the plat.
2. All technical requirements for approval of a final plat have been met.
3. The storm water management plan has been approved by the City Engineer, with written concurrence from the County Engineer.
4. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for the area, which identifies ND Highway 1804 as an arterial roadway.
5. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include a combination of agricultural uses and rural residential to the north, east and south and to the west across Apple Creek.
6. The property is already developed and is served by public services and facilities; therefore, the subdivision would not place an undue burden on public services and facilities.
7. The proposed subdivision would not adversely affect property in the vicinity.

Ms. Lee said based on these findings, staff recommends approval of the zoning change from the A-Agriculture and RR-Residential zoning districts to the P-Public zoning district and final plat of University of Mary Subdivision.

Chairman Yeager opened the public hearing.

Harley Swenson, 8301 Highway 1804 SE, said his son (Mark Swenson) owns property in the area that will be landlocked if the proposed plat is approved. He said he is optimistic that a conclusion can be reached regarding access to the area and that he would like to push the requests back to the June 25th meeting. He said he is frustrated that the University had reached an agreement with the neighbors several weeks ago, but they have since changed their minds.

Tom Baier, University of Mary, said he is okay with pushing the requests back to the June 25th meeting, as long as it does not impact the probability of being able to obtain building permits yet this summer.

Mr. Hokenstad said he feels a solution is likely close to being reached, so building permits are likely to be able to be obtained in the desired time frame.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Armstrong made a motion to continue the public hearing on the zoning change from the A-Agriculture and RR-Residential zoning district to the P-Public zoning district and final plat of University of Mary Subdivision. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Donahue, Laning, Waldoch, Warford and Yeager voting in favor of the motion.

Commissioner Warford returned to the meeting at this time.

PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT – WILLOW VIEW ESTATES SUBDIVISION

Chairman Yeager called for the public hearing on the final plat and the zoning change from the A-Agriculture zoning district to the RR-Residential zoning districts for Willow View Estates Subdivision. The proposed plat is 16 lots in three blocks on 39.97 acres and is located east of Bismarck, along the north side of County Highway 10 and the east side of 80th Street NE (SW¹/₄ of the SW¹/₄ Section 33, T139N-R80W/Gibbs Township).

Ms. Wollmuth provided an overview of the requests, including the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan, which identifies the future use of this area as rural residential.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include rural residential to the north, rural residential and partially developed neighborhood commercial property to the west across 80th Street NE, rural residential to the south across County Highway 10 and agricultural to the east.
3. The subdivision proposed for this property would be served by South Central Regional Water District and would have access to 80th Street NE via internal streets; 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 and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth then presented the following findings for the final plat:

1. The preliminary plat was tentatively approved on March 26, 2014.
2. All technical requirements for consideration of a final plat have been met.
3. The stormwater management plan has been approved by the City Engineer, with written concurrence from the Burleigh County Engineer.
4. The proposed subdivision is generally consistent with the Fringe Area Road Master Plan for this area, which identifies both 80th Street NE and County Highway 10 as arterial roadways.
5. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include rural residential to the north, rural residential and partially developed neighborhood commercial property to the west across 80th Street NE, rural residential to the south across County Highway 10 and agricultural to the east.
6. The subdivision proposed for this property would be served by South Central Regional Water District and would have access to 80th Street NE via internal streets; therefore is would not place an undue burden on public services.
7. The proposed subdivision would not adversely affect property in the vicinity.
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on these findings, staff recommends approval of the zoning change from the A-Agriculture zoning district to the RR-Residential zoning district and final plat of Willow View Estates Subdivision, including the granting of a waiver for the use of two cul-de-sacs.

Chairman Yeager opened the public hearing.

Bonny Zimmer, 8009 Belmont Lane, said they have severe water issues in Rainbow Acres Subdivision to the north and she wants to know what kind of stormwater storage is going to be in place.

Nic Cullen, Houston Engineering, said all of the required stormwater criteria has been met, but there has not been any drilling done in the area yet to check the depth of the water table. He said the owner of the property is confident that the water table is down far enough that there would not be any impact on stormwater and drainage issues.

Ms. Wollmuth said soils testing on each lot would be done prior to drain field permits being issued.

