

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
April 27, 2016**

The Bismarck Planning & Zoning Commission met on April 27, 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, Mike Seminary, Lisa Waldoch and Wayne Yeager.

Commissioner Ken Selzler was absent.

Staff members present were Carl Hokenstad – Director of Community Development, Kim Lee – Planning Manager, 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 March 23, 2016 meeting.

MOTION: Commissioner Lee made a motion to approve the minutes of the March 23, 2016 meeting as presented. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

CONSIDERATION

- A. KOCH CREEK COMMERCIAL SUBDIVISION – ZONING CHANGE AND PRELIMINARY PLAT**
- B. SILVER RANCH ADDITION – ZONING CHANGE AND PRELIMINARY PLAT**
- C. SCHILLING FIRST ADDITION – PUD AMENDMENT**
- D. LOTS 1-4, BLOCK 1, GARY NELSON ADDITION – ZONING CHANGE**
- E. VARIOUS LOTS AND TRACTS IN BISMARCK ETA – ZONING CHANGE**

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

- A. Koch Creek Commercial Subdivision – Zoning Change and Preliminary Plat
- B. Silver Ranch Addition – Zoning Change and Preliminary Plat
- C. Schilling First Addition – PUD Amendment
- D. Lots 1-4, Block 1, Gary Nelson Addition – Zoning Change
- E. Various Lots and Tracts in Bismarck ETA – Zoning Change

MOTION: Commissioner Lee made a motion to approve consent agenda items A, B, C, D and E, 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, Seminary, Waldoch and Yeager voting in favor of the motion.

**FINAL CONSIDERATION - ANNEXATION
PUBLIC HEARING – ZONING CHANGE, FRINGE AREA ROAD MASTER PLAN
AMENDMENT AND FINAL PLAT
LIGHT OF CHRIST ADDITION**

Chairman Yeager called for the public hearing on the final plat; the zoning change from the A-Agriculture zoning district to the Conditional RT-Residential zoning district; an amendment of the Fringe Area Road Master Plan to relocate the intersection of Ridgeland Drive, the north-south collector for this section, and 57th Avenue NE to a location approximately 725 feet to the west along the east side of the proposed plat and final consideration of the annexation of Light of Christ Addition. The proposed plat is one lot in one block on 48.26 acres and is located in north Bismarck, between North Washington Street and US Highway 83, along the north side of 57th Avenue NE (Auditor's Lot E of the SW1/4 of Section 9, T139N-R80W/Hay Creek Township).

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

1. 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 annexation at the time the property is developed.
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck.
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 accepted planning practice.
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth 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.

Ms. Wollmuth then gave the findings for the Fringe Area Road Master Plan amendment:

1. The proposed amendment is compatible with adjacent land uses.
2. The proposed amendment is justified by a change in conditions since the 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.

Ms. Wollmuth then gave the 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.

3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. The storm water management plan for the subdivision has been approved by the City Engineer.
5. The provision of the neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts.
6. The City Engineer has determined, based on a traffic impact study, that any adverse impact to the circulation and safety of public roadways that may result from development allowed by the proposed subdivision would be substantially mitigated by the time the property is developed.
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.

Ms. Wollmtuh said, based on the above findings, staff recommends approval of the annexation; zoning change from the A – Agriculture zoning district to the Conditional RT – Residential zoning district; amendment of the Fringe Area Road Master Plan to relocate the intersection of Ridgeland Drive, the north-south collector for this section, and 57th Avenue NE to a location approximately 725 feet to the west along the east side of the proposed plat; and final plat for Light of Christ Addition, with the following conditions:

1. The development of the site is limited to campus uses associated with Light of Christ Catholic Schools and the Bismarck Diocese, and the overall heights of buildings are limited to three stories in height.

2. The recommendations outlined in the attached memo from the City Traffic Engineer shall be constructed in conjunction with site development and addressed in the developer's agreement, which will be approved in conjunction with the final plat.

Commissioner Seminary said this is an exciting project for the City and asked if the developer will be responsible for the cost of installing the roads as part of the developer's agreement.

Ms. Wollmuth said a developer's agreement does not require any one entity to pay for construction of roadways, but rather lays out the design and development requirements. She said typically the developer does pay for the construction of roadways associated with the plat, however, the applicant is working out the particulars of the developer's agreement with the City Engineering Department and the final developer's agreement will be available and approved by the Bismarck City Commission in conjunction with the final plat.

Chairman Yeager opened the public hearing.

