

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
April 22, 2020**

The Bismarck Planning & Zoning Commission met on April 22, 2020, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Due to ongoing public health concerns related to COVID-19, the meeting was held via Zoom. Chair Schwartz presided and was present in the Tom Baker Meeting Room.

Commissioners present were Tom Atkinson, Steve Bakken, Brian Bitner, Brian Eiseman, Vernon Laning, Paul Levchak, Gabe Schell, Wendy Van Duyne, Trent Wangen and Mike Schwartz

Commissioner Kevin Martin was absent.

Staff members present were Ben Ehreth – Community Development Director, Kim Lee – Planning Manager, Will Hutchings – Planner, Daniel Nairn – Planner, Jenny Wollmuth – Planner, Hilary Balzum – Community Development Administrative Assistant and Janelle Combs – City Attorney.

MINUTES

Chair Schwartz called for consideration of the minutes of the February 26, 2020 meeting.

Commissioner Laning stated it needed to be corrected on pages 21-22 that he was the one who had made and withdrew the motion.

Commissioner Eiseman asked that the supporting and opposing votes be double checked on page 24.

Staff indicated those corrections would be made prior to the signing and publication of the minutes.

MOTION: Commissioner Bakken made a motion to approve the minutes of the February 26, 2020 meeting, with the noted corrections. Commissioner Bitner seconded the motion and it was unanimously approved with Commissioners Atkinson, Bakken, Bitner, Eiseman, Laning, Levchak, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

CONSIDERATION

- A. SANFORD ADDITION – PRELIMINARY PLAT AND ZONING CHANGE**
- B. NORTHERN SKY SECOND ADDITION – PRELIMINARY PLAT AND ZONING CHANGE**
- C. FIRST RESPONDERS ADDITION – PRELIMINARY PLAT**

Chair Schwartz called for consideration of the following consent agenda items:

- A. Sanford Addition – Preliminary Plat and Zoning Change
- B. Northern Sky Second Addition – Preliminary Plat and Zoning Change
- C. First Responders Addition – Preliminary Plat

MOTION: Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve consent agenda items A, B and C, 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 Bakken, Bitner, Eiseman, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

**FINAL CONSIDERATION – ANNEXATION
PUBLIC HEARINGS – ZONING CHANGE, FRINGE AREA ROAD MASTER PLAN
AMENDMENT AND FINAL PLAT
ELK RIDGE SECOND ADDITION**

Chair Schwartz called for the public hearing on the final plat; the zoning change from the A – Agriculture and R5 – Residential zoning district to the R5 – Residential and R10 – Residential zoning districts; the Fringe Area Road Master Plan amendment to eliminate the collector designation for a north-south roadway within the proposed plat and in Sections 18 and 19, T139N-R80W/Hay Creek Township; and final consideration of the annexation of Elk Ridge Second Addition less the right-of-way for Tyler Parkway. The proposed plat is 99 lots in 15 blocks on 58.14 acres and is located in northwest Bismarck, between River Road and East Valley Drive, east of Promontory Point VI Addition along the west side of Tyler Parkway (a replat of Lot 11, Block 7, Lot 14, Block 10, Lot 1, Block 6, Lot 1, Block 5, Eagle Crest 6th Addition and Blocks 4 and 5, Elk Ridge Addition and part of the SE¼ of Section 18 and part of the NE¼ of Section 19, T138N-R80W/ Hay Creek Township).

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

1. The City of Bismarck and/or 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 related to land use 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/or other agencies may 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 proposed 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 related to land use 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 related to land use 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 City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP).
5. The provision of neighborhood parks has been met with the approved neighborhood park in Elk Ridge Addition.
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/or 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 within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, 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.

Ms. Wollmuth said based on the above findings, staff recommends approval of the annexation of the proposed plat, less the right-of-way for Tyler Parkway; the zoning change from the A – Agriculture and R5 – Residential zoning districts to the R5 – Residential and R10 – Residential zoning districts; the Fringe Area Road Master Plan amendment to eliminate a north-south collector roadway within the proposed plat and in Sections 18 and

19, T139N-R80W/Hay Creek Township; and major subdivision final plat for Elk Ridge Second Addition.

Commissioner Levchak said it appears that multiple written comments have been received in opposition to this request.

Commissioner Bakken asked if the developer has identified specific plans for this location.

Ms. Wollmuth said the plat would consist of 99 lots, and explained that two lots within the proposed plat would be larger in size; one lot would be for stormwater purposes and the other could be redeveloped for future public or residential uses. She said this density would be in line with the Low-Density Residential designation as specified in the Future Land Use Plan.

Commissioner Bakken said he understands there is a concern with property values, but feels this development will be well within the range for this area.

Chair Schwartz opened the public hearing.

Jason Petryszyn, Swenson, Hagen & Co., said the development would consist of single family and twinhome lots along Ivory Lane. He said they did consider the surrounding lot sizes and these would be comparable. He added that there is not an intent to further modify the single family or twinhome lots and, with Tyler Parkway being an arterial roadway, this would offer some connectivity for Eagle Crest and Promontory Point subdivisions which has been a goal for quite some time. He said Ivory Lane is planned to connect to Ash Coulee in the future as well.

Additional comments in opposition to this request are attached as Exhibits A-C.

There being no further comments, Chair Schwartz closed the public hearing.

Commissioner Levchak said with the letters written and phone calls received, the consensus seems to be the concern over the narrow lots. He said this also concerns him and he will not be supporting these requests.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the annexation of the proposed plat less the right-of-way for Tyler Parkway; the zoning change from the A – Agriculture and R5 – Residential zoning district to the R5 – Residential and R10 – Residential zoning districts; the Fringe Area Road Master Plan amendment to eliminate the collector designation for a north-south roadway within the proposed plat and in Sections 18 and 19, T139N-R80W/Hay Creek Township; and major subdivision final plat for Elk Ridge Second Addition. Commissioner Atkinson seconded the motion and the motion was approved with Commissioners Atkinson, Bakken, Eiseman, Laning, Schell, Schwartz,

Van Duyne and Wangen voting in favor of the motion. Commissioner Levchak opposed the motion. Commissioner Bitner abstained.