There being no further comments, 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 A-Agriculture zoning district to the RR-Residential zoning district and the final plat for Willow View Estates Subdivision, including the granting of a waiver for the use of two cul-de-sacs. Commissioner Donahue seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Donahue, Laning, Waldoch, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE AND
MINOR SUBDIVISION FINAL PLAT –
ASH COULEE 2ND ADDITION**

Chairman Yeager called for the public hearing on the final plat and the zoning change from the RR-Residential zoning district to the R5-Residential zoning district for Ash Coulee 2nd Addition. The proposed plat is 18 lots in one block on 9.03 acres and is located along the south side of Ash Coulee Drive approximately 1/2 mile west of Valley Drive (a replat of all of Lots 1 and 2, Lots A and B of Lot 3, Lots C and D of Lot 6, and Lot A of Lot 7, Block 6, Western Hills).

Ms. Lee provided an overview of the requests, including the following findings for the zoning change:

1. The proposed zoning change would be consistent with the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan, which identifies the future use of this area as low density residential.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include a combination of rural residential to the northwest, low density urban residential to the northeast, east and south, and agricultural to the west.
3. The property will be annexed prior to further 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 presented the following findings on the minor subdivision final plat:

1. All technical requirements for approval of the minor subdivision final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision does not impact the Fringe Area Road Master Plan or the Northwest Subarea Study, both of which identify Ash Coulee Drive in this area as an arterial.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include a combination of rural residential to the northwest, low density urban residential to the northeast, east and south, and agricultural to the west.
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 these findings, staff recommends approval of the zoning change from the RR-Residential zoning district to the R5-Residential zoning district and the minor subdivision final plat for Ash Coulee 2nd Addition, with the understanding that the lots are not buildable until the property is annexed and municipal services provided.

Staff further recommends that Lots 1-3 be combined as one tax parcel to accommodate the existing single family rural residence, with the understanding that it will not be split until all three lots are annexed and municipal services provided. In addition, since this is an existing rural residence, annexation will not be required at this time; however, at some time in the future when additional development occurs to the west and this property is surrounded by the City of Bismarck, the City may initiate annexation of this parcel.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Warford made a motion to approve the zoning change from the RR-Residential zoning district to the R5-Residential zoning district and the minor subdivision final

plat for Ash Coulee 2nd Addition, with the understanding that the lots are not buildable until the property is annexed and municipal services provided and with staff's recommendation for Lots 1-3. Commissioner Armstrong seconded the motion and it was approved with Commissioners Armstrong, Bullinger, Donahue, Laning, Warford and Yeager voting in favor of the motion. Commissioner Waldoch opposed the motion.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT – MUNICH ADDITION

Chairman Yeager called for the public hearing on the minor subdivision final plat for Munich Addition. The proposed plat is three lots in one block on 5.43 acres and is located in west Bismarck, along the south side of West Divide Avenue (a replat of Lot 3, Block 1, Horizon View Addition and Lot 3, less lot A, Block 1, Prairie Hills Fifth Addition) east of Centennial Road between East Century Avenue and 43rd Avenue NE (part of the SE1/4 of Section 24, T139N-R80W/Hay Creek Township).

Ms. Wollmuth provided an overview of the request, including the following findings:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. A waiver from the storm water management plan has been granted by the City Engineer.
3. The property is already annexed; therefore, the proposed subdivision would not place an undue burden on public services and facilities.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include existing commercial uses to the north and west, a vacant commercial lot to the east, and Bismarck State College campus and residential multi-family uses to the south.
5. The proposed subdivision would not adversely affect property in the vicinity.
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed subdivision is consistent the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on these findings, staff recommends approval of the minor subdivision final plat for Munich Addition.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Armstonrg made a motion to approve the minor subdivision final plat for Munich Addition. Commissioner Waldoch seconded the motion and it was approved with Commissioners Armstrong, Bullinger, Donahue, Laning, Waldoch, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – PUD AMENDMENT–
LOTS 1 AND 2, BLOCK 2, PINEHURST 7TH ADDITION REPLAT**

Chairman Yeager called for the public hearing for a PUD Amendment for Lots 1 & 2, Block 2, Pinehurst 7th Addition Replat. The property is located in west Bismarck along the west side of West Century Avenue and the north side of West Interstate Avenue (1000 West Century Avenue).

