

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
November 17, 2015**

The Bismarck Planning & Zoning Commission met on November 17, 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, Mel Bullinger, Mike Donahue, Vernon Laning, Doug Lee, Mike Schwartz, Ken Selzer, Lisa Waldoch and Wayne Yeager.

Commissioners Brian Bitner and Mike Seminary were absent.

Hay Creek Township Supervisor Quirin Friese was present.

MINUTES

Chairman Yeager called for consideration of the minutes of the October 28, 2015 meeting.

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

CONSIDERATION

**A. VARIOUS LOTS AND TRACTS IN NORTHWEST BISMARCK –
CITY-INITIATED ZONING CHANGE**

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

A. Various Lots and Tracts in Northwest Bismarck – City-Initiated Zoning Change

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

**FINAL CONSIDERATION/PUBLIC HEARING – PARTIAL ANNEXATION,
ZONING CHANGE AND FINAL PLAT
PROMONTORY POINT VI ADDITION**

Chairman Yeager called for final consideration of the partial annexation and the public hearings on the zoning change from the A-Agriculture zoning district to the R5-Residential

zoning district and the final plat of Promontory Point VI Addition. The proposed plat is 131 lots in 12 blocks on 56.34 acres and is located along the top of the plateau north of Burnt Boat Drive in northwest Bismarck, between River Road and the Tyler Coulee (Part of the E1/2 of Section 24, T139N-R81W/Hay Creek Township and part of the NW1/4 of Section 19, T139N-R80W/Hay Creek Township).

Mr. Nairn gave an overview of the requests, including 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 lots proposed for annexation.
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.

Mr. Nairn then gave the findings for the zoning change:

1. The proposed zoning change generally conforms to the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan. The plan identifies the land as Low-Density Residential.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include agricultural land to the north and east, and developing single-family lots in prior phases of Promontory Point to the south.
3. 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.

Mr. Nairn then gave the findings for the final plat:

1. There preliminary plat was tentatively approved by the Bismarck Planning and Zoning Commission at their meeting of August 26, 2015.
2. All technical requirements for approval of a final plat have been met.

3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan for this area, which identifies Clairmont Drive as a future north-south collector and Sandy River Drive as a future east-west arterial roadway.
4. The storm water management plan has been approved by the City Engineer.
5. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include agricultural land to the north, west, and east and developing single-family lots to the south.
6. The subdivision would not be annexed at this time, but will be annexed prior to development. Therefore, the proposed subdivision would not place an undue burden on public facilities and services.
7. The City and other agencies would be able to provide necessary public services, facilities, and programs to serve the development allowed by the proposed subdivision at the time the property is developed.
8. The proposed subdivision plat is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.

Mr. Nairn said based on the findings contained in the staff reports, staff recommends approval of the partial annexation, zoning change from the A-Agriculture zoning district to the R5-Residential zoning district and final plat of Promontory Point VI Addition with the following conditions:

1. A Park Development Agreement is signed by the applicant and the Bismarck Parks and Recreation District prior to the subdivision plat being forwarded to the City Commission for final action.
2. All stormwater management facilities outlined in an approved stormwater management plan, whether inside or outside the boundaries of the plat, are installed prior to the issuance of any building permit within Promontory Point VI Addition, and sufficient land for said facilities is designated either on a plat or a separate easement.

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 Lee made a motion to approve the partial annexation, zoning change from the A-Agriculture zoning district to the R5-Residential zoning district and final plat for Promontory Point VI Addition, with the following conditions: 1. A Park Development Agreement is signed by the applicant and the Bismarck Parks and Recreation District prior to the subdivision plat being forwarded to the

City Commission for final action; and 2. All stormwater management facilities outlined in an approved stormwater management plan, whether inside or outside the boundaries of the plat, are installed prior to the issuance of any building permit within Promontory Point VI Addition, and sufficient land for said facilities is designated either on a plat or a separate easement. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

Hay Creek Township Supervisor Quirin Friese joined the meeting at this time.