**FINAL CONSIDERATION – ANNEXATION
PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT
HERITAGE PARK SECOND ADDITION**

Chair Schwartz called for the public hearing on the final plat; the zoning change from the A – Agricultural zoning district to the R5 – Residential, R10 – Residential, and RM10 – Residential zoning districts; and final consideration of the annexation of Heritage Park Second Addition. The proposed plat is 96 lots in six blocks on 35.77 acres and is located in northwest Bismarck, north of 57th Avenue NW and east of 15th Street NW (part of the SW¼ of Section 8, T139N-R80W/Hay Creek Township).

Mr. Nairn gave an overview of the request, including the following findings related to land use for the annexation:

1. The City of Bismarck and/or 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 related to land use 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/or other agencies may 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 proposed 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 related to land use 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 City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP).
5. The requirements of the neighborhood parks and open space policy have been met by a previous Park Development Agreement.
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/or 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 within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, 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 the above findings, staff recommends approval of the annexation, the zoning change from the A – Agricultural zoning district to the R5 – Residential, R10 – Residential, and RM10 – Residential zoning districts and the major subdivision final plat for Heritage Park Second Addition, with the following conditions:

1. A street name change is initiated for Colony Loop within Heritage Park Addition to remain consistent with the extension of this street within Heritage Park Second Addition in conjunction with the City Commission approval of the final plat.
2. A development agreement for construction of 64th Avenue NW is presented for approval by the City Commission in conjunction with final action on the final plat of Heritage Park Second Addition with the City Commission.

Commissioner Schell asked if the plat needs to show the South Central Regional Water District (SCRWD) pipeline and easement.

Mr. Nairn said he understands that will be relocated to the Sonora Way right-of-way so an easement would not be on the plat and the consulting engineer can likely speak to that issue as well.

Commissioner Bitner asked what will be in the proposed development agreement regarding the construction of 64th Avenue NW.

Mr. Nairn said the right-of-way dedication and initial grading would be by the developer and pavement and construction of the roadway are not defined in the agreement, but are planned to be done at a later date.

Commissioner Bitner asked if the developer would be sharing that cost.

Mr. Nairn said the draft agreement does not indicate any financial participation from the developer on the pavement and construction of the roadway.

Commissioner Schell said the plat itself and the adjacent Heritage Ridge Second Addition as well would provide some north-south connectivity. He added that 64th Avenue NW would only lead to 15th Street NW. He added that there is no desire from the developer to construct 64th Avenue NW at this time, but if he does then he would enter into a development agreement at that time.

Chad Moldenhauer, Benchmark Developments, LLC, said he owns K&L Homes and he would be remiss to continue without thanking the Planning and Zoning Commission as well as City staff for helping move projects forward right now during the busy development season. He said the Heritage Park and Heritage Ridge developments do play off of each other and are important to each other. He said 57th Avenue NW near Liberty Elementary School

has been an area of active building for him for the last five years, with a very different vision to include a lot of amenities such as landscape buffers, walking trails and being the first to take advantage of the green space requirements. He added that there is a widely used 5-acre park and some homes are larger while some are smaller and he would like approval of both developments at this time. He added the lots are similar in size and would be identical in zoning to the first phases with one RT-Residential zoned area in Heritage Ridge Second Addition. He said he is anticipating these developments will increase traffic on Tyler Parkway at 15th Street NW and there might be the need for a condo or small office building in the future. He said they plan to grade the site yet this year and next. Mr. Moldenhauer added that some members of the adjacent neighborhood at a meeting in 2014 did voice concerns over how traffic would impact the gravel roads in the subdivision to the north, but Sonora Way is now paved, so there is much less dust in the area. He said there also was a concern of people shortcutting through the adjacent neighborhood, but with the improvement of 15th Street NW, that has been much less than expected as well. He went on to say the community is enjoying a certain quality of life in this location. Mr. Moldenhauer said they are doing their part to be conservative and considerate to the surrounding neighborhoods. He added that there has been talk of the potential development of 64th Avenue NW and while they cannot go east due to the layout of Green Acres Subdivision. In addition, it is unlikely a road would go east or west there because of the grade and other development requirements. He closed by saying he promised to deliver a quality development with the first phases and would like to be able to do it again now.

Chair Schwartz opened the public hearing.

Don Ronsberg, 1209 Restful Drive, said he lives in Hay Creek Estate and submitted his comments prior the meeting as well. He said everybody moved to this location for a specific reason and their contention is of development fatigue, which he explained is what occurs when there is a constant barrage of construction that takes place. He said every street for seven years now has had construction and, with the paving of 15th Street NW, a lot of traffic was brought in. He said they do not have sidewalks so they are walking on roads, dog walking, riding bikes and so forth, adding that it is concerning that the speed limits are not followed as it is. He said he does not want the developments connected to each other. Mr. Ronsberg said they are also experiencing light pollution and indicated North Washington Street has gone to LED lights and asked what would be used here. He said he wants there to be a lower impact on lifestyles and feels there is a lack of green space in the area. He said a park is not green space because it does not have areas for gathering people together.

Byron Lannoye, 1045 Restful Drive, said he lives just north of the proposed development and the neighborhood roads are paved, but residents paid for that and are paying for more traffic. He said when it gets worn out prematurely they will end up paying for it again through special assessments. Mr. Lannoye said approximately 53 homes are in their neighborhood and there is no continuity or buffer to adding 96 more homes that will directly affect their neighborhood. He said he would like this to be rethought and see more sense be made with the development.

Additional comments in opposition to this request are attached as Exhibits D and E.

There being no further comments, Chair Schwartz closed the public hearing.

Commissioner Levchak said residents spoke to a problem with this development abutting a rural residential development and he would like to see a better job being done with transitioning between the two.

Commissioner Bitner asked what would be a preferable transition, adding that two residents have asked for the request to not be approved or to have changes made before approval.

Commissioner Levchak said this is not the forum to be redesigning a subdivision, but more of a buffer such as tree rows would be desirable. He said he does not have all of the answers but knows they have to do better.

Commissioner Bitner said he passed on voting on a similar item at the last meeting because it is so close to his personal residence, adding that he is in the process of planting more trees on his property because of a new nearby development. He said this is a topic for future discussion potentially.

Commissioner Van Duyne said she agrees with Commissioner Levchak's observations and she sees merit in supporting the request, but the Commission should encourage more transition. She said they will continue to see requests like this one and asked how they can be smart with growth while maintaining a certain quality of life.

Chair Schwartz said he wonders if Mr. Moldenhauer would be open to discussing those remedies with the neighborhood in order to mitigate some concerns.