Mr. Tomanek gave an overview of the request, including the following findings:

1. Section 14-04-18 of the Bismarck Code of Ordinances (Zoning) indicates that the intent of the City's Planned Unit Development district is "to encourage flexibility in development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the adequate and economical provision of streets and utilities; and to preserve the natural and scenic features of open space." A copy of this section is attached.
2. The original PUD was approved in May 1998 and included a total of 250 units on 17.93 acres (13.94 units per acre overall density) within a continuum of care development concept. Permits have since been issued for 156 units in the first two phases of development on Lot 1 (140 congregate/assisted units in the main building and 16 units in two and three-unit cottages along Century Avenue). The original plan called for another 96 units to be constructed on Lot 2 (76 congregate/assisted units and 20 units in cottages).
3. In January 2007, the PUD was amended to allow the development of three 30-unit apartment buildings for seniors. The 30-unit apartment buildings are noted on the attached site plan as a future phase that is separate from the phase that would include the units identified with this application. The 90 apartment units were included in the previous density calculation of 13.94 units per acre and also factored into the proposed density ratio of 19.52 units per acre.
4. The required site plan and written statement for the PUD amendment have been submitted by the applicant and are attached. The PUD amendment as proposed would change the development concept throughout the facility and would provide an additional 16 units in the memory care facility, which would then total 36; 62 additional apartment units, which would raise the total to 112 units; three additional duplex residential cottages, raising the number of dwelling units in the cottages from 16 to 22 units; and a maintenance building.
5. The proposed zoning change would be generally compatible with adjacent land uses. Adjacent land uses include the MDU Resources campus and a proposed hotel to the west,

a City of Bismarck water reservoir and a proposed office building to the northwest, single-family dwellings to the north across Country West Road, Centennial Elementary School across West Century Avenue to the east, and the Pinehurst Square retail development to the south.

6. The internal street circulation system is adequately designed for the type of traffic generated. The existing access location on West Century Avenue will not change. One access point on West Interstate Avenue will be closed and reconfigured for off-street parking. This area would be addressed during the site plan review process.
7. The entire property is currently within City limits; therefore the proposed zoning change would not place an undue burden on public services.
8. The proposed PUD amendment does preserve the natural features of the property insomuch as possible.
9. The proposed PUD amendment is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed PUD amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on these findings, staff recommends approval of PUD amendment for Lots 1 & 2, Block 2, Pinehurst 7th Addition Replat, as outlined in the proposed PUD amendment document.

Mr. Tomanek then presented comments submitted by Mr. Jeff Herman, 821 Juniper Place, which state his concerns about their view to the south being blocked by the new buildings. These are attached as Exhibit A. Mr. Tomanek said the City of Bismarck does not currently have any viewshed protections in place.

Commissioner Laning said there is a steep drop off in the terrain to the south and asked if a four story building would affect views that much.

Mr. Tomanek said the architect and design engineer could explain their concepts.

Joe Billig said the building closest to the residential area would be three stories and 62 units so views near that building should not be affected.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report Commissioner Warford made a motion to approve the PUD amendment as outlined in the PUD amendment document. Commissioner Armstrong seconded the motion and the

request was unanimously approved with Commissioners Armstrong, Bullinger, Donahue, Laning, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT –
PART OF BLOCKS 37, 38 AND 41, NORTHERN PACIFIC 2ND ADDITION**

Chairman Yeager called for the public hearing for a special use permit for four off-site parking lots to be located on the East 75 feet of Lot 12 less the East 10 feet for the alley, Block 37 (811 East B Avenue); the West 40 feet of Lot 1 less the West 10 feet for the alley, Block 37 (813 East B Avenue); Lot 10 less the East 8 feet for the alley, Block 38 (515 North 7th Street); and Lot 9, Block 41 (611 North 5th Street), all in Northern Pacific 2nd Addition.

Ms. Wollmuth gave an overview of the requests, including the following findings for the East 75 feet of Lot 12 less the East 10 feet for the alley, Block 37, Northern Pacific 2nd Addition (811 East B Avenue):