**PUBLIC HEARING – FINAL PLAT
SANDY RIVER PLACE SUBDIVISION**

Chairman Yeager called for the public hearing on the final plat for Sandy River Place Subdivision, an eight lot subdivision on 19.51 acres. The property is located northwest of Bismarck, west of River Road along the south side of Sandy River Drive (a replat of Lot 1 & 2, Block 1, Clouten's First Subdivision).

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

1. The preliminary plat was tentatively approved by the Bismarck Planning and Zoning Commission at their meeting of August 26, 2015.
2. All technical requirements for approval of a final plat have been met.
3. The Hay Creek Township Board of Supervisors has recommended approval of the final plat.
4. The storm water management plan has not yet been approved by the City Engineer with written concurrence from the County Engineer.
5. The proposed subdivision is generally consistent with the 2014 Fringe Area Road Master Plan (FARMP) for this area, which identifies Sandy River Drive as a future arterial roadway.
6. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include agricultural property to the south, east, and north across Sandy River Drive, and rural residential to the west.
7. The subdivision proposed for this property would be served by South Central Regional Water District and would have direct access to Sandy River Drive via Sandy River Place; therefore, the proposed subdivision would not place an undue burden on public services.
8. The proposed subdivision would not adversely affect property in the vicinity.

9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said because the stormwater management plan has been approved by the City Engineer since the staff report was completed and based on the findings contained in the staff report, staff recommends approval of the final plat for Sandy River Place Subdivision, including the granting of a waiver to allow the use of a cul-de-sac (Sandy River Place) within the subdivision.

Mr. Friese said Hay Creek Township does have concerns regarding access to the development on Sandy River Drive as they do not feel it is the safest option. He said the neighboring owners and the Township Board would like to know how the developer will address that.

Mr. Atkinson asked if the residents had any suggestions. Mr. Friese said two years ago improvements to roadways in the area were proposed and were met with objections from the owners with concerns that the existing cottonwood trees along Sandy River Drive would have to be removed because of Burleigh County development standards and the scenery would be lost.

Chairman Yeager opened the public hearing.

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 final plat for Sandy River Place Subdivision, including the granting of a waiver to allow the use of a cul-de-sac (Sandy River Place) within the subdivision. Commissioner Schwartz seconded the motion and the request was unanimously approved with Hay Creek Township Supervisor Friese and Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

Hay Creek Township Supervisor Quirin Friese excused himself from the meeting at this time.

**PUBLIC HEARING – ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT
MEADOWLARK COMMERCIAL 9TH ADDITION**

Chairman Yeager called for the public hearing on the zoning change from the RT-Residential and P-Public zoning districts to the CG-Commercial zoning district and minor subdivision final plat for Meadowlark Commercial 9th Addition. The proposed plat is four lots on 15.06 acres and is located in north Bismarck, along the east side of North 19th Street approximately

1/4 mile north of 43rd Avenue NE (a replat of Lot 3, Block 6, Meadowlark Commercial Third Addition and Lots 6-8, Block 4, Meadowlark Commercial Seventh Addition).

Mr. Tomanek gave an overview of the requests, including the following findings for the zoning change:

1. The proposed zoning change would not be consistent with the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan. Although the area proposed for the zoning change is outside of the area included in the FLUP, the FLUP identifies the undeveloped area to the east as medium density residential (MDR). The MDR designation corresponds to development that averages six to seven units per acre. The MDR designation would typically involve a mix of residential land uses including single-family, duplex or townhomes and multi-family dwellings in conjunction with a small amount of commercial land uses intended to service the residential neighborhoods in the vicinity. It is the position of Planning staff that current land uses defined in the FLUP support appropriate zoning transitions and desired future land uses.
2. The proposed zoning change would be somewhat compatible with a portion of the adjacent land uses. Adjacent land uses include undeveloped commercially-zoned parcels to the west and north, developing commercial property to the south and undeveloped agricultural land to the east. The proposed zoning change would eliminate the current zoning transition that has been established by the applicant through previous subdivision plats and zoning change requests.
3. The proposed zoning change may have an adverse impact on property in the vicinity; in particular, an adequate zoning transition would not be provided between the commercially-zoned property and the undeveloped property to the east which is identified in the FLUP as medium density residential.
4. The entire property has been annexed; therefore, the zoning change would not place an undue burden on public services.
5. The proposed zoning change is not consistent with the general intent and purpose of the zoning ordinance. In particular, Planning staff has concerns regarding the requested zoning change of property that is currently zoned P – Public and intended to allow the natural flow of Hay Creek and future open space and multi-use trail connections and the elimination of an adequate zoning transition from commercial land uses to residential land uses as determined by the FLUP.
6. The proposed zoning change is not consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek then gave the findings for the final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.

