

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
February 25, 2015**

The Bismarck Planning & Zoning Commission met on February 25, 2015, 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, Mike Donahue, Doug Lee, Mike Schwartz, Ken Selzler, Lisa Waldoch and Wayne Yeager.

Commissioners Mel Bullinger, Vernon Laning and Mike Seminary were absent.

MINUTES

Chairman Yeager called for consideration of the minutes of the January 28, 2015 meeting and asked that staff clarify a mistake that is contained within the minutes. Ms. Lee said the content as it relates to what Commissioner Bullinger said regarding the special use permit for a digital billboard to be located on Lot 1, Block 1, Boutrous Third Addition needs to be reviewed and changed, as well as the votes in the motion being unanimous as it was not. She said Ms. Balzum will make the changes prior to publication.

MOTION: Commissioner Lee made a motion to approve the minutes of the January 28, 2015 meeting with corrections. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Atkinson, Donahue, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

URBAN RENEWAL PLAN

Bill Wocken, City Administrator, explained that the Urban Renewal Plan has been in place since 1979 and that it has been modified several times. He said updates are necessary to include the new urban projects and concepts such as the change of the Bismarck Civic Center to the Bismarck Event Center after it was remodeled, reflecting completed projects such as the 6th Street Parking Ramp, and adding items such as the reestablishment of the previously vacated 4th Street south of Front Avenue. He said various terms throughout the Plan have been changed in order to be more easily understood and that an explanation of the TIF district has been added to the Financing section as well as a description of the procedure for amendments to the Plan.

Commissioner Lee said he wanted to thank Mr. Wocken for the very good report and he is glad to see the progress the Plan has made recently.

MOTION: Commissioner Lee made a motion to comment that the amended Urban Renewal Plan is consistent with the City's Comprehensive Plan. Commissioner Waldoch seconded the motion and it was unanimously

approved with Commissioners Atkinson, Donahue, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

CONSIDERATION

- A. UNIVERSITY OF MARY SECOND SUBDIVISION – PRELIMINARY PLAT
- B. METRO INDUSTRIAL PARK THIRD SUBDIVISION – ZONING CHANGE & PRELIMINARY PLAT
- C. PART OF LOT 1, BLOCK 1, SHANNON VALLEY THIRD ADDITION – ZONING CHANGE
- D. AUDITOR'S LOT J OF THE NE1/4 OF SECTION 30 (VACATED TYLER'S WESTERN VILLAGE), T139N-R80W/HAY CREEK TOWNSHIP – ZONING CHANGE
- E. PART OF NORTHERN SKY ADDITION AND PART OF THE SE1/4 OF THE SE1/4 OF SECTION 17, T139N-R80W/HAY CREEK TOWNSHIP – ZONING CHANGE
- F. KAMROSE CROSSING ADDITION – PUD AMENDMENT
- G. STONERIDGE ADDITION – PUD AMENDMENT

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

- A. University Of Mary Second Subdivision – Preliminary Plat
- B. Metro Industrial Park Third Subdivision – Zoning Change & Preliminary Plat
- C. Part of Lot 1, Block 1, Shannon Valley Third Addition – Zoning Change
- D. Auditor's Lot J of the NE1/4 of Section 30 (Vacated Tyler's Western Village), T139N-R80W/Hay Creek Township – Zoning Change
- E. Part of Northern Sky Addition and Part of the SE1/4 of the SE1/4 of Section 17, T139N-R80W/Hay Creek Township – Zoning Change
- F. Kamrose Crossing Addition – PUD Amendment
- G. Stoneridge Addition – PUD Amendment

Commissioner Lee said he would like to remove item E for further discussion.

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

Ms. Wollmuth explained that after discussion with the applicant, item E, a zoning change from the RM30, RT and CA zoning districts to the CA zoning district for part of Northern Sky Addition and part of the SE1/4 of the SE1/4 of Section 17, T139N-R80W/Hay Creek Township, the applicants decided to change their request for the parcels directly adjacent to the P-Public zoning district which contains Horizon Middle School to the RT-Residential zoning district rather than the CA-Commercial zoning district. Ms. Wollmuth added that staff is supportive of this modification.

MOTION: Commissioner Lee made a motion to approve consent agenda item G, calling for a public hearing on the item as modified and as recommended by staff. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Atkinson, Donahue, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT
IMPERIAL VALLEY SUBDIVISION FIRST REPLAT**

Chairman Yeager called for the public hearing on the minor subdivision final plat for Imperial Valley Subdivision First Replat. The proposed plat is 11 lots in one block on 4.78 acres and is located south of Bismarck, along the south side of Burleigh Avenue at the intersection with and east of south 12th Street (a replat of Lots 1-3, Block 1, Imperial Valley Subdivision).