1. An off-site parking lot is allowed as a special use in the RM – Residential zoning district, provided specific conditions are met. The proposed off-site parking lot does not meet all five (5) provisions outlined in the proposed amendment to Section 14-03-08 (4) of the City Code of Ordinances (Special Uses)(Off-site Parking). In particular, the proposed special use is located on a lot that does not meet the minimum lot size for a lot located within the RM-Residential zoning district. The required site plan submitted for the proposed special use does not show the landscaping and screening provisions as required in Section 14-03-11(10) of the City Code of Ordinances (Landscaping and Screening/Buffer Yards). The applicant has indicated that a variance would be requested of the Board of Adjustment in order to reduce the required landscaping and buffer yards for the off-site parking lot. The proposed special use request is located on a parcel along a public roadway and would obtain access from a public roadway and is within 400 feet of the parcel (Bismarck Cancer Center) it is intended to serve.
2. The proposed special use may adversely affect the public health, safety and general welfare. In particular, locating an off-site parking lot, which is a commercial use, in a residential neighborhood adjacent to existing residential uses without providing the required landscaping screening and buffer yards may adversely affect the adjacent residential properties.
3. Although there are existing parking lots located in the general area of the proposed special use, the proposed special use may be detrimental to the use or development of adjacent properties. In particular, there is an existing single-family dwelling located to the west and an existing 4-unit residential building located to the south of the proposed special use.
4. The proposed special use may not be compatible with the surrounding residential neighborhood. In particular, locating an off-site parking lot adjacent to existing

residential dwellings without the placement of appropriate landscaping, screening and buffer yards would not be harmonious with the existing residential neighborhood.

5. The request is not compatible with adopted plans, policies and accepted planning practice. In particular, the proposed special use does not meet all five (5) of the provisions for an off-site parking lot located within and RT-Residential zoning district and required in the proposed amendment to Section 14-03-08(4) of the City Code of Ordinances (Special Uses)(Off-site Parking).

Ms. Wollmuth then outlined the findings for the West 40 feet of Lot 1 less the West 10 feet for the alley, Block 37, Northern Pacific 2nd Addition (813 East B Avenue):

1. An off-site parking lot is allowed as a special use in the RT – Residential zoning district, provided specific conditions are met. The proposed off-site parking lot does not meet all five (5) provisions outlined in the proposed amendment to Section 14-03-08 (4) of the City Code of Ordinances (Special Uses)(Off-site Parking). In particular, the proposed special use is located on a lot that does not meet the minimum lot size for a lot located within the RT-Residential zoning district. The required site plan submitted for the proposed special use does not show the landscaping and screening provisions as required Section 14-03-11(10) of the City Code of Ordinances (Landscaping and Screening/Buffer Yards). The applicant has indicated that a variance would be requested of the Board of Adjustment in order to reduce the required landscaping and buffer yards for the off-site parking lot. The proposed special use request is located on a parcel along a public roadway and would obtain access from a public roadway and is within 400 feet of the parcel (Bismarck Cancer Center) it is intended to serve.
2. The proposed special use may adversely affect the public health, safety and general welfare. In particular, locating an off-site parking lot, which is a commercial use, in a residential neighborhood adjacent to existing residential uses without providing the required landscaping screening and buffer yards may adversely affect the adjacent residential properties.
3. Although there are existing parking lots located in the general area of the proposed special use, the proposed special use may be detrimental to the use or development of adjacent properties. In particular, there are two existing residential 4-unit buildings located to the east and south of the proposed special use.
4. The proposed special use may not be compatible with the surrounding residential neighborhood. In particular, locating an off-site parking lot adjacent to existing residential dwellings without the placement of appropriate landscaping, screening and buffer yards would not be harmonious with the existing residential neighborhood.
5. The request is not compatible with adopted plans, policies and accepted planning practice. In particular, the proposed special use does not meet all five (5) of the provisions for an off-site parking lot located within and RT-Residential zoning district and required in the proposed amendment to Section 14-03-08(4) of the City Code of

Ordinances (Special Uses)(Off-site Parking).

Ms. Wollmuth then presented the following findings on Lot 10 less the East 8 feet for the alley, Block 38, Northern Pacific 2nd Addition (515 North 7th Street):