2. A waiver has been granted by the City Engineer from the storm water management plan requirements.
3. The property is already annexed; therefore, the proposed subdivision would not place an undue burden on public services and facilities.
4. A request to change the zoning to allow commercial uses has been submitted in conjunction with proposed subdivision. The proposed zoning would not be entirely compatible with adjacent land uses. Adjacent land uses include developing commercial land uses to the north, south and west and undeveloped land to the east which has been identified as medium-density residential in the Future Land Use Plan in the 2014 Growth Management Plan.
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 with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said the applicant has requested the Planning & Zoning Commission delay action on this request and to continue the hearing until the December 16, 2015 meeting and Planning staff has no objections to the applicant's request to continue the hearing. He said Planning staff is supportive of the minor subdivision final plat for Meadowlark Commercial Ninth Addition.

Commissioner Lee asked if the railroad right-of-way is considered a significant enough barrier between the proposed CG-Commercial zoning district and future neighboring residential development.

Mr. Tomanek said Planning staff has deemed a railroad an appropriate transition between zoning districts in the past and it has been implemented that way before. He said there would be approximately 75-100 feet of railroad right-of-way included in this plat but the CG zoning could allow structures as high as 130 feet, so some compromise needs to be reached with the applicant to decide exactly what will be developed here.

Brian Zuroff, Wenck Associates, said with the railroad easement in addition to the Hay Creek floodplain and the topographical slope of the area, the buffer would actually end up being closer to 300-500 feet. He said the owner prefers the CG zoning because of the existing commercial uses to the west of this property and he will avoid a large commercial use but would like some flexibility.

Chairman Yeager said he agrees that continuing these requests to the next meeting seems appropriate at this time.

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 and the applicant's request to continue the requests, Commissioner Laning made a motion to continue the request for a zoning change from the RT-Residential and P-Public zoning districts to the CG-Commercial zoning district and minor subdivision final plat for Meadowlark Commercial 9th Addition to the next meeting of the Planning and Zoning Commission. Commissioner Donahue seconded the motion and the request was approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE
LOT 18, BLOCK 1, EDGEWOOD VILLAGE FIFTH ADDITION**

Chairman Yeager called for the public hearing on a zoning change from the RM15-Residential zoning district to the R10-Residential zoning district for Lot 18, Block 1, Edgewood Village Fifth Addition. The property is located in northeast Bismarck, north of East Century Avenue west of Edgewood Village Court.

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

1. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include RM30 – Residential zoned property including a newly constructed public park and trail system to the north, undeveloped RM15 – Residential zoned property to the west and south and single and two-family development to the east.
2. The property is already annexed; therefore, the proposed zoning change would not place an undue burden on public services.
3. The proposed zoning change would not adversely affect property in the vicinity.
4. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on the above findings, staff recommends approval of the zoning change from the RM15 – Residential zoning district to the R10 – Residential zoning district on Lot 18, Block 1, Edgewood Village 5th 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 Lee made a motion to approve the zoning change from the RM15 – Residential zoning district to the R10 – Residential zoning district on Lot 18, Block 1, Edgewood Village 5th Addition. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE UNIVERSITY OF MARY SECOND SUBDIVISION

Chairman Yeager called for the public hearing on a zoning change from the A-Agriculture zoning district to the RR-Residential zoning district for University of Mary Second Subdivision. The property is located south of Bismarck, along the southwest side of ND Highway 1804 approximately two miles south of 48th Avenue SE (Government Lot 3, the SE¼ of the NW¼, and part of the SW¼ of the NW¼, Section 2, T137N-R80W/Fort Rice Township).