Commissioner Bitner said he would really like to see that happen, especially when transitioning from a City development up to a rural development.

Commissioner Bakken said the concern of light pollution can be easily mitigated especially.

Commissioner Schell said light standards offer newer technology and are designed to illuminate a specific area. He said the model selection is chosen from a few options by the developer themselves.

Commissioner Bakken said he understands a desire for a decorative component and asked if they can consider buffer zones in general and remain cognizant of the needs expressed.

Commissioner Bitner asked if there is a price or economical difference with the light options.

Commissioner Schell said the operating costs of all of the options are very similar.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the annexation, the zoning change from the A – Agricultural zoning district to the R5 – Residential, R10 – Residential, and RM10 – Residential zoning districts and the major

subdivision final plat for Heritage Park Second Addition, with the following conditions: 1) A street name change is initiated for Colony Loop within Heritage Park Addition to remain consistent with the extension of this street within Heritage Park Second Addition in conjunction with the City Commission approval of the final plat; and 2) A development agreement for construction of 64th Avenue NW is presented for approval by the City Commission in conjunction with final action on the final plat of Heritage Park Second Addition with the City Commission. Commissioner Wangen seconded the motion and the motion was approved with Commissioners Atkinson, Bakken, Eiseman, Laning, Schell, Schwartz, Van Duynes and Wangen voting in favor of the motion. Commissioners Bitner and Levchak opposed the motion.

PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT HERITAGE RIDGE SECOND ADDITION

Chair Schwartz called for the public hearing on the final plat and the zoning change from the A – Agricultural zoning district to the R5 – Residential and Conditional RT – Residential zoning districts for Heritage Ridge Second Addition. The proposed plat is 56 lots in five blocks on 43.75 acres and is located in northwest Bismarck, north of 57th Avenue NW and east of 15th Street NW (part of the SW¼ of Section 8, T139N-R80W/Hay Creek Township).

Mr. Nairn gave an overview of the request, including the following findings related to land use 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/or other agencies may 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 proposed 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 related to land use 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 City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP).
5. The requirements of the neighborhood parks and open space policy have been met by a previous Park Development Agreement.
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/or 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 within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, 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 the above findings, staff recommends approval of the zoning change from the A – Agricultural zoning district to the R5 – Residential and Conditional RT – Residential zoning districts and the major subdivision final plat for Heritage Ridge Second Addition, with the following conditions:

1. A street name change is initiated for Valley Vista Lane within Heritage Ridge Addition to Heritage Ridge Road to match the extension of this roadway within Heritage Ridge 2nd Addition.
2. A development agreement for construction of 64th Avenue NW is provided in conjunction with a public hearing for the final plat of Heritage Park Second Addition with the City Commission.

Chair Schwartz opened the public hearing.

Mr. Petryszyn said they are aware of the traffic concerns between the two proposed subdivisions and they did discuss those connections and arrive at the proposed conditions of the staff recommendation.

Additional comments in opposition to this request are attached as Exhibits F-H.

There being no further comments, Chair Schwartz closed the public hearing.

Commissioner Schell said the concept of connectivity can be controlled by contracts, but the goal is for a subdivision to have multiple routes for emergency services.

Commissioner Bakken said public safety is the main priority and Commissioner Schell stated it well and he reinforces that statement.

Commissioner Bitner asked why the 15-foot buffer that was originally indicated on the preliminary plat was removed from the final plat.

Mr. Nairn replied the preliminary plat did show a buffer yard, but the ordinance only requires a buffer between multi-family and single-family developments or between commercial and single-family developments, so it was not necessary and the developer chose not to pursue it.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the zoning change from the A – Agricultural zoning district to the R5 – Residential and Conditional RT – Residential zoning districts and the major subdivision final plat for Heritage Ridge Second Addition, with the following conditions: 1) A street name change is initiated for Valley Vista Lane within Heritage Ridge Addition to Heritage Ridge Road to match the extension of this roadway within Heritage Ridge 2nd Addition; and 2) A development agreement for construction of 64th Avenue NW is provided in conjunction with a public hearing for the final plat of Heritage Park Second Addition with the City Commission. Commissioner Eiseman seconded the motion and the motion was approved with Commissioners Atkinson, Bakken, Eiseman, Laning, Schell, Schwartz, Van Duyne and Wangen voting in favor of the motion. Commissioners Bitner and Levchak opposed the motion.

**PUBLIC HEARINGS – ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT
EDGEWOOD VILLAGE 7TH ADDITION 1ST REPLAT**

Chair Schwartz called for the public hearing on the zoning change from the PUD – Planned Unit Development zoning district to the RT - Residential, RM30 – Residential and R10 – Residential zoning districts and the minor subdivision final plat for Edgewood Village 7th Addition 1st Replat. The proposed plat is 52 lots in one block on 40.95 acres and is located in northeast Bismarck, west of Centennial Road and south of 43rd Avenue NE, just north of Legacy High School (a replat of Lots 1-3, Block 3, Edgewood Village 7th Addition).

Mr. Nairn gave an overview of the requests, including the following findings related to land use for the zoning change:

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is not compatible with adjacent land uses and zoning.
3. The City of Bismarck and/or other agencies may 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 proposed 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 related to land use for the final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP).
3. The proposed subdivision is consistent with the general intent and purpose of the zoning

ordinance.

4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. 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 zoning change from the PUD – Planned Unit Development zoning district to the RT - Residential, RM30 – Residential and R10 – Residential zoning districts and the minor subdivision final plat for Edgewood Village 7th Addition 1st Replat.

Chair Schwartz opened the public hearing.

Commissioner Schell asked if the MDU easement within the property needs to be labeled.

Mr. Nairn said he would look into that.

Commissioner Schell asked staff to make sure that the trail segments are in an easement and not protruding into Lot 52.

Commissioner Levchak asked if any of the streets will be private and if so, which ones.

Mr. Nairn said Ozark Loop will be a private roadway and would be maintained by a Homeowners Association (HOA). *(Secretary's Note: The name of Ozark Loop was changed to Texas Loop at the request of the developer.)*

Commissioner Bitner asked how private roads have worked in the past for the City and said his concern is of snow removal.

Commissioner Schell said they do try to avoid private roadways, although they are sometimes requested to accommodate additional density but without expanding the need for City services. He said the developer must prove a justification for the private drive and snow removal is done privately and the streets are signed as private streets as well.

Commissioner Levchak asked if the water and sewer infrastructure belong to the City in a private road and what happens if repairs to it are needed.