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

Commissioner Schwartz said in the past, schools have been zoned P-Public and asked why this one will be zoned Conditional RT-Residential. Ms. Wollmuth said it is a parochial school with additional offices for the Diocese, so staff felt the Conditional RT-Residential was a more appropriate fit in this case.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to recommend approval of the annexation; zoning change from the A – Agriculture zoning district to the Conditional RT – Residential zoning district; amendment of the Fringe Area Road Master Plan to relocate the intersection of Ridgeland Drive, the north-south collector for this section, and 57th Avenue NE to a location approximately 725 feet to the west along the east side of the proposed plat; and final plat for Light of Christ Addition with the following conditions: 1. The development of the site is limited to campus uses associated with Light of Christ Catholic Schools and the Bismarck Diocese, and the overall heights of buildings are limited to three stories in height; and 2. The recommendations outlined in the attached memo from the City Traffic Engineer shall be constructed in conjunction with site development and addressed in the Developers Agreement, which will be approved in conjunction with the final plat. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**FINAL CONSIDERATION - ANNEXATION
PUBLIC HEARING – ZONING CHANGE AND REVISED FINAL PLAT
PROMONTORY POINT VI ADDITION**

Chairman Yeager called for the public hearing on the revised final plat and the zoning change from the A-Agriculture zoning district to the R5-Residential zoning district for Promontory Point VI Addition and final consideration of the annexation of a portion of the plat. The proposed plat is 133 lots in 12 blocks on 55.43 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 E½ of Section 24 in T139N-R81W/West Hay Creek Township and part of the NW¼ 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 of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed.
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck.
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 accepted planning practice.
5. The proposed annexation would not adversely affect the public health, safety and general Welfare.

Mr. Nairn 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. Nairn then gave the 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.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. The stormwater management plan for the subdivision has been approved by the City Engineer.
5. A draft neighborhood park agreement or a park concept development plan has been accepted by the Bismarck Parks and Recreation District.
6. 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.
7. 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.
8. 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.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning Ordinance.
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on these findings, staff recommends approval of the partial annexation of two lots, zoning change from the A – Agricultural zoning district to the R5 – Residential zoning district and approval of the final plat for Promontory Point VI Addition subject to 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.

Commissioner Seminary said discussion of a Fringe Area Road Master Plan amendment for this area held at City Commission last night would probably have gone differently had they known these requests were going to be discussed tonight. He said the discussion order may want to be revisited for amendments to the Fringe Area Road Master Plan.

Commissioner Lee asked if development of the proposed park space will be delayed since it has been moved from the proposed Promontory Point VI Addition to Promontory Point VII Addition.

Mr. Nairn said it is expected that the filing and development of both subdivisions will take place at relatively the same time. He said it is possible Promontory Point VII Addition could be developed first, but that is not known for sure at this time.

Commissioner Lee asked if it would be possible for the park to be developed prior to the residential lots.

Mr. Nairn said the developer's agreement for the park requires all buyers of lots nearby, including those in Promontory Point V Addition, to be notified of the new park and the assessment for it.

Chairman Yeager opened the public hearing.

Written comments voicing the need for a park in this area were received from Jeff Runito and are attached as Exhibit A.

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

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to recommend approval of the partial annexation, zoning change from the A – Agricultural zoning district to the R5 – Residential

zoning district and approval of the final plat for Promontory Point VI Addition subject to 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. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**FINAL CONSIDERATION - ANNEXATION
PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT
PROMONTORY POINT VII ADDITION**

Chairman Yeager called for the public hearing on the final plat, the zoning change from the A-Agriculture zoning district to the R5-Residential and P-Public zoning districts and final consideration of the annexation of a portion of Promontory Point VII Addition. The proposed plat is 56 lots in four blocks on 51.94 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 E½ of Section 24 in T139N-R81W/West Hay Creek Township and part of the NW¼ 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 of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed.
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck.
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 accepted planning practice.
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Mr. Nairn 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. Nairn then gave the 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.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. The stormwater management plan for the subdivision has been approved by the City Engineer.
5. A draft neighborhood park agreement has been submitted to the Bismarck Parks and Recreation District for their acceptance.
6. 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.

7. 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.
8. 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.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on these finding, staff recommends approval of the partial annexation indicated on the attached map, zoning change from the A – Agricultural zoning district to the R5 – Residential and P – Public zoning districts, and approval of the final plat for Promontory Point VII Addition, subject to the following condition:

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.

Commissioner Seminary said the consulting engineer for the watershed study spoke to the erosion issues in this area and questioned the feasibility of developing this area. He said now that there will be an extra setback for the protection slope easement, irrigation limitations and inspections required, there must be a great deal of erosion concerns.

Mr. Nairn said the Ash and Ward Coulee Water Shed Study did show issues of that matter.

Chairman Yeager opened the public hearing.

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

Commissioner Laning said he recognizes the concerns and is hesitant to approve it because of the need for an extra setback requirements and erosion issues.

Commissioner Seminary said he has seen homeowners go to great lengths to strengthen slopes because of erosion issues and they cannot have people come back and say it was approved knowing there are those problems. He said it should be approved but with it being very apparent to buyers that these problems are there, so at least the Commission has done its job.

Commissioner Laning asked if the no irrigation provision is only for those new properties over the slope protection easement. Mr. Nairn replied they would not be allowed any irrigation of the slope protection easement on the property, and should control the run-off onto these areas as well.