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

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. This future land use designation includes public or institutional service bases, major recreation, educational campuses and other civic facilities.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include the University of Mary campus to the north, the Annunciation Monastery to the northwest and west and a combination of agricultural uses and rural residential to the southeast, south, east and northeast across ND Highway 1804.
3. The property is already owned by the University of Mary, would be served by municipal water via a contract with the City, has a private on-site wastewater treatment system and has direct access to ND Highway 1804; 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 said, based on the above findings, staff recommends approval of the zoning change from the A – Agricultural and RR – Residential zoning district to the RR – Residential zoning district for the University of Mary Second Subdivision.

Chairman Yeager opened the public hearing.

Harley Swenson, 8301 Highway 1804 SE, said he owns the property to the south and southeast of this property and would like an explanation of what appropriate zoning means. He said he hopes the intended use of the property is considered before making a decision because it will not be the typical rural residential uses but rather a cover for educational uses. He said he feels this is a bad use of the zoning ordinance because rural residential zoning can include any educational provisions including bars, dorms and even sewage treatment. He said he feels zoning should be done to find compatible uses and nobody seems to be able to provide a definite proposed use. He said the use of the word zoning is being perverted and if there are no restrictions then what is the point of having zoning if anything and everything could be allowed. He said the decision made on this needs to be intelligent and perhaps something more fair, such as a PUD, would be appropriate in this case.

Chairman Yeager said he suggests Mr. Swenson put his questions in writing to staff in order to allow time for them to provide him with a good response.

Stacey Williams, 3001 Highway 1804 SE, said the rural residential zoning has the potential for allowing a variety of uses and she has concerns about the future roadway being located so close to her home.

Ms. Lee said if they want to split their property and build additional residential structures on their property, then it would have to be subdivided and the road would have to be dedicated at that time. She said the existing home is close to the proposed line and a tree row would be lost in the process, but they would still meet their setback requirement if the road were to be developed. She said this request does still need to be considered by the Bismarck City Commission and the plat needs to be sent to the Burleigh County Commission for acceptance of right of way.

Chairman Yeager asked if Planning staff would be willing to work with Ms. Williams and the owner to find out the details of how to best come to an agreement on the placement of the future roadway.

Dave Patience, Swenson, Hagen & Co., said the original zoning change request was to change to P-Public because of the minimal restrictions. He said he understands the concerns of the neighbors, but if their suggestions are considered then all educational uses need to require a PUD. He said Planning staff did request a master plan from the University of Mary.

Commissioner Lee asked if the property can remain agriculturally zoned until the development plans are known.

Mr. Patience said some plans are known and construction had started until the City requested the zoning be changed, so that work has been halted and would not continue without approval of the zoning change.

Ms. Lee said when the request originally came in, there was a concern of too broad of uses with the P-Public zoning district and the rest of the campus is zoned RR-Residential. She said educational uses would be in conjunction with the RR zoning and must be ancillary uses. She said A-Agriculture zoning does not allow educational uses.

Commissioner Lee asked if the immediate development plans are known at this time. Ms. Lee said Planning staff has not been informed of any plans at this point.

Commissioner Lee asked if the zoning change can wait until plans are presented. Ms. Lee said it can be put on hold for this area, but no permits would be allowed to be issued for any uses other than those allowed in the A-Agriculture zoning district.

Commissioner Lee said he would like to wait on this request as he feels the uses allowed are too broad for not knowing exactly what the intended uses are.

Commissioner Atkinson said the City is the one that requested the change to the zoning so to put it on hold now seems counterproductive. He said some construction has already started which could be further delayed and asked if the plat for University of Mary 2nd Subdivision can still move forward without the zoning change.

Ms. Lee said the plat can still move forward but the lots once would be sized smaller than normal agricultural lots.

Mr. Patience said he would rather see the request be continued in order to get more information from the University of Mary.