Commissioner Schell said the residents own the lines under the private roadways, so there is a cutoff point where ownership and maintenance would start for the homeowners' association and stop for the City. He said the City would still service the fire hydrants.

Commissioner Bitner asked if there is much difference in the property taxes on private roads, since that is what pays for those services and asked what the benefit is then of a private road.

Commissioner Schell replied the property taxes for a variety of services provided to residents, not just roads.

Commissioner Levchak asked if it would run afoul of state law if a line is not separately designated for a water supplier.

Commissioner Schell said if the City meters it to a private line that is within the regulations, as long as they are not distributing the water.

Ms. Combs explained that the City obligation ends at the meter and in terms of regulating, the Environmental Protection Agency has discussed that, but water ownership at the main valve ends there. She said property taxes on private drives are not much different, and the homeowners also have to pay HOA fees.

Mr. Niemiller said the initial plan here is for twinhomes in the southwest, multi-family residential in the southeast and a portion in the north for RT – Residential uses. He said that the north parcel could potentially be changed to commercial in the future as the rest of the area is developed. He said there is 50-foot MDU easement to be labeled as such and he will verify whether the existing trail is completely contained within the trail easement. He confirmed that the private road would be maintained with the HOA fees.

There being no further comments, Chair Schwartz closed the public hearing.

Mr. Nairn said staff will make sure the easement label gets added to the plat before forwarding it to consideration by the Board of City Commissioners.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the zoning change from the PUD – Planned Unit Development zoning district to the RT – Residential, RM30 – Residential and R10 – Residential zoning districts and the minor subdivision final plat for Edgewood Village 7th Addition 1st Replat. Commissioner Bitner seconded the motion and the motion was unanimously approved with Commissioners Atkinson, Bakken, Bitner, Eiseman, Laning, Levchak, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT EUGENES FIRST ADDITION FIRST REPLAT

Chairman Schwartz called for the public hearing on the minor subdivision final plat for Eugenes First Addition First Replat. The proposed plat is two lots on 5.07 acres and is located in north-central Bismarck north of East Divide Avenue along the west side of State Street (a replat of Lots 13-20, Block 2, Tibesar First Subdivision and part of the SE¼ of Section 28, T139N-R80W/City Lands, to be known as Eugenes First Addition).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The Post-Construction Stormwater Management Permit (PCSMP) the underlying plat of Eugenes First Addition was approved by the City Engineer on January 24, 2020. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) for this plat with the understanding that prior to any development, site plan or additional division of the proposed two lot subdivision of Eugenes First Addition First Replat, an approved stormwater management plan is required. Future development is anticipated to maintain current overall drainage patterns with no increase in overall impervious surfacing. Additionally, depending upon the proposed future drainage patterns, a NDDOT permit may be required for stormwater discharge into ND 1804 (State Street) right-of-way prior to any land-disturbing activities. Approval of the stormwater management plan by the NDDOT is required at the time of development.
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed subdivision 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 minor subdivision final plat for Eugenes First Addition First Replat.

Chair Schwartz opened the public hearing.

Rob Illg, SEH, Inc., said all of the information needed was presented and he thanked staff for their help.

Additional comments in support of this request are attached as Exhibit I.

There being no further comments, Chair Schwartz closed the public hearing.

MOTION: Commissioner Bakken made a motion to recommend approval of the minor subdivision final plat for Eugenes First Addition First Replat. Commissioner Bitner seconded the motion and the motion was unanimously approved with Commissioners Atkinson, Bakken, Bitner, Eiseman, Laning, Levchak, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT CAROLS ADDITION

Chairman Schwartz called for the public hearing on the minor subdivision final plat for Carols Addition. The proposed plat is two lots on 3.51 acres and is located in northwest

Bismarck, north of Arabian Avenue, west of North Washington Street, along the south side of Buckskin Avenue (a replat of the East 340 feet of Lot 1, Block 3, KMK Estates).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) with the understanding that prior to any development, site plan, or additional division of the proposed two-lot subdivision, an approved stormwater management plan will be required. Additionally, future development is required to maintain current overall drainage patterns and adhere to the 2014 North Washington Street Stormwater Management Plan.
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed subdivision 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 minor subdivision final plat for Carols Addition, with the following condition:

1. The exact location and width of the required NuStar gas line easement is identified and accepted by the easement holder prior to forwarding the proposed plat to the Bismarck City Commission for final action.

Chair Schwartz opened the public hearing.

Rob Illg, SEH, Inc., said he again thanks staff for their help and he is open to any questions.

Commissioner Levchak said the proposed subdivision is for two lots and asked if the north lot would share access onto Buckskin Avenue.

Mr. Illg said that is correct.

Commissioner Levchak asked if they will be asking to split the north lot.

Mr. Illg said not likely and added that an access for a parking lot is shown on the northern lot.

There being no further comments, Chair Schwartz closed the public hearing.

MOTION: Commissioner Bakken made a motion to recommend approval of the minor subdivision final plat for Carols Addition, with the following condition: 1) The exact location and width of the required NuStar gas line easement is identified and accepted by the easement holder prior to forwarding the proposed plat to the Bismarck City Commission for final action. Commissioner Bitner seconded the motion.

Commissioner Schell said Buckskin Avenue would be reconstructed upon the receipt of petitions and he would like to add that as a condition to the approval.

Ms. Wollmuth said that can be added per the wishes of the Commission.

Commissioner Bakken asked if he can withdraw his motion and make a new motion.

Ms. Combs said he can withdraw and then re-motion.

MOTION: Commissioner Bakken made a motion to recommend approval of the minor subdivision final plat for Carols Addition, with the following conditions: 1) The exact location and width of the required NuStar gas line easement is identified and accepted by the easement holder prior to forwarding the proposed plat to the Bismarck City Commission for final action; and 2) A petition for roadway improvements for Buckskin Avenue is submitted prior to recordation of the final plat, Commissioner Bitner seconded the motion and the motion was unanimously approved with Commissioners Atkinson, Bakken, Bitner, Eiseman, Laning, Levchak, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT WACHERS ADDITION SECOND REPLAT

Chairman Schwartz called for the public hearing on the minor subdivision final plat for Wachters Addition Second Replat. The proposed plat is eight lots on 60.41 acres and is most of the existing Kirkwood Mall property located in central Bismarck, along the north side of East Bismarck Expressway, south of East Bowen Avenue, east of South 3rd Street and west of South 7th Street (a replat of Auditor's Lots E, F, K and L of Blocks 3 and 4 and the vacated Arbor Avenue of Wachter's Addition).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The City Engineer has waived the requirement for a Post-Construction Stormwater Management Permit (PCSMP) in conjunction with this plat.