1. An off-site parking lot is allowed as a special use in the RM – Residential zoning district, provided specific conditions are met. The proposed off-site parking lot does not meet all five (5) provisions outlined in the proposed amendment to Section 14-03-08 (4) of the City Code of Ordinances (Special Uses)(Off-site Parking). In particular, the required site plan submitted for the proposed special use does not show the landscaping and screening provisions required in Section 14-03-11(10) of the City Code of Ordinances (Landscaping and Screening/Buffer Yards). The applicant has indicated that a variance would be requested of the Board of Adjustment in order to reduce the required landscaping and buffer yards for the off-site parking lot. The proposed special use meets the minimum lot size for a lot located within the RM-Residential zoning district. The proposed special use is located on a parcel along a public roadway and would obtain access from a public roadway and is within 400 feet of the parcel (Bismarck Cancer Center) it is intended to serve.
2. The proposed special use may adversely affect the public health, safety and general welfare. In particular, locating an off-site parking lot, which is a commercial use, in a residential neighborhood, adjacent to existing residential uses without providing the required landscaping screening and buffer yards may adversely affect the adjacent residential properties.
3. Although there are existing parking lots located in the general area of the proposed special use, the proposed special use may be detrimental to the use or development of adjacent properties. In particular, there is an existing 4-unit residential condominium complex located to the north and an existing west and an existing 4-unit residential building located to the south of the proposed special use.
4. The proposed special use may not be compatible with the surrounding residential neighborhood. In particular, locating an off-site parking lot adjacent to existing residential dwellings without the placement of appropriate landscaping, screening and buffer yards would not be harmonious with the existing residential neighborhood.
5. The request is not compatible with adopted plans, policies and accepted planning practice. In particular, the proposed special use does not meet all five (5) of the provisions for an off-site parking lot located within and RT-Residential zoning district and required in the proposed amendment to Section 14-03-08(4) of the City Code of Ordinances (Special Uses)(Off-site Parking).

Ms. Wollmuth then gave the following findings on Lot 9, Block 41, Northern Pacific 2nd Addition (611 North 5th Street):

1. An off-site parking lot is allowed as a special use in the RM – Residential zoning district, provided specific conditions are met. The proposed off-site parking lot does not meet all five (5) provisions outlined in the proposed amendment to Section 14-03-08 (4) of the City Code of Ordinances (Special Uses)(Off-site Parking). In particular, the required site plan submitted for the proposed special use does not show the landscaping and screening provisions as required in Section 14-03-11(10) of the City Code of Ordinances (Landscaping and Screening/Buffer Yards). The applicant has indicated that a variance would be requested of the Board of Adjustment in order to reduce the required landscaping and buffer yards for the off-site parking lot. The proposed special use is not located within 400 feet of the parcel (Bismarck Cancer Center) it is intended to use. The proposed special use meets the minimum lot size for a lot located within the RM-Residential zoning district and is located on a parcel along a public roadway.
2. The proposed special use may adversely affect the public health, safety and general welfare. In particular, locating an off-site parking lot, which is a commercial use, in a residential neighborhood adjacent to existing residential uses without providing the required landscaping screening and buffer yards may adversely affect the adjacent residential properties.
3. Although there is an existing parking lot located adjacent to the east of the proposed special use, the proposed special use may be detrimental to the use or development of adjacent properties. In particular, there is an existing 5-unit residential building located to the north and a 5-unit residential building located to the south of the proposed special use. In addition, the proposed special use is located approximately 800 feet from the parcel (Bismarck Cancer Center) it is intended to serve.
4. The proposed special use may not be compatible with the surrounding residential neighborhood. In particular, locating an off-site parking lot adjacent to existing residential dwellings without the placement of appropriate landscaping, screening and buffer yards would not be harmonious with the existing residential neighborhood.
5. The request is not compatible with adopted plans, policies and accepted planning practice. In particular, the proposed special use does not meet all five (5) of the provisions for an off-site parking lot located within and RT-Residential zoning district and required in the proposed amendment to Section 14-03-08(4) of the City Code of Ordinances (Special Uses)(Off-site Parking).

Ms. Wollmuth said based on the above findings, staff recommends denial of the special use permit for all four off-street parking lots proposed (the East 75 feet of Lot 12 less the East 10 feet for the alley, Block 37; the West 40 feet of Lot 1 less the West 10 feet for the alley, Block 37; Lot 10 less the East 8 feet for the alley, Block 38; and Lot 9, Block 41, all in Northern Pacific 2nd Addition).

Ms. Wollmuth then said if the Planning and Zoning Commission is inclined to approve all or part of this request, staff would recommend that the above findings be modified to support the action taken, and any approval of the request is contingent on the Board of Adjustment

granting approval of variances from Section 14-04-08(4) of the City Code of Ordinances (RT-Residential)(Lot Area) for 813 East B Avenue and Section 14-04-07(4) of the City Code of Ordinances (RM-Residential)(Lot Area) for 811 East B Avenue and Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening) for all four properties.