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

Commissioner Lee said he does not want to approve the zoning change at this time and would support a motion to continue the request until next month.

Commissioner Laning asked if the City requested this zoning change purely to clean up the zoning in that area and if it can be continued for more than one month.

Ms. Lee said they can continue the request to a date specific or they can motion to table the request in which case it would have to be re-advertised and the impacted neighbors re-notified.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to continue the zoning change from the A – Agricultural and RR – Residential zoning district to the RR – Residential zoning district for the University of Mary Second Subdivision to the December 16th meeting of the

Planning and Zoning Commission. Commissioner Waldoch seconded the motion and the request was approved with Commissioners Bullinger, Donahue, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion. Commissioner Atkinson opposed the motion.

Chairman Yeager said he would like to excuse himself from the meeting for the following item unless the Commission finds it acceptable for him to continue as Chairman, as he is an employee of the construction company assigned to the project. The general consensus of the Commission was to allow him to continue as Chairman.

**PUBLIC HEARING – ZONING CHANGE
LOT 1, BLOCK 1, CAPITAL VIEW ADDITION; LOT 1, BLOCK 1, CAPITOL
PLACE; AND LOTS 5-10, BLOCK 8, FISHER ADDITION**

Chairman Yeager called for the public hearing on a zoning change from the R5-Residential, RT-Residential and PUD-Planned Unit Development zoning districts to the PUD-Planned Unit Development zoning district for Lot 1, Block 1, Capital View Addition; Lot 1, Block 1, Capitol; and Lots 5-10, Block 8, Fisher 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 request, including the following findings:

1. The proposed use would be somewhat compatible with adjacent land uses provided an appropriate landscape buffer yard is installed in conjunction with the initial phase of development. Adjacent land uses include the Capitol grounds to the west, commercial uses to the north and single and two-family residential to the south and east.
2. The property is already annexed; therefore, the zoning change would not place an undue burden on public services, provided transportation system improvements are implemented in conjunction with site development.
3. The proposed zoning change and subsequent development would not adversely affect property in the vicinity provided the landscape buffer yard is installed in conjunction with site development, signage is not allowed on the east-facing building facades 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 zoning change and subsequent development is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed zoning change and subsequent development 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 R10-Residential, RT-Residential and PUD-Planned Unit Development zoning districts to the PUD – Planned Unit Development District for Lot 1, Block 1, Capital

View Addition; Lot 1, Block 1, Capitol Place; and Lots 5-10, Block 8, Fisher Addition, as outlined in the attached draft PUD ordinance and amended to include the following provision:

- The developer shall be responsible for the cost of implementing the recommendations of the October 2015 Traffic Impact Study as approved.

Commissioner Atkinson asked if there are plans for street improvements at North 13th Street where it meets Divide Avenue.

Mr. Tomanek said the most recent traffic impact study for that area states those streets northbound would be striped with a turn lane to allow for vehicle stacking in order to avoid back up into the neighborhood. He said the State Street and North 12th Street intersection would be converted to a 3/4 intersection, meaning a median would be created for right-in, right-out traffic only, all at the expense of the developer.

Chairman Yeager opened the public hearing.

Marlan Sorenson, 1432 North 12th Street, said North 12th Street feels like a race track with the way people speed through to get to Boulevard Avenue. He said he has had cars drive up on his sidewalk because the street is not wide enough and does not have boulevards and he feels it should remain residentially zoned or more traffic signals will be needed. He added that a bar and restaurant use in that location should both be avoided.

Gary Ritter, 1521 North 13th Street, said his biggest concern is with the ingress and egress for traffic on North 13th Street, especially with the two schools in the area already making it complicated.

Larry Thelen, 3735 Renee Drive, said parking is not sufficient enough as proposed if there is going to be space for lease options for other businesses in both phases. He said only employee parking is shown but there is not any shown for customer parking, and this will be a big traffic inconvenience for those people on North 12th Street and North 13th Street going south to Boulevard Avenue then having to turn onto State Street. He said he has concerns of where stormwater runoff will drain to once the property is developed with so much new construction. He said signage and lighting from the buildings will also be clearly visible to the neighboring homes and any noise from the potential outdoor spaces would carry throughout the neighborhood as well.