Commissioner Bitner asked why there is a difference in the boundary lines on the plat compared to the Ash and Ward Coulee Study. Mr. Nairn replied the slope protection easement map shows the original recommendation, the requested slope protection easement and what is proposed on the plat. He said the applicant performed a more localized soil study in order to determine the final line.

Commissioner Seminary said this could move forward to City Commission with the recommendation that the City Attorney be consulted with to strengthen the language as it relates to the slope protection easement.

Commissioner Waldoch asked if any soil borings have been performed. Mr. Nairn said some were done by the applicants' consultants and that is how the proposed setback and slope protection easement were determined.

Ms. Waldoch asked how much area on average would be allowed to be irrigated between the setback line and a house. Mr. Nairn said some lots are larger than others so it would vary depending on the lot and where a home is placed with some being 20-30 feet and some being less.

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to recommend approval of the partial annexation indicated on the attached map, zoning change from the A – Agricultural zoning district to the R5 – Residential and P – Public zoning districts, and approval of the final plat for Promontory Point VII Addition subject to the following condition: 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. Commissioner Bitner seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

Chairman Yeager stated he has a conflict of interest with the next agenda item as an employee of the consulting firm, however, is not directly assigned to this particular project and would like the Commission to either dismiss him as Chairman for this item or give him permission to stay in position. The general consensus of the Commission was to allow him to stay in his position as Chairman.

**PUBLIC HEARING – PUD AMENDMENT
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 major PUD amendment for Lot 1, Block 1, Capital View Addition, Lot 1, Block 1, Capitol Place and Lots 5-10, Block 8, Fisher Addition to amend the existing Planned Unit Development (PUD) to allow for the height reduction of the proposed parking structure adjacent to the northern building by one floor; to reduce the setbacks along the west and east sides of the site for the northern building; to modify the off-street parking requirements; to increase the height of the proposed pole sign on the west side of the property; and to clarify requirements for signage on building façades. The property is located in north-central Bismarck, along the east side of State Street and the south side of East Divide Avenue.

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

1. The proposed amendment is outside of the area included in the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed amendment is compatible with adjacent land uses and zoning;
3. The area is already annexed; therefore the City of Bismarck would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed amendment at the time the property is developed.
4. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner.
5. The character and nature of the amended planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located.
6. The amended planned unit development would preserve the natural features of the site insomuch as possible, including the preservation of trees and natural drainage ways.
7. The internal roadway circulation system within the amended planned unit development has been adequately designed for the type of traffic that would be generated.
8. Adequate buffer areas have been provided between the amended planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
9. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance.

10. The proposed amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice,
11. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Ms. Lee said, based on the findings contained in the staff report, staff recommends approval of the major Planned Unit Development (PUD) amendment 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 amendment document.

Commissioner Laning asked if a sign on the building is generally permissible if it is not lit up. Ms. Lee said, according to the draft PUD included in the packet, any sign facing east on the first building cannot be lit and a sign on the second building cannot be lit on the south or east sides.

Adam Heindle, Consolidated Construction Co., said they are generally in agreement on the requirements of the new PUD but they would like to ask for further allowances on lit signs. He said many other buildings in the area have them and it significantly helps their business to be identified easily. He said they have designed a sign that would allow white LED light to shine through a mesh overlay at a very low intensity (60 lumens) and it would also be 100 feet in the air. He said it will not blink or change color and would not likely be perceivable to the directly adjacent neighborhood.

Commissioner Laning asked if the owner would be acceptable to the Commission restricting the lighting to a certain magnitude.

Commissioner Waldoch said the difference between this building and one downtown is that it is very close to a residential neighborhood and she is hesitant to the changes because of that.

Commissioner Schwartz asked what prompted the overall changes to the proposed structures.

Mr. Heindle said they found an opportunity to slightly change the configuration of the parking ramps which would allow them to reduce the height of the buildings which they saw as a plus to the adjacent neighborhood.

Commissioner Bitner said light sensitivity is real issue and he does see an issue with moving the sign. He asked what type of sign it would be.

Mr. Heindle said they did not want to place the pylon too low because of the grade change on the property and the sign would be a brick and stone base.

Commissioner Seminary asked if this request adheres to the current sign ordinance and decisions made on previous sign requests. Ms. Lee replied it is different because of the PUD,

but this same neighborhood does have a similar sign nearby and it does not necessarily have to do with the light from the sign but rather the visibility of a lit sign from the neighborhood.

Commissioner Bullinger asked if the originally proposed 192 parking spaces on the property has changed. Mr. Heindle said that has not changed, that spaces were added to surface parking and distributed from the third floor of the ramp to only the first and second floors, allowing them to significantly reduce the height of the parking ramp.

Chairman Yeager asked if this is in compliance with the new parking ordinance. Ms. Lee said it is.