Ms. Lee gave an overview of the request including the following findings:

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, which identifies both Burleigh Avenue and South 12th Street as arterials.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include urban density one and two-family residential to the south and east, agricultural land to the west and Lincoln Oakes Nursery to the north across Burleigh Avenue.
5. The proposed subdivision was previously platted and has access to rural water and a central sewer treatment system through the Imperial Valley Association; therefore, it would not place an undue burden on public services and facilities provided Empire Drive is improved to County standards for a paved rural roadway section.
6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee added that a revised plat was received today with the additional right of way included as requested along South 12th Street.

Ms. Lee said based on the above findings, staff recommends approval of the minor subdivision final plat for Imperial Valley Subdivision First Replat, including the granting of a waiver to allow the use of a private roadway (Empire Circle) within the development.

Commissioner Selzler asked who will take care of the snow on the private drive. Ms. Lee said a home owner's association will be established and they will manage the snow.

Chairman Yeager opened the public hearing.

Matthew Butz, 3660 West Princeton Avenue, said there was rezoning done in this area in 2012. He grew up in the area, so after seeing the expansion of single-family that was happening, he decided to build there. He said the design was originally for two-family on the inner lots and single-family on the outer lots, but the plat has changed and he is concerned about the smaller lots sizes in this replat. He added it is his understanding that those lots cannot be split.

Dave Patience, Swenson, Hagen & Co., said the sizes of the lots still comply with the zoning ordinance as they are between 7,000 and 10,000 square feet. The owner would like to sell them off as single family lots, not lots for twinhomes, however, the existing R10-Residential zoning district would support those as well.

Commissioner Lee asked how big of a house would potentially fit on the lots. Mr. Patience said an owner would automatically lose ten percent of the lot because of the additional right-of-way dedication, but that would still allow room for a substantially sized home.

Mr. Butz said there are no utility services in place at this time and wants to know where the connections will come from, and if the existing sewer system can handle the influx of the new residences.

Mr. Patience said he has visited with the water and sewage director for the association, John Dockter, and he has assured him that adding eleven homes would have a very small impact on the sanitary and water services. He said the developer will extend services as needed, and utilities will have to meet health standards set forth by the State of North Dakota.

Mr. Butz said he just wants to make sure the home sizes remain substantial so they are compatible with the existing area.

TJ Olson, 3650 West Princeton Avenue, said his lot extends towards the proposed cul-de-sac and wants to know if he will be assessed for the new curb that will have to be installed. Ms. Lee said only the home owner's association would be assessed and he would not be included in that.

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

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the minor subdivision final plat for Imperial Valley

Subdivision First Replat, including the granting of a waiver to allow the use of a private roadway (Empire Circle) within the development. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Donahue, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – FINAL PLAT AND ZONING CHANGE APPLE CREEK ROAD SUBDIVISION

Chairman Yeager called for the public hearing on the zoning change from the A-Agriculture zoning district to the RR-Residential zoning district and final plat of Apple Creek Road Subdivision. The proposed plat is 3 lots in one block on 14.41 acres and is located east of Bismarck, south of County Highway 10 along the east side of 52nd Street NE and the north side of Apple Creek Road, (Part of the SW ¼ of Section 6, T138N-R79W/Apple Creek Township and Auditor's Lot 8A of the SE ¼ of Section 1, T138N-R80W/ Lincoln Township).

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

1. The proposed zoning change is not completely consistent with the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan, which identifies this area as low density residential (urban density average of 2.5 units / acre).
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include partially developed agriculture zoned property to the north, south east and west, and unplatted MA – Industrial zoned property to the southwest.
3. The subdivision proposed for this property would be served by South Central Regional Water District and would have direct access to Apple Creek Road; therefore, it 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 and subdivision regulations, provided that a waiver is granted to waive the requirement of ghost platting for the proposed subdivision.
6. The proposed zoning change is not completely consistent with the master plan, other adopted plans, policies and accepted planning practice. In particular, the proposed zoning change is not consistent with the FLUP in the 2014 Growth Management Plan; however, as the zoning change is being proposed for the addition of one additional single-family dwelling unit staff is comfortable with the proposed zoning change at this time. Any future subdivision of the proposed plat will require a ghost plat that would achieve the overall density requirements identified in the FLUP.