3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed subdivision 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 minor subdivision final plat for Wachters Addition Second Replat.

Chair Schwartz opened the public hearing.

Mr. Niemiller said this took some work and thanked City staff for their help. He said the developer plans to add new individual structures hopefully on the three newly created lots within the plat.

Commissioner Levchak asked if the outlots along South 3rd Street will require a new point of entry.

Mr. Niemiller said they will not and they are actually removing one, but not adding any.

There being no further comments, Chair Schwartz closed the public hearing.

MOTION: Commissioner Bakken made a motion to recommend approval of the minor subdivision final plat for Wachters Addition Second Replat. Commissioner Laning seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bakken, Bitner, Eiseman, Laning, Levchak, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT LOT 5, BLOCK 1, WACHTERS ADDITION SECOND REPLAT

Chair Schwartz called for the public hearing on a special use permit for a drive-through in conjunction with a new fast food restaurant on Lot 5, Block 1, Wachters Addition Second Replat. The property is located in southcentral Bismarck, between East Bismarck Expressway and East Bowen Avenue, along the east side of South 3rd Street (Kirkwood Mall).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

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 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.

Ms. Wollmuth said, based on these findings, staff recommends approval of the special use permit for a drive-through in conjunction with a new fast food restaurant (Chick-fil-A) on Lot 5, Block 1, Wachters Addition Second Replat.

Chair Schwartz opened the public hearing.

Mr. Petryszyn said they have spent over a year working with CBL & Associates Management, Inc. and Kirkwood Mall Acquisition, LLC on getting tenants and going beyond the requirements of the ordinance as well.

Commissioner Bakken asked if the MDU line overhead would remain in place.

Mr. Petryszyn said it would remain active during the relocation and there would be a short transfer of power once it is time for that.

Commissioner Bitner said there is a symbol next to the entrance near the building layout and asked what that indicates.

Mr. Petryszyn said there is an overhead sign indicating the height as well as trash enclosures and concrete labels.

Commissioner Schell asked if there would be pedestrian connectivity and a sidewalk along South 3rd Street.

Mr. Petryszyn said this lot and the other two would connect to the sidewalk and they have also discussed dedicating other areas to connect to the mall as well.

Commissioner Bakken asked if the parking requirements would be impacted for the mall versus the new proposed restaurant.

Mr. Petryszyn said they did calculate all of those numbers and the plans to shrink some of the vacant interior space would offset the parking needs for the three new businesses. He said they all would be fine as it relates to parking even without the proposed changes to the parking ordinance.

There being no further comments, Chair Schwartz closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve the special use permit for a drive-through in conjunction with a new fast food restaurant on Lot 5, Block 1, Wachters Addition Second Replat. Commissioner Bitner seconded the motion and the motion was unanimously approved with Commissioners Atkinson, Bakken, Bitner, Eiseman, Laning, Levchak, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT LOT 4, BLOCK 1, WACHTERS ADDITION SECOND REPLAT

Chair Schwartz called for the public hearing on a special use permit for a drive-through in conjunction with a new pharmacy on Lot 4, Block 1, Wachters Addition Second Replat. The property is located in south Bismarck, between East Bismarck Expressway and East Bowen Avenue, along the east side of South 3rd Street (Kirkwood Mall).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

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 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.

Ms. Wollmuth said, based on these findings, staff recommends approval of the special use permit for a drive-through in conjunction with a new pharmacy (Thrifty-White) on Lot 4, Block 1, Wachters Addition Second Replat.

Chair Schwartz opened the public hearing.

Mr. Petryszyn said this would be the second of the three proposed outlots. He said the ordinance requires three cars for pharmacy pick up and they are meeting that requirement and would move on to the site plan review process upon approval of the special use permit. He said the proposed parking ordinance changes, if approved, would not affect the parking requirements for this site.

Commissioner Bakken asked if a single-lane of only three stacking spaces would be used.

Mr. Petryszyn said with direction from the developer they felt that would be sufficient. He added there would be open parking adjacent to this location if needed above what is required of the parking ordinance.

Commissioner Bakken asked where overflow stacking would back up to without impeding traffic around the building.

Mr. Petryszyn said the plan is conceptual and they could move the curb line and deepen the stacking if needed and can explore that further during the site plan design.

Commissioner Schell asked if this would be a new Thrifty White location or if the existing one would be relocated.

Mr. Petryszyn said he is not sure of that specifically.

Commissioner Van Duyne said there appears to be room in the loading area to the east and asked if that could be examined as an overflow area.

Mr. Petryszyn said they will explore that as an option.

There being no further comments, Chair Schwartz closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve the special use permit for a drive-through in conjunction with a new pharmacy on Lot 4, Block 1, Wachters Addition Second Replat. Commissioner Bitner seconded the motion and the motion was unanimously approved with Commissioners Atkinson, Bakken, Bitner, Eiseman, Laning, Levchak, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT
LOT 3, BLOCK 1, WACHTERS ADDITION SECOND REPLAT**

Chair Schwartz called for the public hearing on a special use permit for a drive-through in conjunction with a new fast food restaurant on Lot 3, Block 1, Wachters Addition Second Replat. The property is located in south central Bismarck, between East Bismarck Expressway and East Bowen Avenue, along the east side of South 3rd Street (Kirkwood Mall).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

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 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.

Ms. Wollmuth added that the applicant has requested a waiver from the requirement to reduce the stacking spaces from 12 spaces to 4 spaces. According to the applicant, the

function of the proposed drive-through is different from a standard drive-through, as there will not be an ordering board or kiosk. Ms. Wollmuth stated that it is staff's understanding that all orders will be phoned in or done via the internet prior to arrival. Ms. Wollmuth said that staff is supportive of the waiver on the condition that the drive-through is configured as proposed and all orders will be placed prior to arrival.

Ms. Wollmuth said, based on these findings, staff recommends approval of the special use permit for a drive-through in conjunction with a new fast food restaurant (Blaze Pizza) on Lot 3, Block 1, Wachters Addition Second Replat, including granting a waiver to reduce the required stacking spaces from 12 spaces to 4 spaces.