Commissioner Lee said there is already a lot of light at the intersection of Divide Avenue and State Street and this does not seem to add too much to that.

Mr. Heindle said there is significant tree growth in the surrounding area and with the sign being so high up it is unlikely that it would be noticed except from further away.

Commissioner Bitner asked why it is necessary if it can only be seen from far away. Mr. Heindle said they do actually prefer it that way, similar to the sign on the Radisson.

Chairman Yeager opened the public hearing.

David Mason, First International Bank and Trust, said they have been back and forth on the best end result for this project and he would like to see the extra sign approval go forward, as he sees it appropriate for the neighborhood as well as the City.

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

Commissioner Seminary said he is going to be sensitive to the neighborhood on this request, as the property is going to have so many significant changes as it is and he will not support an approval of a lit sign on the east side of the building.

Commissioner Waldoch said she feels the same, and if a motion to approve it does not pass then she will support the original staff recommendation.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the major Planned Unit Development (PUD) amendment 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 amendment document and with the extra allowance of a lit sign on the east side of the north building. Commissioner Lee seconded the motion and with Commissioners Atkinson, Laning, Lee, Schwartz and Yeager voting in favor of the motion and Commissioners Bitner, Bullinger, Donahue, Seminary and Waldoch opposing the motion, the motion failed.

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to approve the major Planned Unit Development (PUD)

amendment 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 amendment document. Commissioner Lee seconded the motion and with Commissioners Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary and Waldoch voting in favor of the motion, the request was approved. Commissioners Atkinson and Yeager opposed the motion.

PUBLIC HEARING – PUD AMENDMENT BLOCK 15, MCKENZIE’S ADDITION

Chairman Yeager called for the public hearing on a major PUD amendment for Block 15, McKenzie’s Addition to amend the existing Planned Unit Development (PUD) previously amended in 2014 to allow the building located at 304 West A Avenue (CB Little House) to be used as an office use. The property is located in central Bismarck, along the west side of North Washington Street between West Avenue A and West Avenue B.

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

1. The proposed amendment is outside of the area included in the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed amendment is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies will continue to provide necessary public services, facilities and programs to serve any development allowed by the proposed amendment.
4. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner.
5. The character and nature of the amended planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located.
6. The amended planned unit development would preserve the natural features of the site insofar as possible, including the preservation of trees and natural drainage ways.
7. The internal roadway circulation system within the amended planned unit development has been adequately designed for the type of traffic that would be generated.
8. Adequate buffer areas have been provided between the amended planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
9. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance.

10. The proposed amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice,
11. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the major Planned Unit Development (PUD) amendment for Block 15, McKenzie's Addition, as outlined in the draft PUD amendment document.

Chairman Yeager opened the public hearing.

Al Fitterer, Al Fitterer Architect, PC, said the original request was to reconstruct an office building but they will no longer need to demolish the original building due to financial constraints and the decision to rather move offices into the CB Little House.

Written comments in support of this request are attached as Exhibit B.

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 recommend approval of the major Planned Unit Development (PUD) amendment for Block 15, McKenzie's Addition, as outlined in the draft PUD amendment document. Commissioner Bitner seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

VARIOUS LOTS AND TRACTS IN SOUTH BISMARCK – CITY-INITIATED ZONING CHANGE PHASE 5 OF 6

Chairman Yeager called for the public hearing on a City-initiated zoning change from the R5-Residential, R10-Residential, RM15-Residential, RMH-Residential, MA-Industrial and P-Public zoning districts to the P-Public zoning district. The properties are located in south 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, RMH-Residential, CG-Commercial, MA-Industrial and P-Public zoning districts to the P-Public zoning district for various lots and tracts in south Bismarck, as more particularly described in 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 Bullinger made a motion to recommend approval of the City-initiated zoning change from the R5-Residential, R10-Residential, RM15-Residential, RMH-Residential, CG-Commercial, MA-Industrial and P-Public zoning districts to the P-Public zoning district for various lots and tracts in south Bismarck, as more particularly described in the staff report. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, 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 for an oversized accessory building that would increase the total area of accessory buildings on the property to 2,750 square feet by constructing a 2,400 square foot accessory building with a 350 square foot covered patio on Lot 2, Block 5, Prairie View Subdivision. The property is located

north of Bismarck, east of US Highway 83, between 97th Avenue NE and 84th Avenue, along the west side of Forest Drive (9506 Forest Drive).

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 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 special use would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the special use permit for an oversized accessory building that would increase the total area of accessory buildings on the property to 2,750 square feet by constructing a 2,400 square foot accessory building with a 350 square foot covered patio on Lot 2, Block 5, Prairie View Subdivision.

Chairman Yeager opened the public hearing.

Written comments regarding the appearance of the structure were received from Jeff Schild and are attached as Exhibit C.

Commissioner Donahue asked if the email received from a neighboring resident regarding the appearance of the structure has been addressed.

