

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
March 23, 2016**

The Bismarck Planning & Zoning Commission met on March 23, 2016, 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, Brian Bitner, Mel Bullinger, Mike Donahue, Vernon Laning, Doug Lee, Mike Schwartz, Ken Selzler, Mike Seminary, Lisa Waldoch and Wayne Yeager.

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

MINUTES

Chairman Yeager called for consideration of the minutes of the February 24, 2016 meeting.

MOTION: Commissioner Lee made a motion to approve the minutes of the February 24, 2016 meeting as presented. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

FAIR HOUSING PRESENTATION

Chairman Yeager said the Fair Housing Presentation by High Plains Fair Housing will be rescheduled for a date to be determined.

CONSIDERATION

- A. BLOCK 15, MCKENZIE'S ADDITION – PUD AMENDMENT**
- B. LOT 1, BLOCK 1, CAPITAL VIEW ADDITION, LOT 1, BLOCK 1, CAPITOL PLACE AND LOTS 5-10, BLOCK 8, FISHER ADDITION – PUD AMENDMENT**
- C. VARIOUS LOTS AND TRACTS IN SOUTH BISMARCK – CITY-INITIATED ZONING CHANGE (PHASE 5 OF 6)**
- D. ACCESSORY SOLAR ENERGY SYSTEMS – ZONING ORDINANCE TEXT AMENDMENT**

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

- A. Block 15, McKenzie's Addition – PUD Amendment

- B. Lot 1, Block 1, Capital View Addition, Lot 1, Block 1, Capitol Place and Lots 5-10, Block 8, Fisher Addition – PUD Amendment
- C. Various Lots and Tracts in South Bismarck – City-Initiated Zoning Change
- D. Accessory Solar Energy Systems – Zoning Ordinance Text Amendment

MOTION: Commissioner Lee made a motion to approve consent agenda items A, B, C & D, 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, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Selzer, Seminary, Waldoch and Yeager voting in favor of the motion.

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

**PUBLIC HEARING – FRINGE AREA ROAD MASTER PLAN AMENDMENT
SECTIONS 18 & 19, T139N-R80W/HAY CREEK TOWNSHIP**

Chairman Yeager called for the public hearing on a Fringe Area Road Master Plan Amendment for Section 18 & 19, T139N-R80W/Hay Creek Township to remove one section of arterial roadway and downgrade one section of arterial roadway to a collector roadway in the 2014 Fringe Area Road Master Plan. The property is located north of Promontory Point, between River Road and the proposed extension of Tyler Parkway.

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

1. The proposed amendment is compatible with adjacent land uses.
2. The proposed amendment is justified by a change in conditions since the 2014 Fringe Area Road Master Plan was established or last amended.
3. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner.
4. The proposed amendment is consistent with the general intent and purpose of the zoning Ordinance.
5. The proposed amendment is consistent with the other aspects of the master plan, other adopted plans, policies and accepted planning practice.
6. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Mr. Nairn said, based on the above findings, staff recommends approval of an amendment to the 2014 Fringe Area Road Master Plan, as amended, specifically to remove an arterial segment of roadway, downgrade an arterial segment to a collector segment, and shift the location of two collector segments, as more particularly described in the staff report.

Commissioner Laning asked if creating an arterial roadway on the section line will change the road maintenance responsibilities.

Mr. Nairn said as long as it is annexed the City will maintain it. He said if it remains on the section line then the owners of each side would dedicate half of the right-of-way before development occurs. If it is off the section line then it could be developed completely by one owner.

Commissioner Lee asked if there will be an access point along the roadway. Mr. Nairn said it seems to be a reasonable distance to not need an access point, because the land to the north could be accessed from Clairmont Road or the future north-south collector shown on the plan.

Commissioner Lee said he would like to avoid one developer blocking access for another developer.

Chairman Yeager opened the public hearing.

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

Mr. Friese said Hay Creek Township does not have an issue with this request, but they do have concerns about the future plans for the section road west of River Road and the existing trees. He said they want to see it constructed appropriately.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to recommend approval of the amendment to Sections 18 & 19, Hay Creek Township, of the 2014 Fringe Area Road Master Plan, as amended, specifically to remove an arterial segment of roadway, downgrade an arterial segment to a collector segment, and shift the location of two collector segments, as more particularly described in the staff report. Commissioner Waldoch seconded the motion and the request was unanimously approved with Hay Creek Township Supervisor Friese and Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

Mr. Friese left the meeting at this time.

**PUBLIC HEARING – FINAL PLAT, ZONING CHANGE AND SPECIAL USE PERMIT
SCHWAN’S COMMERCIAL ADDITION**

Chairman Yeager called for the public hearing on the final plat, zoning change and a special use permit to allow for the operations of a filling station with an autolaundry/car wash for Schwan’s Commercial Addition. The proposed plat is two lots on 4.15 acres and is located in east Bismarck, along the west side of Centennial Road and the north side of Interstate 94.

Mr. Tomanek gave an overview of the requests, including the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission on January 27, 2016.
3. The proposed subdivision is outside the boundary of the 2014 Fringe Area Road Master Plan.
4. The stormwater management plan for the subdivision has been approved by the City Engineer.
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts.
6. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required.
7. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
8. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
9. The proposed subdivision is not located in an area that is subject to flooding, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development.
10. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
11. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
12. The proposed subdivision would not adversely affect the public health, safety and general welfare.

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

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended.

2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

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

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 is compatible with adjacent land uses and zoning.
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Mr. Tomanek said, based on these findings, staff recommends approval of the final plat, zoning change and special use permit to allow for the operation of a filling station with an auto laundry/carwash facility for Schwan's Commercial Addition.