Ms. Wollmuth then presented the 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 with written concurrence from the County Engineer.
3. The Apple Creek Board of Township Supervisors has recommended approval of the proposed plat. A portion of the proposed plat is also located within an unorganized township (Lincoln Township).
4. The proposed subdivision is consistent with the 2014 Fringe Area Road Master Plan for this area, which identifies both 52nd Street SE and Apple Creek Road as arterial roadways.
5. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include partially developed A – Agricultural zoned property to the north, south east and west, and unplatted MA – Industrial zoned property to the southwest.
6. The proposed subdivision would be served by South Central Regional Water District and would have direct access to Apple Creek Road; therefore, it would not place an undue burden on public services and facilities.
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, provided that a waiver is granted to waive the requirement of ghost platting for the proposed subdivision.
9. The proposed zoning change is not completely consistent with the master plan, other adopted plans, policies and accepted planning practice. In particular, the proposed subdivision is not consistent with the FLUP in the 2014 Growth Management Plan; however, as the subdivision is being proposed for the addition of one additional single-family dwelling unit staff is comfortable with the proposed zoning change at this time. Any future subdivision of the proposed plat will require a ghost plat that would achieve the overall density requirements identified in the FLUP.

Ms. Wollmuth said based on the above findings, staff recommends approval of the zoning change from the A – Agricultural zoning district to the RR – Residential zoning district and final plat for Apple Creek Road Subdivision, granting a waiver from the ghost platting requirements and with the understanding that any further subdivision of any of the lots in the proposed plat would require a replat including a ghost plat that would achieve the overall density requirements identified in the FLUP in the 2014 Growth Management Plan.

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 Selzler made a motion to approve the zoning change from the A – Agricultural zoning district to the RR – Residential zoning district and final plat for Apple Creek Road Subdivision, granting a waiver from the ghost platting requirements and with the understanding that any further subdivision of any of the lots in the proposed plat would require a replat including a ghost plat that would achieve the overall density requirements identified in the FLUP in the 2014 Growth Management Plan. Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Atkinson, Donahue, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – PUD AMENDMENT SOUTHPORT PHASE II

Chairman Yeager called for the public hearing on the major PUD amendment for Southport Phase II to increase the number of dwelling units allowed in the residential portion of the development from 132 units to 133 units. The property is located along the west side of Riverwood Drive south of West Bismarck Expressway.

Ms. Lee gave an overview of the request including the following findings:

1. All technical requirements for approval of a major PUD amendment have been met.
2. The PUD as amended would be compatible with the adjacent land uses. Adjacent land uses include a variety of residential uses within the PUD and to the south, open space to the north, the Missouri River to the west, and a public golf course, archery facility and open space to the east.
3. The property is already being developed; therefore, the PUD as amended would not place an undue burden on public services.
4. The PUD as amended is consistent with adopted plans, policies and accepted planning practice. It is also consistent with the original PUD, which allowed a variety of residential dwelling units within the development.

Mr. Tomanek said based on the above findings, staff recommends approval of the major PUD amendment for Southport Phase II to increase the number of units allowed in the residential portion of the development from 132 units to 133 units, as outlined in the attached PUD amendment document.

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 Selzler made a motion to approve the major PUD amendment for Southport Phase II to increase the number of units allowed in the residential portion of the development from 132 units to 133 units, as outlined in the attached PUD amendment document. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Atkinson, Donahue, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – PUD AMENDMENT AND SPECIAL USE PERMIT CAPITOL VIEW ADDITION

Chairman Yeager called for the public hearing on a major PUD amendment for Capitol View Addition to allow the development of a 5-story office/mixed-use building and a special use permit to allow a drive-through window and ATM kiosk in conjunction with a financial institution on Lot 1, Block 1, Capitol View Addition. The property is located along the east side of State Street just south of East Divide Avenue.

Mr. Tomanek gave an overview of the requests, including the following findings for the major PUD amendment:

1. The proposed use would be compatible with adjacent land uses. Adjacent land uses include the Capitol grounds to the west, commercial uses to the north, offices and apartments to the south and single and two-family residential to the east.
2. The property is already annexed; therefore, the PUD amendment would not place an undue burden on public services
3. The proposed PUD amendment and subsequent development would not adversely affect property in the vicinity provided the landscape buffer yard is installed in conjunction with site development and exterior lighting of the building and the off-street parking areas is designed in a manner to limit the amount of ambient light that is cast onto the adjoining residential properties.
4. The proposed PUD amendment and subsequent development is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed PUD amendment and subsequent development is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek then gave the findings for the special use permit:

1. A financial institution with a drive-through window is allowed as a special use in this PUD – Planned Unit Development zoning district, provided specific conditions are met. The proposed drive-through window and ATM kiosk meet 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). Copies of both sections the ordinance are attached.

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.