Chair Schwartz opened the public hearing.

Mr. Petryszyn said this is the third outlot which is the one furthest to the south. He said it is north of the existing Scheel's entrance and they are asking for a waiver from the stacking requirement. He said the occupant is going to offer internet orders so it would be for pick-up orders only.

There being no further comments, Chair Schwartz closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve the special use permit for a drive-through in conjunction with a new fast food restaurant on Lot 3, Block 1, Wachters Addition Second Replat, including granting a waiver to reduce the required stacking spaces from 12 spaces to 4 spaces. Commissioner Eiseman seconded the motion and the motion was unanimously approved with Commissioners Atkinson, Bakken, Bitner, Eiseman, Laning, Levchak, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

PUBLIC HEARING- ZONING ORDINANCE TEXT AMENDMENT SIGN ORDINANCE

Chair Schwartz called for the continued public hearing on a zoning ordinance text amendment relating to amendments to the sign ordinance, which would adopt a new chapter of the zoning ordinance pertaining to the regulation of signs.

Mr. Nairn gave an overview of the proposed amendments including the history of meetings, the purpose of the zoning ordinance text amendment, why sign regulation is needed, how this would conform to the Comprehensive Plan, how public comments have been responded to and the update process and schedule.

Mr. Nairn gave an overview of the amendment, 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 these findings, staff recommends approval of the zoning ordinance text amendment creating Chapter 14-10 – Signs and amending or repealing various other sections in Title 4 and Title 14, as presented in the draft ordinance attached to the staff report, with an effective date of 60 days after approval by the City Commission.

Commissioner Bitner asked if insurance is not required on portable signs installed by the property owner.

Mr. Nairn said that is correct and added that the insurance requirement applies to licensed installers only. He said if a property owner asks for the sign permit then the insurance requirement would not apply.

Chair Schwartz opened the public hearing.

Darren Schmidt, Bismarck Mandan Board of Realtors President, said they provided a statement prior to the meeting. Mr. Schmidt read his statement and it is attached as Exhibit J.

Kim Hagel, Awesome Signs, said she spoke with Mr. Nairn regarding some of the wording and said she feels a lot of their questions have been answered. She asked how the new sign ordinance requirements would be shared with the local sign companies and added that bench signs should also be included somewhere. She said they should all have to be insured.

Mr. Ehreth explained that City staff will work through notifying the sign companies of the changes and added that bench signs in the right-of-way are not addressed here. He said the agreements on bench sign advertisements were that they were to help fund the transit system; however, some have been added in places that are not designated stops. He said the Engineering Department is aware of this issue.

Commissioner Schell added that benches are allowed through some agreements, but new ones are cross referenced and if they have not been approved they must be removed.

Duane Hagel, Awesome Signs, asked if A-frame signs or site signs with bricks are going to be allowed in vacant business areas.

Mr. Nairn said there is a broad range of designs allowed but only a few requirements, such as the maximum square footage and not being lit, are included, but not design restrictions. He said they would be considered portable and subject to the time duration limit.

Additional comments are attached as Exhibits K-N.

There being no further comments, Chair Schwartz closed the public hearing.

Commissioner Bitner thanked staff and the various sign vendors for all of their work on this ordinance. He said it will not be perfect and feels it needs to be passed so as to not hold up the sign businesses any further. He said changes can be addressed as needed in the future.

Commissioner Bakken said there is no perfect ordinance and he thanked City staff and the stakeholders for their input. He said he would like someone to expound on the enforcement of the ordinance going forward.

Mr. Ehreth said the change Mr. Nairn noted in his presentation as to the reporting requirements for portable signs puts more trust in individuals with monthly auditing being conducted in lieu of submittal of a report and this would be a complaint-based effort for enforcement purposes.

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to approve the zoning ordinance text amendment relating to the sign code, as presented. Commissioner Bakken seconded the motion and the motion was unanimously approved with Commissioners Atkinson, Bakken, Bitner, Eiseman, Laning, Levchak, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

PUBLIC HEARING- ZONING ORDINANCE TEXT AMENDMENT OFF-STREET PARKING AND LOADING

Chair Schwartz called for the public hearing on a zoning ordinance text amendment relating to amendments to revise the existing Off-Street Parking and Loading requirements outlined in the City of Bismarck's zoning ordinance, Title 14 of the City Code of Ordinances.

Ms. Wollmuth gave an overview of the proposed amendments including the history of meetings, the purpose of the zoning ordinance text amendment, public input meetings, changes to the existing requirements and the update process and schedule.

Ms. Wollmuth gave an overview of the amendment, 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 these findings, staff recommends approval of the zoning ordinance text amendment for Sections 14-02-03 (Definitions), 14-03-08 (Special Uses) and 14-03-10 (Off-Street Parking and Loading), as presented in the draft ordinance attached to the staff report.

Chair Schwartz opened the public hearing.

Sammy Wong, SHG, LLC, said she has nothing to add and supports the changes.

Additional comments in support of the zoning ordinance text amendment are attached as Exhibit O.

There being no further comments, Chair Schwartz closed the public hearing.

Commissioner Bakken thanked City staff and the stakeholder group and asked how they can enable business while fitting in with the City's requirements. He said Ms. Wollmuth did a great job with this ordinance and a lot of parking issues will be circumvented now.

Commissioner Schell asked if the building use needs to be known at the time of development.

Ms. Wollmuth said the parking is calculated based on the use so, yes, and that staff would prefer to know the proposed use at the time of development so parking can be calculated accordingly.

Commissioner Schell asked if any conversations were had with the Bismarck Parking Authority for input.

Mr. Ehreth said Commissioner Oban, as a Bismarck Parking Authority member, was a member of the stakeholder group and added that the State of North Dakota Century Code has provisions for the allowance of boundaries and expansion into those areas would be allowed if deemed necessary. He said additional street parking is ample in the areas that were studied and the Bismarck Parking Authority did not state definitely their intent to expand the downtown parking district at this time.

Commissioner Bitner said if the ordinance allows for an administrative parking approval, how would one know that has been done.

Mr. Ehreth said the ordinance now allows for those administrative approvals and the new ordinance would give more weight to highly skilled City staff and the consultants to do that based on a unique use. He said they are also willing to take information from professionally recognized sources to make those determinations as well.

Commissioner Bitner said his concern is that it is the job of the Board of Adjustment to grant variances.