Commissioner Laning asked how the lot to the south will be accessed. Mr. Tomanek said access would be from the northwest corner of the northern lot via the stormwater and access easement. He said the plat allows access along the western edge of the two lots where there would be a 20-foot landscape buffer on the other side.

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 recommend approval of the final plat, zoning change and approve the special use permit to allow for the operation of a filling station with an auto laundry/carwash facility for Schwan's Commercial Addition. Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE
TRACTS A OF PART OF AUDITOR'S LOT 30 & TRACT B OF AUDITOR'S LOT
30, PARK HILLS AUDITOR'S LOTS AND PARTS OF BLOCKS 4 AND 9, PARK
HILLS SECOND ADDITION**

Chairman Yeager called for the public hearing on a zoning change from the CG-Commercial and R10-Residential zoning districts to the P-Public zoning district for Tracts A of part of Auditor's Lot 30 & Tract B of Auditor's Lot 30, Park Hills Auditor's Lots and parts of Blocks 4 and 9, Park Hills Second Addition. The property is located in west Bismarck, in the southeast quadrant of the intersection of West Main Avenue and Memorial Highway.

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

1. The proposed zoning change is outside the area included in to the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established.

5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth said, based on these finding, staff recommends approval of the zoning change from the CG – Commercial zoning district and the R10 – Residential zoning district to the P – Public zoning district for Tracts A of part of Auditor’s Lot 30 & Tract B of Auditor’s Lot 30, Park Hills Auditor’s Lots and parts of Blocks 4 and 9, Park Hills Second Addition.

Commissioner Laning asked what the advantage is to Bank of North Dakota to have this zoning change done. Ms. Wollmuth said the two R10-Residential zoned lots to the southeast will become part of this property and the property is expected to develop as a public use associated with the Bank of North Dakota campus.

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 recommend approval of the zoning change from the CG – Commercial zoning district and the R10 – Residential zoning district to the P – Public zoning district for Tracts A of part of Auditor’s Lot 30 & Tract B of Auditor’s Lot 30, Park Hills Auditor’s Lots and parts of Blocks 4 and 9, Park Hills Second Addition. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – CITY-INITIATED ZONING CHANGE
VARIOUS LOTS AND TRACTS IN CENTRAL AND WEST BISMARCK –
PHASE 4 OF 6**

Chairman Yeager called for the public hearing on a zoning change from the R5-Residential, R10-Residential, RM15-Residential and RM30-Residential zoning districts to the P-Public zoning district. The properties are located in central and west Bismarck.

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

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification, because the properties are already annexed and served.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Nairn said, based on the above findings, staff recommends approval of the City-initiated zoning change from the R5-Residential, R10-Residential, RM15-Residential and RM30-Residential zoning districts to the P-Public zoning district for various lots and tracts in central and west Bismarck, as more particularly described in the staff report.

Chairman Yeager opened the public hearing.

Kristy Vadnais, 1107 South Highland Acres Road, said she thought there was an easement that allowed for the planting of trees but she has noticed a lot of dead trees in the coulee that she does not want to have to pay to have removed and wondered if this would change that.

Mr. Whitman said Highland Acres Coulee is owned by Bismarck Parks and Recreation District and they would continue to maintain that area even with this zoning change. He said easements will not be affected by the change.

Commissioner Lee suggested contacting Bismarck Parks and Recreation District to have them removed.

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

MOTION: Based on the findings contained in the staff report, Commissioner Schwartz made a motion to recommend approval of the City-initiated zoning change

from the R5-Residential, R10-Residential, RM15-Residential and RM30-Residential zoning districts to the P-Public zoning district for various lots and tracts in central and west Bismarck, as more particularly described in the staff report. Commissioner Lee seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT SUBDIVISION REGULATIONS/RURAL RESIDENTIAL LOT SPLITS

Chairman Yeager called for the public hearing on a zoning ordinance text amendment relating to Subdivision Regulations/Rural Residential Lot Splits.

Ms. Wollmuth explained that the proposed amendment modifies the application submittal deadline requirement for Rural Residential Lot Splits to match the submittal deadline requirement for all other land use/development applications that appear before the Planning and Zoning Commission.

Ms. Wollmuth then gave the following findings:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment 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 ordinance text amendment relating to Subdivision Regulation Procedures/Rural Residential Lot Splits as outlined in the attached draft ordinance.

Commissioner Schwartz asked if this will change any of the actual requirements for a rural residential lot split. Ms. Wollmuth said it does not, that it is only being updated to bring the submittal deadline requirement current with the existing process.

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 recommend approval of the zoning ordinance text amendment relating to Subdivision Requirements/Rural Residential Lot Splits, as outlined in the attached draft ordinance. Commissioner Selzler seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Laning, Lee, Schwartz, Waldoch and Yeager voting in favor of the motion.

OTHER BUSINESS

Chairman Yeager said Mr. Tomanek has some comments that he would like to share with those present.

Mr. Tomanek said this will be his last meeting with the Planning and Zoning Commission as he has accepted a position in the Administration Department as the Assistant City Administrator.

Chairman Yeager thanked Mr. Tomanek for his hard work and dedication for the last 10 years. The Planning Commission and staff present applauded and commended Mr. Tomanek for all he has done.

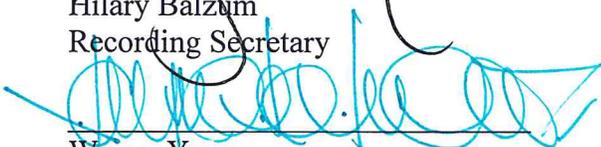
ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:30 p.m. to meet again on April 27, 2016.

Respectfully submitted,



Hilary Balzum
Recording Secretary



Wayne Yeager
Chairman