Mr. Tomanek said based on the above findings, staff recommends approval of the major PUD amendment for Capitol View Addition to allow the development of a 5-story office/mixed-use building, as outlined in the attached PUD amendment document, and the special use permit to allow a drive-through window and ATM kiosk in conjunction with a financial institution on Lot 1, Block 1, Capitol View Addition.

Commissioner Selzler asked if the main entrance to the new building will be on North 13th Street. Mr. Tomanek said access will be off of the frontage road that is there now which is an extension of North 12th Street, and only the drive-through access would be directly off of North 13th Street.

Commissioner Lee asked if there will only be one-way traffic allowed on the north side of the building. Mr. Tomanek said that is correct and that direct access will be on the south side as well as ingress and egress points for the drive-through as needed.

Chairman Yeager opened the public hearing.

Mary Bullinger, 1303 East Divide Avenue, asked for further explanation of the driveway and what the view from her home will be as North 13th Street becomes busier every day and this will add to that. Mr. Tomanek clarified that landscape buffers will be installed, as required, on the east of the property.

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

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the major PUD amendment for Capitol View Addition to

allow the development of a 5-story office/mixed-use building, as outlined in the attached PUD amendment document, and the special use permit to allow a drive-through window and ATM kiosk in conjunction with a financial institution on Lot 1, Block 1, Capitol View Addition. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Donahue, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT
LOT 7, BLOCK 2, ROLLING MEADOWS SUBDIVISION**

Chairman Yeager called for the public hearing on the special use permit to increase the total square feet of accessory buildings located on a rural residential lot to 3,120 square feet, by constructing a 1,440 square foot accessory building on Lot 7, Block 2, Rolling Meadows Subdivision. The property is located north of Bismarck, south of 57th Avenue NE and east of 52nd Street NE along the north side of Grassy Lane.

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

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
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 proposed special use would be compatible with the surrounding rural residential neighborhood.
5. The Hay Creek Township Board of Supervisors has recommended approval of the proposed special use.
6. The request is compatible with adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on the above findings, staff recommends approval of the special use permit to increase the total allowable square feet of accessory buildings to 3,120 square feet on Lot 7, Block 2, Rolling Meadows Subdivision.

Ms. Wollmuth added that comments from an adjacent owner were submitted in support of the special use permit. These comments are attached as Exhibit A.

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 Schwartz made a motion to approve the special use permit to increase the total allowable square feet of accessory buildings to 3,120 square feet on Lot 7, Block 2, Rolling Meadows Subdivision. Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Atkinson, Donahue, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT ACCESSORY BUILDINGS

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to Accessory Buildings. Ms. Lee explained that the proposed amendment would clarify various provisions, modify accessory building requirements, clear up language for setback measurements and modify standards by splitting up the requirements for urban versus rural lots. Provisions are also included to allow larger accessory buildings on A-Agriculturally zoned lots as a special use. 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: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the zoning ordinance text amendment relating to accessory buildings as recommended by staff. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Donahue, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

OTHER BUSINESS

Ms. Lee asked the Commission to consider moving the April 22nd meeting to April 29th as multiple staff members will be out of town for conferences the week of the 22nd. She said this can be decided at the March meeting as staff will know more at that time what will be on the April agenda.

Chairman Yeager asked if an ex-officio member from the County Planning Commission has been appointed. Ms. Lee said it is her understanding that Commissioner Bitner has been appointed an official notification has not yet been received from the County.

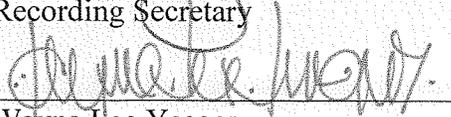
ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:58 p.m. to meet again on March 25, 2015.

Respectfully submitted,



Hilary Balzum
Recording Secretary



Wayne Lee Yeager
Chairman

Hilary Balzum

From: Planning - General Mailbox
Sent: Friday, February 20, 2015 8:29 AM
To: Hilary Balzum
Cc: Jenny Wollmuth
Subject: FW: Roger Rostvet Special Use Permit

Hello:
My name is Tom Erhardt and I live at 4750 Rolling Ridge Road, Bismarck, ND. I am writing in support of the special use permit requested by Roger Rostvet. We live in the neighborhood of Mr. Rostvet and have no objections to his plan to build an additional out-building on his property at 4740 Grassy Lane. We encourage the commission to allow Mr. Rostvet the special use permit.

We would like to thank the Planning Division for informing us of the permit request and an invitation to the hearing.

Tom & Kellie Erhardt
4750 Rolling Ridge Road
Bismarck, ND 5853
[REDACTED]