Mr. Ehreth said the Board of Adjustment has historically been used for those variance types and the ordinance does not preclude the Board of Adjustment from acting, but the existing professional planning staff would now be able to make those determinations if deemed necessary.

Chair Schwartz thanked Ms. Wollmuth and the rest of the City staff and said he is very impressed with the work that was put into this ordinance.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve the zoning ordinance text amendment relating to the off-street parking and loading, as presented. Commissioner Levchak seconded the motion and the motion was unanimously approved with Commissioners Atkinson, Bakken, Bitner, Eiseman, Laning, Levchak, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

OTHER BUSINESS

RESOLUTION OF APPRECIATION – TOM ATKINSON

Chair Schwartz read a resolution of appreciation for Tom Atkinson and thanked him for his 10 years of service on the Bismarck Planning and Zoning Commission.

Commissioner Atkinson said it has been a pleasure to serve.

Commissioner Bakken said it has been a pleasure to get to know Commissioner Atkinson and thanked him for his work.

NORTH DAKOTA PLANNING ASSOCIATION MEMBERSHIP

Mr. Ehreth thanked the Planning and Zoning Commissioners for their work throughout all of the various changes lately and thanked his staff for working tirelessly through all of the necessary adjustments. He said their work shows through this meeting.

Mr. Ehreth shared the North Dakota Planning Association is the state planning organization and they have changed their price point for memberships to have various benefits including

publication subscriptions and conference registrations. He said the Commissioners can contact him regarding any interest in obtaining a membership.

OTHER

Commissioner Bakken said with the continued open meetings and allowing the general public to provide input has come from great staff work. He said they are making great efforts to accommodate the ability for members of the public to provide input and asked if Ms. Combs would like to elaborate on those processes moving forward.

Ms. Combs said City staff is always making sure there are alternatives to presenting in person and how to get all of the meetings broadcast while still adhering to the social distancing guidelines and remaining transparent and accessible at the same time.

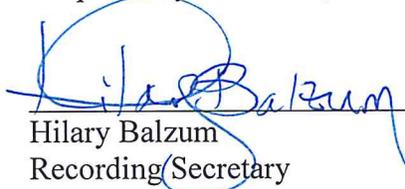
Commissioner Bakken added that the City of Bismarck website, social media and calling ahead to make appointments with City staff are other great ways to stay up to date and in communication right now.

Chair Schwartz thanked the Commissioners and City staff for all of their hard work in maintaining public access throughout the response to the COVID-19 pandemic.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 8:26 p.m. to meet again on May 27, 2020.

Respectfully submitted,



Hilary Balzum
Recording Secretary



Mike Schwartz
Chair

From: [Daniel Nairn](#)
To: [Hilary Balzum](#)
Subject: FW: K and L Heritage expansion
Date: Wednesday, April 15, 2020 11:12:50 AM

From: Ginther, Michael [mailto: [REDACTED]]
Sent: Wednesday, April 15, 2020 6:31 AM
To: Daniel Nairn <dnairn@bismarcknd.gov>
Subject: K and L Heritage expansion

Hi Daniel,

My name is Mike Ginther, I live at 5700 Crested Butte Road in the Heritage Ridge Addition. I would like to voice support to approve Heritage Development's request for zoning changes and the subsequent construction of Heritage Ridge Second Addition and Heritage Park Second Addition.

The Heritage Additions are a wonderful place to live, on any given day my family is out enjoying the walking paths, parks and scenery. We are excited every time a new house pops up and another family moves into the development. I would like to see the continuation of the two adjacent additions for Heritage Ridge and Heritage Park.

Sincerely,
Mike Ginther

From: [Daniel Nairn](#)
To: [Hilary Balzum](#)
Subject: FW: K&L Homes
Date: Thursday, April 16, 2020 12:58:34 PM

From: Michael Horan [mailto: [REDACTED]]
Sent: Thursday, April 16, 2020 12:33 PM
To: Daniel Nairn <dnairn@bismarcknd.gov>
Subject: K&L Homes

I am a new resident to the K&L Heritage Park development. While we have only been here a couple of months, I am very impressed with the development layout, the way the homes are constructed and the way the development is made up of a "family" of homeowners.

I support the expansion of the K&L development.

Thank you.

Michael Horan
1013 Limited Lane
Bismarck, ND
[REDACTED]

From: [Daniel Nairn](#)
To: [Hilary Balzum](#)
Subject: FW: Heritage Ridge 2
Date: Thursday, April 16, 2020 3:31:16 PM

From: Brandon Keller [mailto: [REDACTED]]
Sent: Thursday, April 16, 2020 2:48 PM
To: Daniel Nairn <dnairn@bismarcknd.gov>
Subject: Heritage Ridge 2

Hello Daniel,

My name is Brandon Keller and I am a resident of Heritage Ridge in Bismarck. I see the consideration to expand the development to the north. I am emailing to express my support for the residential addition onto our development. I support this because I've experienced and lived the benefits of this growing development. The builder/developer has maintained a high level of quality in all that he has done in the development and is helping maintain housing prices in a growing part of our town. My family loves living in this development and I believe many more families could have this same experience in the second addition. Adding more houses in this area will continue to pull more invested interest to the north side of town, continue to raise our home values by bringing us more restaurants, stores, amenities, shopping and night life. I am excited for our city to continue to grow and thrive. I believe the additional homes in this second addition to the development is a step in the right direction.

Thank you for your time.
Brandon

From: [Daniel Nairn](#)
To: [Hilary Balzum](#)
Subject: Fwd: Heritage Park Additions
Date: Wednesday, April 22, 2020 12:27:11 PM

Sent from my iPhone

Begin forwarded message:

From: Don Ronsberg <[REDACTED]>
Date: April 22, 2020 at 11:43:00 AM CDT
To: Daniel Nairn <dnairn@bismarcknd.gov>, Planning - General Mailbox <planning@bismarcknd.gov>
Cc: Byron & Terri Lannoye <[REDACTED]>, Lon & Lori Hagerott <[REDACTED]>
Subject: Heritage Park Additions

Daniel: First off, I want to thank you again for taking time to discuss the Heritage Park additions and information you provided me with on the phone on Monday. As you suggested, I am submitting "our" comments below from a collective of current Hay Creek Estate residents.