Kevin Nelson, Wenck Associates, said he understands all of the concerns stated and they are taking significant care with the stormwater retention and detention on-site and will have to develop a stormwater management plan when the time comes for site plan review. He said the planned parking is in accordance with the zoning ordinance requirements, considering the requested use types such as office space and assembly uses. He said the traffic issues are understood but people speeding can never be completely controlled except by law enforcement. He explained that the traffic study showed an increase of approximately 300

vehicles at peak times of the day so adding this development would not create a traffic increase beyond the normal expectation of a standard residential street.

Commissioner Lee asked how many parking spaces would be in one four-story ramp.

Adam Heindel, Consolidated Construction Company, said the City, by ordinance, has a per-square-foot requirement that they followed when planning for off-street parking needs and the proposed restaurant would have different operating hours than the other uses, so parking should not be an issue. He said there will also be surface parking provided in addition to the parking garage. He then explained that the proposed restaurant would be family friendly, not tavern style, and that the owner currently operates this particular restaurant elsewhere in North Dakota.

Commissioner Schwartz asked if there is going to be rooftop entertainment. Mr. Heindel said the intent for the rooftop is to use it for small, low-key gatherings, not for bands or a party space but rather very professional entertainment purposes.

Peter Stenehjem, First International Bank and Trust, said their family business has been operating for 105 years and they want to partner with the City and be good neighbors. He said this project would be the largest they have done yet, as well as the nicest, and they pride themselves on providing superior service. He said they have already had lease tenants express interest in occupying space in the proposed building which would be a good opportunity to bring new businesses and jobs to Bismarck.

Additional written comments are attached as Exhibit A.

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

Mr. Tomanek said this development would increase traffic in the area by approximately 10%, according to the study. He said the highest point of traffic in the City at this time is the intersection of Century Avenue and State Street and even with the increase, the intersection of Divide Avenue and State Street would not come close to that amount of traffic.

MOTION: Based on the findings contained in the staff report, Commissioner Atkinson made a motion to approve the zoning change from the R10-Residential, RT-Residential and PUD-Planned Unit Development zoning districts to the PUD – Planned Unit Development District for Lot 1, Block 1, Capital View Addition; Lot 1, Block 1, Capitol Place; and Lots 5-10, Block 8, Fisher Addition, as outlined in the draft PUD ordinance, with the following condition: The developer shall be responsible for the cost of implementing the recommendations of the Traffic Impact Study. Commissioner Lee seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – PUD AMENDMENT KAMROSE CROSSING

Chairman Yeager called for the public hearing on a major PUD amendment for Kamrose Crossing to amend the existing Planned Unit Development (PUD) to allow the use of a variety of residential grade materials as primary siding materials in addition to fiber cement board. The property is located in south Bismarck, in the northeast corner of the intersection of South Washington Street and Burleigh Avenue, along the west side of Rutland Drive.

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

1. The proposed PUD amendment is outside of the area covered by the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan.
2. The proposed PUD amendment would be compatible with adjacent land uses. Adjacent land uses include developing twin homes to the north and east, a storm water detention area to the west and undeveloped agricultural land to the south across Burleigh Avenue.
3. The property is annexed and services are being extended in conjunction with development; therefore, it would not place an undue burden on public services and facilities.
4. The proposed PUD amendment would not adversely affect property in the vicinity.
5. The proposed PUD amendment is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
6. The proposed PUD amendment 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 major Planned Unit Development amendment for Kamrose Crossing Addition, as outlined in the draft PUD amendment document attached to the staff report.

Chairman Yeager opened the public hearing.

Donna Zimmerman, 3201 Devon Place, said the new proposed siding material seems to be a downgrade compared to what has been used previously and she feels for what it costs to build a home, the materials used should be of considerable high quality. She said the area has lost its value with the recent zoning change and feels the products are now being downgraded as well.