Ms. Wollmuth then referenced comments submitted by the Condo Association, which are attached as Exhibit B.

Chairman Yeager opened the public hearing.

Lon Romsaas, Swenson, Hagen & Co., said the goal of the proposed special use permits is to find a better way to serve those who utilize the Bismarck Cancer Center. He said they need to expand the building to meet their needs, which will require more parking. He said a request has been put in for approval of a variance by the Board of Adjustment on June 5th, but the special use permit is needed first. He said the current parking is adequate but the new addition will eliminate 19 spaces dedicated for staff use only and the request will add 37 more spaces between all four lots. He said the smallest lot is 3,200 square feet and the lots cannot be used for much more than parking. He said he was told in April that the submitted landscape plans would be acceptable and they will go through the required site plan process for the expansion as well. He said that for the two smaller lots are on either side of an alley, one would require the removal of a residence which is owned by St. Alexius Medical Center. He said the area is also contiguous with parking for the adjacent apartment building.

Mr. Romsaas went on to explain that the lot near North 7th Street would allow 14 spaces and does meet the minimum lot size requirement, but it would need a variance on the setback requirements, adding that and it is surrounded by multi-family housing. He then said the lot near North 5th Street can be accessed from the Sanford parking lot but the buffer on each side would need to be reduced to four feet for the site plan to be approved. He said this proposed lot is adjacent to apartments and other parking areas and there is also fencing and retaining walls separating it from the neighboring properties.

Mr. Romsaas then said he is hoping for approval on at least some of the lots, even if it is conditional.

Commissioner Bullinger said the location of the proposed driveway to the parking lot on North 7th Street is not ideal. The North Dakota Department of Transportation provisions require access to be restricted onto 7th Street, as they help fund the roadway.

Ken Dykes, Bismarck Cancer Center, said he wants to make the Bismarck Cancer Center a better place as they are non-profit but are joined by St. Alexius Medical Center and Sanford Health to provide the highest quality of cancer care. He said since they opened in 1999, they have never had to turn a patient away for the lack of ability to pay. They could add two floors to the top of the building, but that would not improve patient flow and would add a large expense as well as stress on the facility. He said the proposals would improve the neighborhood and they are open to suggestions and guidance.

Amy Gross, Bismarck Cancer Center, said they have searched for answers to the needs of the employees as well as the patients and neighbors. She said she met with the adjacent property owners in April and they were all supportive of the proposals and felt parking lots would be better safety wise as well as more aesthetically pleasing than vacant lots or run down buildings.

Kathy Keiser, Ronald McDonald House, said the alley behind their facility has become a throughway for guests, as well as the easiest way for them to get from the house to the hospitals. She is concerned about the safety of the people staying at the Ronald McDonald House.

Robert Graham, 915 North 10th Street, said his concerns are of there being parking lot uses in residential and single-family areas. He said the neighborhood has deteriorated because of the infiltration of medical facilities, as they buy lots so far away from their facilities that the property is not properly maintained. He said the variance requests will be addressed but he desires compliance from the Commissioners with the staff's recommendation of denial.

There being no further comments, Chairman Yeager closed the public hearing.

Commissioner Laning said he does not feel that approving the request will cause a burden on the neighborhood, as far as property values go.

Commissioner Waldoch said the Bismarck Cancer Center needs to centralize the parking into one large area, as well as follow the zoning ordinance relating to landscape requirements.

Commissioner Donahue said they are up against new regulations in an area that developed many years ago when buffer requirements were not as strict and he thinks the proposals should be grandfathered in.

Ms. Lee said the new ordinance only made reference to what is already complete and the requirements have been the same since 2003.

Commissioner Laning said approval of the request could be made contingent upon approval of the variance requests proposed to the Board of Adjustment on June 5th.

Commissioner Warford said he understands the need for expansion of the Bismarck Cancer Center, but the concept is troubling. He said his concern is that if the Planning and Zoning Commission does not follow the ordinances, then who will. He added that more appropriate options need to be explored.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the special use permit for three off-site parking lots to be located on the East 75 feet of Lot 12 less the East 10 feet for the alley, Block 37 (811 East B Avenue); the West 40 feet of Lot 1 less the West 10 feet for the alley, Block 37 (813 East B Avenue); Lot 10 less the East 8 feet for the alley, Block 38 (515 North 7th Street); and Lot 9, Block 41 (611 North 5th

Street), all in Northern Pacific 2nd Addition. Commissioner Donahue seconded the motion. With Commissioner Laning voting in favor of the motion and Commissioners Armstrong, Bullinger, Donahue, Waldoch, Warford and Yeager opposing the motion, the motion failed.