Ms. Wollmuth said the general contractor has stated the accessory building will match the home.

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

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to approve the special use permit for an oversized accessory building that would increase the total area of accessory buildings on the property to 2,750 square feet by constructing a 2,400 square foot accessory building with a 350 square foot covered patio on Lot 2, Block 5, Prairie View Subdivision. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

Gibbs Township Supervisor Richard Sander joined the meeting at this time.

**PUBLIC HEARING – SPECIAL USE PERMIT
NE1/4 OF THE NW1/4 OF SECTION 33, GIBBS TOWNSHIP**

Chairman Yeager called for the public hearing on a special use permit for an oversized accessory building that would increase the total area of accessory buildings on the property to 7,000 square feet by constructing a 5,000 square foot accessory building on the NE1/4 of the NW1/4 of Section 33, T139N-R79W/Gibbs Township. The property is located east of Bismarck, north of County Highway 10, between 80th Street NE and 93rd Street NE, along the south side of 17th Avenue NE (8445 17th Avenue NE).

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 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 special use would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the special use permit for an oversized accessory building that would increase the

total area of accessory buildings on the property to 7,000 square feet by constructing a 5,000 square foot accessory building on the NE1/4 of the NW1/4 of Section 33, T139N-R79W/Gibbs Township.

Chairman Yeager opened the public hearing.

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

Mr. Sander said the resolution for this request has been signed and approved by Gibbs Township and they do not see any issues with it.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to approve the special use permit for an oversized accessory building that would increase the total area of accessory buildings on the property to 7,000 square feet by constructing a 5,000 square foot accessory building on the NE1/4 of the NW1/4 of Section 33, T139N-R80W/Gibbs Township. Commissioner Waldoch seconded the motion and the request was unanimously approved with Mr. Sander and Commissioners Atkinson, Bullinger, Donahue, Laning, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT
LOTS 1-8, BLOCK 25, CASEY’S 4TH ADDITION**

Chairman Yeager called for the public hearing on a special use permit to operate a child care center on Lots 1-8, Block 25, Casey’s 4th Addition. The property is located in central Bismarck, in the southeast quadrant of the intersection of North Washington Street and East Divide Avenue (106 Osage Avenue).

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, provided variances from Section 14-03-08(4)(q) of the City Code of Ordinances (Special Uses) are approved as proposed by the Board of Adjustment.
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 special use would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the special use permit to allow a child care center on Lots 1-8, Block 25, Casey's 4th Addition with the following conditions:

1. Variances from Section 14-03-08(4)(q) of the City Code of Ordinances (Special Uses) to allow the required outdoor play area to be located within the twenty-five (25) foot building setback and to eliminate the required off-street parking spaces associated with the proposed special use be approved by the Board of Adjustment.
2. The required outdoor play area must be fenced with a 6-foot, non-climbable fence and that a walk-through gate not open toward East Divide Avenue.

Commissioner Seminary asked why this request is being seen by the Planning Commission prior to the Board of Adjustment. Ms. Wollmuth said procedurally, the request for approval of the special use permit is done first because if not approved there would be no need to request approval of a variance by the Board of Adjustment. She said if the special use permit is not approved today then the request for a variance will be removed from the agenda for the next Board of Adjustment meeting.

Commissioner Laning asked why the parking requirement cannot be met with 96 spaces available. Ms. Wollmuth said the current site does not meet the off-street parking requirements because the required parking is not provided on the same parcel as the church and the existing site cannot accommodate any additional parking. She said it will now be considered a mixed-use facility with a per-seat provided parking requirement.

Commissioner Waldoch said she has concerns with parking being available in the event of a funeral with this already being on the corner of a high traffic intersection.

Commissioner Seminary asked what would be considered a non-climbable fence. Ms. Wollmuth said a vertical fence, no chain or anything of that nature for safety purposes.

Chairman Yeager opened the public hearing.

Mary LaDuke, 1327 Meredith Drive, said she obtained multiple signatures from property owners directly adjacent to Good Shepherd Lutheran Church who are in opposition to this request. She said there was a funeral at the church last week and traffic was severely congested during that time. She said she understands there is a dire need for daycare, but the church has such a large congregation that it cannot accommodate another use at this time.

She said parking needs to stay open in front of the surrounding homes for use by the owners and their guests and she would like to see the daycare occupy a more appropriate space. She said only a few people that she spoke with voiced support for the daycare only because of the need for it, and it concerns her that up to 4,000 people could occupy the church at any given time. Written comments and photographs submitted by Ms. LaDuke are attached as Exhibits D and E.

Jack McDonald, 208 East Divide Avenue, said he is on the Board of Trustees for the YMCA and also lives in this neighborhood. He said he wants to emphasize the importance of the need to open up quality child care, as a recent survey done showed a major need for child care in North Dakota. He said they will comply with all of the requirements desired by the Commission, but this is a very major need in the community right now.