Art Goldammer, Verity Homes of Bismarck, said they have had issues with the quality of labor needed to install the previously used fiber cement board product. He said they want to

continue to provide a quality product and will be using a quality vinyl like that of Colorlok which is still a good product with a significant warranty.

Commissioner Lee said he has some objections to changing PUDs when what was originally approved and what people expected it to be ends up changing. He said vinyl and cement board are two very different materials.

Commissioner Waldoch said she has seen many builders get away from using the fiber cement board products because it is difficult to find people skilled at installing them appropriately.

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 Planned Unit Development amendment for Kamrose Crossing Addition, as outlined in the draft PUD amendment document. Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – PUD AMENDMENT LOT 1, BLOCK 1, SCHILLING FIRST SUBDIVISION

Chairman Yeager called for the public hearing on a major PUD amendment for Lot 1, Block 1, Schilling First Subdivision to amend the existing Planned Unit Development (PUD) to allow the development of the remaining portion of the property with a two-story, multi-tenant mixed-use building that would include below-grade parking, offices and retail uses. The property is located along the north side of 43rd Avenue NE just east of US Highway 83 (1400 43rd Avenue NE).

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

1. The proposed zoning change is outside of the area covered by the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan.
2. The proposed amendment is compatible with adjacent land uses. Adjacent land uses include partially-developed commercial property to the north, undeveloped, commercially-zoned property to the east, office uses south of 43rd Avenue NE and developing commercial property to the west across US Highway 83.
3. The area is already annexed; therefore the proposed amendment would not place an undue burden on public services.
4. The proposed amendment would not adversely affect property in the vicinity.

5. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed amendment is consistent with all adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on the above findings, staff recommends approval of the major PUD Amendment for Lot 1, Block 1, Schilling First Subdivision as outlined in the attached draft PUD amendment document attached to the staff report.

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 Planned Unit Development amendment for Lot 1, Block 1, Schilling First Subdivision as outlined in the draft PUD amendment document. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT LOT 2, BLOCK 5, PRAIRIE VIEW SUBDIVISION

Chairman Yeager called for the public hearing on a special use permit to increase the total square footage of accessory buildings located on a rural residential lot for Lot 2, Block 5, Prairie View Subdivision. The property is located east of Bismarck, east of 52nd Street NE and south of East Main Avenue, along the north side of Meadowlark 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 request is compatible with adopted plans, policies and accepted planning practice.

Ms. Wollmuth said, based on the applicant's request, staff recommends continuing the public hearing on the special use permit to increase the total allowable square footage of accessory buildings on Lot 2, Block 5, Prairie View until the December 16, 2015 meeting of the Bismarck Planning and Zoning Commission to allow the applicant more time to reevaluate the size of the proposed accessory building and decide on a conforming location of the proposed accessory building.

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 Laning made a motion to continue the special use permit to increase the total allowable square footage of accessory buildings on Lot 2, Block 5, Prairie View until the December 16, 2015 meeting of the Bismarck Planning and Zoning Commission. Commissioner Selzler seconded the motion and the request was approved Commissioners Atkinson, Bullinger, Donahue, Laning, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – FUTURE LAND USE PLAN AMENDMENT/MODIFICATION FUTURE LAND USE PLAN (FLUP)

Chairman Yeager called for the public hearing on region-wide amendments to the Future Land Use Plan to align the Future Land Use Plan in the 2014 Growth Management Plan with other adopted plans, including the 2014 Fringe Area Road Master Plan and the 2015 Ash and Ward Coulees Watershed Master Plan, as well as make other updates to the Future Land Use Plan.

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

1. The proposed amendments are compatible with adjacent land uses.
2. The proposed amendments are justified by a change in conditions since the Future Land Use Plan was established or last amended, in particular the adoption of the Fringe Area Road Master Plan and the Ash and Ward Coulees Watershed Master Plan.
3. The proposed amendments are in the public interest and not solely for the benefit of a single property owner.
4. The proposed amendments are consistent with the general intent and purpose of the zoning ordinance.
5. The proposed amendments are consistent with the other aspects of the master plan, other adopted plans, policies and planning practice.