MOTION: Based on the findings contained in the staff report, Commissioner Warford made a motion to deny the special use permit for four off-site parking lots to be located on the East 75 feet of Lot 12 less the East 10 feet for the alley, Block 37 (811 East B Avenue); the West 40 feet of Lot 1 less the West 10 feet for the alley, Block 37 (813 East B Avenue); Lot 10 less the East 8 feet for the alley, Block 38 (515 North 7th Street); and Lot 9, Block 41 (611 North 5th Street), all in Northern Pacific 2nd Addition. Commissioner Donahue seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Donahue, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – FLOODPLAIN DISTRICT

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to the Floodplain District. Ms. Wollmuth explained that the proposed amendment will change the effective date of the Flood Insurance Rate Map to August 4, 2014. Staff recommends approval of the amendment as presented.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Commissioner Warford made a motion to approve the zoning ordinance text amendment relating to the Floodplain District as recommended by staff. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Donahue, Laning, Waldoch, Warford and Yeager voting in favor of the motion.

OTHER BUSINESS

SOUTHLAND 2ND ADDITION – RECONSIDERATION OF FINAL PLAT, ZONING CHANGE AND ANNEXATION

Ms. Lee explained that these items were sent back by the City Commission because of the gap that would have been created with the previous version of the plat. The property owners have resolved the issue and the small donut hole piece that was originally left out of the plat has now been included. She said the plat has been revised, but the Planning & Zoning Commission needs to accept and approve it in order for it to go back to the City Commission for final action.

Exhibit A

RECEIVED
MAY 28 2014

Jeff Herman
821 Juniper Place
Bismarck, ND 58503
Phone 701-255-5666 W 701-258-2219 H
Fax 701-258-1562
jeffherman@hotmail.com

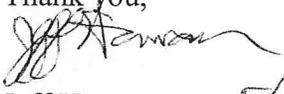
Community Development Dept.
Planning Division
P.O. Box 5503
Bismarck, ND 58506-5503

RE: Touchmark on West Century, LLC and
Touchmark Development
Proposed amendment to existing Planned
Unit Development for Lots 1-2, Block 2,
Replat of Pinehurst 7th Addition.
New 4 story, 56-unit building

Gentlemen,

As a home owner at 821 Juniper Place a direct offset to the North of the subject property I object to the approval of the proposed new 4-story, 56-unit building as proposed in the amendment application. At 4-stories the new building at the proposed location would block a substantial portion our view to the SW. I also feel that a 4 story building would turn this property into more of a commercial site than the current apartment complex feel that it currently has that fits in much better with the residential neighborhood.

I request that the Planning Dept. deny this request and as an alternative limit the building to no more than 3-stories the same as the existing building provided that the new building will be built at the same elevation as the existing building and would be the same height.

Thank you,

Jeff Herman 5/28/14

MOTION: Commissioner Warford made a motion to approve the revised plat, zoning change and annexation of Southland 2nd Addition as recommended by staff. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Donahue, Laning, Waldoch, Warford and Yeager voting in favor of the motion.

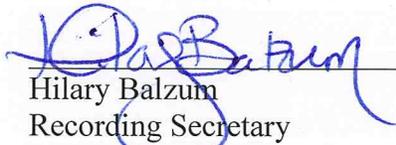
OTHER

Chairman Yeager thanked Mayor Warford for all of his service to the City of Bismarck during his three consecutive terms. Mayor Warford said it has been a great 12 years and he thanked the Commissioners as well as the staff for all of their help and support. He said there has been a great balance between the Commission and the staff.

ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 7:00 p.m. to meet again on June 25, 2014.

Respectfully submitted,


Hilary Balzum
Recording Secretary


Wayne Lee Yeager
Chairman

Bismont Planning & Zoning
Commission

I'm writing on behalf of
Condo Association.

We live right next to this house
that cancer center

would like to make into a parking lot.

We live in a nice residential area.

Can they just build this.

We in our Condo don't approved
off this.

have to wake up in morning to
a parking lot.

We hope this does not happen

May Vetter

Richard

Ida.

Bethy

we are from the Condo.