Bill Bauman, Missouri Valley Family YMCA, said this will only provide services for school age children and the need for that is significant at this time. He said commercial space is not readily available and the need is very immediate. He said their services are growing, so the opportunity to combine with partners in the community, such as the church, would provide an excellent and local resource. He said the space to be used in the church would be the lower level and families would be advised to park where it has the least impact on the surrounding neighborhood. He said they are hoping to be collaborative in this effort and find a way to fully use an otherwise underutilized resource.

Pastor Craig Schweitzer, Good Shepherd Lutheran Church, said a major component of the church is to provide community outreach and services. He said multiple other groups use the facility and this would not be any different. He said the congregation has space to house 1,400 congregants, not all 4,000 members at one time, and he feels this is a practical and appropriate request to be approved as an additional use.

Commission Atkinson asked if there has been any discussion regarding obtaining additional parking for the site.

Pastor Schweitzer said not as long as he has been at the church but they have always been willing to share parking with the YMCA across the street, as they share with the church parking as well.

Chairman Yeager asked how security and safety will be maintained if the church is needed for a function during the same hours as the child care. Mr. Bauman replied the child care space will be completely separate from those spaces to be used for various church functions and different entrance points into the building will be used by the children and staff.

Commissioner Bitner said he understands the need for more child care and the church wanting to help the YMCA, but he would like to know how the neighborhood concerns are going to be addressed. Mr. Bauman said the uses operate on different schedules so it is not likely that a funeral or wedding would be taking place during peak child care pick-up and drop-off times. He said they will also be directing their staff to park in the extra parking lot that the church owns on the south side of Osage Avenue.

Commissioner Bullinger asked how often it will happen that the children need to go across the street to the main YMCA facility. Mr. Bauman said that would only take place under staff supervision and in the event that their schedule does conflict with an event at the church.

Steve Madler, 5615 Falconer Drive, said he is on the church council and he understands that one main factor with this request is that there are parking and traffic issues, but the benefits of a daycare outweigh any major impact it would have on the neighborhood.

Commissioner Laning asked how many parking spaces are available in the lot south of Osage Avenue. Mr. Madler said it has 51 spaces.

Chairman Yeager said Planning staff has made an educated and professional recommendation and there is a reason for them recommending approval of this request.

Liz Larson, 1325 Meredith Drive, said she understands the need for child care and does have some concerns such as parking, but she does not feel the daycare will necessarily have that large of an impact on the neighborhood.

Additional written comments received from Jean Doll are attached as Exhibit F.

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

Commissioner Seminary said he used to live in this neighborhood and also uses the YMCA facilities and he is sensitive to this request. He said there has and will be challenges with parking and traffic but there is only so much the church can do about it. He said the church has been a great neighbor but the bigger thing is the dire need for child care and this is an opportunity to fulfill a need. He said once there is a significant traffic congestion concern it cannot be fixed, it can only be moved elsewhere.

Commissioner Bullinger asked if pick-up and drop-off will be restricted to one side of the building. Mr. Bauman said their plan is to have the child care only use the south side entrance.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the special use permit to allow a child care center on Lots 1-8, Block 25, Casey's 4th Addition with the following conditions: 1. Variances from Section 14-03-08(4)(q) of the City Code of Ordinances (Special Uses) to allow the required outdoor play area to be located within the twenty-five (25) foot building setback and to eliminate the required off-street parking spaces associated with the proposed special use be approved by the Board of Adjustment; and 2. The required outdoor play area must be fenced with a 6-foot, non-climbable fence and that a walk through gate not open toward East Divide Avenue. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson,

Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT
LOT 2, BLOCK 1, MUNICH ADDITION**

Chairman Yeager called for the public hearing on a special use permit to operate a child care center on Lot 2, Block 1, Munich Addition. The property is located in central Bismarck, along the south side of West Divide Avenue, southeast of the intersection of West Divide Avenue and West Turnpike Avenue (1151 West Divide Avenue).

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 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 special use would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the special use permit to allow a child care center on Lot 2, Block 1, Munich Addition with the following conditions:

1. The site must generally conform to the site plan submitted with the application.
2. That the required outdoor play area, located on the second floor of the building be surrounded with a 6 foot non-climbable parapet wall or fence.

Commissioner Laning asked if the owner would object to a higher fence around the outdoor play area.

Ms. Wollmuth said she has attempted to have a discussion with the owner regarding the height of the fence but has not been able to have a formal discussion yet.

Ms. Trotter asked when it was that the Fire Department said a higher fence was needed. Ms. Wollmuth said as of Thursday (April 21st) a higher fence had not been installed yet.

Ms. Trotter said since she was issued a certificate of occupancy and higher fence has been constructed so she would like it to be reinspected.

Commissioner Bitner said they make a motion to include the requirement that a 6 foot fence be installed even if it is already done. Ms. Trotter said that would be fine with her.