6. The proposed amendments would not adversely affect the public health, safety, and general welfare.

Mr. Nairn said based on the findings contained in the staff report, staff recommends approval of the amendments to the Future Land Use Plan (FLUP) 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 amendments to the Future Land Use Plan as recommended by staff. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT SPECIAL USES/ASPHALT AND CONCRETE PRODUCTION FACILITIES

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to Special Uses/Asphalt and Concrete Production Facilities.

Ms. Lee explained that the proposed amendment would clarify provisions for concrete and asphalt production facilities in the A-Agriculture and MA-Industrial zoning districts. 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 recommendation of staff, Commissioner Donahue made a motion to recommend approval of the zoning ordinance text amendment relating to special uses/asphalt and concrete production facilities. Commissioner Laning seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Schwartz, Waldoch and Yeager voting in favor of the motion.

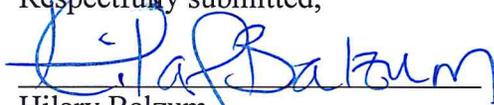
OTHER BUSINESS

There was no other business to discuss at this time.

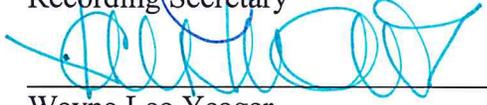
ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 7:15 p.m. to meet again on December 16, 2015.

Respectfully submitted,



Hilary Balzum
Recording Secretary



Wayne Lee Yeager
Chairman

1424 N. 12th Street
Bismarck, ND 58501
November 13, 2015

RECEIVED
NOV 16 2015

Bismarck Community Development Department
P. O. Box 5503
Bismarck, ND 58506-5503

Gentlemen:

Thank you for the letter I received regarding the Bismarck Planning & Zoning Commission hearing on November 17th. I would love to attend the meeting, but unfortunately will be out of town and unable to attend. I am therefore taking this opportunity to express my concerns via this letter.

As indicated above, I reside at 1424 N. 12th Street and have lived here 42 years. This has been a very quiet and peaceful area. I attended the Building Preview Event on November 10th put on by the First International Bank & Trust. At this meeting they stated that the new building project they are proposing would place approximately an estimated 200 to 300 additional cars into this area.

As I'm sure you are aware, this residential area has very limited access to outside roads. The 12th Street access to State Street has no traffic light and will not be able to have one since it is a State Highway and since there is a light at State Street and Divide, as I understand it, would not be willing to put one up at the 12th Street crossing. That area is already congested in the morning and evening when people are going to and from work. It is almost impossible to turn onto State Street when the Highway Department and Capitol offices open and close besides all the regular traffic, since it is a very busy street regularly. When I have attempted to go out or come home at that time I have to wait quite a long time as cars are sometimes lined up all the way down on State Street to the curve down on Boulevard. So planning to use State Street as an exit for the extra 200 – 300 extra cars they are planning for would almost be an impossibility. Therefore I am afraid they would all come down 11th Street (which ends at the former Baptist Home) or 12th Street.

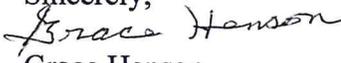
They told us that they will be opening another exit onto 13th Street so traffic could flow onto Divide Avenue. Divide Avenue is also very busy, I have tried it as an alternate route when I couldn't get out onto State Street and it was a long wait there too without the additional traffic which would be created by the new proposed project.

Our streets are narrow streets with no boulevards for snow to be pushed onto in the winter, therefore they just plow the snow to the side of the street, which makes it even narrower and if someone parks their car on the street (since these are older homes with usually only one car garages). My neighbors across the street always park one car on the street directly across from my driveway and in the winter when the streets are half

covered with snow piles I have a hard time backing out of my driveway without hitting their car and I don't know how I would be able to do that when there are additional hundreds of cars going to and from work to the new proposed building area.

Thank you for allowing me to present my view on the traffic problem this proposed building project would create for those of us that live here. Also there are several schools near by and Daycare Center across the street.

Thanks again for listening to my point of view.

Sincerely,

Grace Henson