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 Seminary made a motion to approve the special use permit to allow a child care center on Lot 2, Block 1, Munich Addition with the following condition: 1. The site must generally conform to the site plan submitted with the application; and 2. That the required outdoor play area, located on the second floor of the building be surrounded with a 6 foot non-climbable parapet wall or fence. Commissioner Lee seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT ACCESSORY SOLAR ENERGY SYSTEMS

Chairman Yeager called for the public hearing on a zoning ordinance text amendment relating to Accessory Solar Energy Systems.

Mr. Nairn explained that the proposed amendment would allow solar energy systems as an accessory use in all residential and non-residential zoning districts, subject to certain conditions.

Mr. Nairn 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.

Mr. Nairn said based on the above findings, staff recommends approval of the zoning ordinance text amendment relating to Accessory Solar Energy Systems, as outlined in the attached draft ordinance.

Commissioner Bitner asked if arrays on rooftops with directional orientation being allowed to increase efficiency have been discussed.

Mr. Nairn said the rooftop panels would have to be oriented the direction of the roof. He said that the efficiency of the panels has increased so much over the years that adjustable tilts are not as cost-effective as they used to be.

Commissioner Seminary said the future of heating and cooling is changing and he would like to see the additional allowance of a mechanism for vetting ideas as technology changes and demand becomes massive.

Chairman Yeager opened the public hearing.

Rick Geloff, 425 Colt Avenue, said he approached Planning staff in November with the hopes of being allowed to add some solar panels to his property, which has since been annexed. He said half of the right-of-way in his back yard is developed and rather than fully develop his property, he came up with this solar panel use instead. He said he has contacted utility companies to find out about the buy-back process and learned he would need at least 1,600 square feet of coverage allowed in order for him to break even. He said he would be more in favor of the proposed ordinance if it were on a per square foot of lot size allowance, and it also states it may not be visible from a public right-of-way, but he does not believe the road behind his lot is not technically a complete right-of-way. He said this will only work if the percentage can be increased to allow a return on investment.

Commissioner Bitner said they should not even consider an ordinance that will completely reject the possibility of solar panels being an option and the return is also based on energy needed for the owner's home. He said any home would need a certain size of array in order to break even.

Commissioner Lee said energy costs are increasing and asked if there is any concern regarding reflection off the panels and towards a neighboring home. Mr. Nairn said the panels should absorb so much of the sun that any amount reflected should not be noticed.

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

Commissioner Bullinger asked if a solar energy system would be allowed to be mounted to an accessory structure. Mr. Nairn said an accessory building to a residence would have to meet the same requirements.

Commissioner Seminary said the goal for a return on investment should not be the first priority with this but rather a strong ordinance. He said the math of the issue complicates it from the beginning is that this is a baby step, assuming it will probably need to be amended several times yet. He said industry experts should be consulted in order to be ahead of this change as much as possible.

Mr. Nairn said those who have been consulted said they would like to see allowance for larger community solar energy systems, and staff will work on an ordinance for this in the future.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to recommend approval of the zoning ordinance text amendment relating to Accessory Solar Energy Systems, as outlined in the attached draft ordinance. Commissioner Seminary seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Bullinger, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

OTHER BUSINESS

There was no other business to discuss at this time.

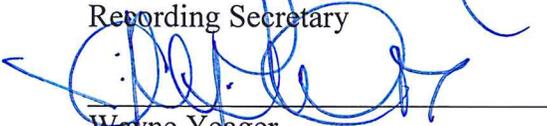
ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 7:35 p.m. to meet again on May 25, 2016.

Respectfully submitted,



Hilary Balzum
Recording Secretary



Wayne Yeager
Chairman

Hilary Balzum

From: Planning - General Mailbox
Sent: Wednesday, April 20, 2016 12:59 PM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jason Tomanek; Jenny Wollmuth; Kim Lee
Subject: FW: Regarding April 27th meeting

From: Jeff Rundio [mailto:jeffrundio@gmail.com]
Sent: Wednesday, April 20, 2016 10:50 AM
To: Planning - General Mailbox
Subject: Regarding April 27th meeting

To whom it may concern,

I live in Promontory point V. It is a nice community overall. However, there is one big problem with the way it is laid out so far. There is no green space whatsoever. The new plans for Promontory VI MUST include a large park and field. I cannot stress this enough. I would even say if there is no park planned then the zoning should not allowed to change. Thank you for your consideration.

Jeff

Hilary Balzum

From: Planning - General Mailbox
Sent: Tuesday, April 19, 2016 8:36 AM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jason Tomanek; Jenny Wollmuth; Kim Lee
Subject: FW: Diocese PUD amendment

From: bobwefald [mailto:bobwefald@msn.com]
Sent: Monday, April 18, 2016 3:26 PM
To: Planning - General Mailbox
Cc: 'Susan Wefald'
Subject: Diocese PUD amendment

Dear Planning People:

We have no objection to the proposed Diocese amendment to their PUD causing the C.B. Little House to revert to use for office space. Quite frankly, we never understood why they changed it to residential in the first place as it is not a good or modern residence.

The Cathedral priests and parishioners have always been great neighbors! And they so very nicely take care of their property!

Sincerely,

Bob

Bob Wefald
Home phone – [701-223-8975](tel:701-223-8975)
Cell phone – [701-595-2401](tel:701-595-2401)
312 West Avenue B
Bismarck ND 58501-3413

Hilary Balzum

From: Planning - General Mailbox
Sent: Tuesday, April 26, 2016 8:27 AM
To: Carl Hokenstad; Daniel Nairn; Hilary Balzum; Jason Tomanek; Jenny Wollmuth; Kim Lee
Subject: FW: Special Use Permit in Hay Creek Pines

From: J. Schild [<mailto:jschild4@hotmail.com>]
Sent: Monday, April 25, 2016 9:51 PM
To: Planning - General Mailbox
Subject: Special Use Permit in Hay Creek Pines

Dear Sir or Madam,

My name is Jeff Schild, and I live at 9130 Forest Drive in the Hay Creek Pines Development. I was sent a letter informing me about a public hearing on a special use permit for an oversized accessory building to be erected at 9506 Forest Drive (Item 13 on your online agenda as of the evening of 4/25) requesting any commentary.

It appears the new structure will be behind the home, and will blend in well with the surroundings without much if any tree removal, so I do not have a problem with a structure being erected. The only concern that I have is that it follows the Protective Covenants of the area. This is partially covered in your agenda packet, but in our covenants in section 4 it states "...materials, and workmanship is in harmony with exiting structures...". Therefore, I wish that you ensure that this does not become a "pole barn" building with metal sides and/or roof but matches the existing house siding and roofing as close as reasonably possible. I do not believe this would be a problem given the nice buildings in the neighborhood and how nice and well kept this landowner keeps his property, but figured it was worth mentioning so it is not a problem nor will become a legal problem later in time. If this request can not be met then I would protest the structure.

Thank you for your time,
Jeff Schild

To: Planning and Zoning Commission.
April 27, 2016
Exhibit D.

We, the undersigned, oppose any additional construction on the southeast portion of the Good Shepherd lots.

We want to remain in a residential section of Bismarck as opposed to a commercial section, which is why we are also not in agreement with the addition of a day care within the church proper.

The neighborhood is already having a difficult time with the traffic resulting from the existing programs at Good Shepherd. Parking needs extend to both sides of Osage, Meredith Drive, Divide Avenue and Catherine Drive. During snowy winters, the snow banks plus the parking of cars on both sides of Meredith Drive reduce the street to a one lane situation. It is very dangerous.

We suggest the YMCA and Good Shepherd Church find a commercially zoned area for the Day Care.

Mary LaDuke 1327 Meredith Dr.
Jean Doll 1323 Meredith Dr, Bismarck
Ned ~~and~~ 1324 Meade Ln Bismarck
Joe Homan 107 OSAGE AVE
Tammy Homan 107 Osage Ave Tammy Homan
Robert ~~and~~ 1329 Meredith Dr Bismarck ND 58001

I only contacted families around the perimeter of the church. Time and weather prevented more canvassing.
One family was sympathetic to the day care
The other family wanted to attend this mtg.
One family is out of town.



Exhibit F.

1323 Meredith Drive
Bismarck, ND 58501
April 25, 2016

RECEIVED
APR 25 2016

TO: Bismarck Community Development-Planning Commission
ATTN Jenny Wollmuth
FROM: Jean Doll

RE: Good Shepherd Luthern Church/YMCA
request for special use permit for
day care for 90 children

In 1992 I moved to Meredith Drive to an area zoned single family residential. At that time, GSLC property had an east facing residence (facing Meredith Drive) on the east edge of what is now their parking lot. The residence provided a partial buffer to the sight and sounds of their parking lot.

When I became aware of the plan to remove the home on that lot, I talked with a GSLC minister and expressed my concerns about the noise and commotion from a planned expanded parking lot. He assured me that the church would plant a hedge on the east edge of the parking lot as a buffer. It did not happen.

GSLC is an active church with their regular schedule, weddings, funerals and various support groups such as AA. Parking always appears to be an issue with it spilling over the residential neighborhood, and repeated use of neighborhood driveways for "turn arounds".

I have no information on what they plan for ingress and egress to serve 90 children. I expect that it means increased vehicular traffic and congestion. It is nearly impossible to access Washington Street from Osage Avenue. The same is true with Meredith Drive access to Divide Avenue to make a left turn. Washington Street and Divide Avenue intersection is a bottleneck.

I am not aware of any outreach from GSLC officials concerning how they might minimize impacts (such as diminished attractiveness of this single family neighborhood) to those of us who own property in the immediate area.

Please call me if you have any questions. Thanks for what you do.