City Planning Commission: My name is Don Ronsberg. I live in Hay Creek Estates (1209 Restful Drive). I have been here since 2005 when my wife and I purchased our home. I am retired military (20 years, active duty, Air Force). I worked 7 years for the state and now work for the federal government. This is our first (and only) house / home we planned on buying. When we purchased our home, we both wanted an area to live the rest of our lives in an area that was outside of city limits, quite and peaceful. A place where you could look up in the sky at night to marvel at the stars, or hear the coyote in the fields, see the deer grazing. It was a piece of paradise that we both quickly came to love. In the past 6 years, that "slice of heaven" has been eroded away in small increments. We understand the realities of metro growth, expansion and development, but it should be done responsibly and with consideration to all involved. This new addition will directly affect the quality of life that the Hay Creek residents have come to love. Some of them have lived out here for over 30 years now and have no desire to move elsewhere. The following subjects are of deep concern that will affect us should the proposals for Heritage Park be approved.

1. Development fatigue

- Over the last 6 years, we have had to endure constant construction and noise of heavy trucks (beep beep beep of reversing payloaders, earth movers and dump trucks), building houses and businesses (hammers, saws), constant dust, dirt and mud on the roads from digging up fields (that we thought beautiful and peaceful).
- We have had to watch the encroachment of developments such as Boulder Ridge, Eagle Ridge, Horizon Market and adjacent professional buildings, north Washington upgrade, St. Mary's, a medical complex, Liberty Elementary construction and hundreds of homes on both east and west sides of Washington.
- Year after year of a never ending barrage of construction.

2. We oppose new road additions and extensions for Sonora and Crested Butte

- Since the construction of the 15th Ave addition, we have seen significant additional traffic into our development – with very few of them ever driving the speed limits.
- 96 additional homes would roughly equal 96 more vehicles driving through our development (maybe not every day from going to work, but on evenings, weekends, enroute to the river, golf course etc.).
- We have no sidewalks (and Do Not want them), so current residents run and walk our streets, walk their pets, children ride their bikes etc. The traffic will increase even more significantly, and barring the presence of law enforcement, speed bumps or other measures, the likelihood of accidents or tragedy is high.
- The extensions are NOT necessary. There are 2 egress routes out of Heritage Park now. If you are only considering 57th as one egress, than please consider adding one to connect into 15th Ave.

3. Light pollution

- The current Heritage Park uses Arc sodium lights in their development. These lights are old tech and cause light pollution. In an area where we could see the stars at night clearly, we are now seeing the effects of "sky glare" coming off not only that development, but in other newly developed construction around us. LED, eco-friendly street lighting should be used. The city had the forethought and experience to place LED lighting when they re-vamped north Washington (and thank you for doing that). The current lights in Heritage Park should be replaced and ensure that only LED lighting be used (the kind

that only illumine straight down – not radially in all directions).

4. Recreation and green space in a house / building constricted environment.
 - With all the new houses going up, there is a lack of Green Space. If you want to put families out here (since there are schools, churches and small businesses), how about some places for recreation, like a park.
 - A playground is not a park. The playground in the current Heritage Park was conveniently placed due to the location of the WBIP gas compression station (and MDU not wanting to wall it off), and no one in their right mind would want to live near it. We need places to walk, run, let our dogs run, play frisbee golf, play softball / baseball, have picnics, family re-unions etc. A place where an actual "Park" can provide a place for residents to escape to decompress and enjoy nature. Most ND residents have come to love our state for its wide open, clean spaces and have a deep seated respect for nature. We need a place like that in north Bismarck because there currently aren't any (Hillside, Sibley etc.).

I know this has been a bit long and rambling, but we are passionate about where our "dream homes" are located and feel that our concerns need to be voiced and presented. We thank you for your time and consideration in this matter.

Respectfully

Don Ronsberg

From: [Daniel Nairn](#)
To: [Hilary Balzum](#)
Subject: FW: K and L Heritage expansion
Date: Wednesday, April 15, 2020 11:12:50 AM

From: Ginther, Michael [mailto:]
Sent: Wednesday, April 15, 2020 6:31 AM
To: Daniel Nairn <dnairn@bismarcknd.gov>
Subject: K and L Heritage expansion

Hi Daniel,

My name is Mike Ginther, I live at 5700 Crested Butte Road in the Heritage Ridge Addition. I would like to voice support to approve Heritage Development's request for zoning changes and the subsequent construction of Heritage Ridge Second Addition and Heritage Park Second Addition.

The Heritage Additions are a wonderful place to live, on any given day my family is out enjoying the walking paths, parks and scenery. We are excited every time a new house pops up and another family moves into the development. I would like to see the continuation of the two adjacent additions for Heritage Ridge and Heritage Park.

Sincerely,
Mike Ginther



April 17, 2020

TO: Planning and Zoning Commission

Needless to say, the development of the sign ordinance has been a long and tedious process. The Realtor Association got involved in August of 2019 and we're sure the City staff and others had been working on it well before that time. The BMBOR is appreciative of the time spent by staff to meet with stakeholders and to make reasonable revisions to the proposed ordinance. We also appreciate the Commission's actions to provide multiple opportunities for input at public hearings; and your attempts to hear all concerns. However, due to the continued extensions, we are now in a position where we need to move this ordinance forward. When we spoke with you last, a couple of months ago, we then had members who were holding off on ordering signs pending the approval of this ordinance. People in our industry are waiting to order signs; and, we're sure other individuals and businesses are on hold as well.

BMBOR represents 477 real estate agents who are independent contractors; and, who are, themselves, small business owners and are impacted by the sign ordinance. REALTORS® closed more than 1,550 transactions in the sale of residential properties and lots in 2019, with about 1,220 of those in Bismarck with a sales volume of \$335,642,567. It is estimated that the sale of each home in North Dakota generates another \$37,598 to the economy, plus contributes another \$38,433 toward demand for new home construction. (Sources: BEA, U.S. Census, NAHB, Macroeconomic Advisors, NAR.) This impact reflects the direct transaction costs and payments to those involved in the transaction and the purchases and services that typically go with the purchase of a different home – things like furniture, paint, décor, etc.; and then also the economic roll-over effect in all of those areas.

Not only do we want to encourage you to take action soon on this ordinance, we would also like to take an opportunity to clarify a couple of things.

First, "Real Estate" is not a type of sign – and, it is not identified in the ordinance. There may be some confusion about this because of our involvement and presence throughout the review and development of the ordinance. BMBOR organized a work group consisting of residential agents and brokers and commercial agents and brokers to review the ordinance, to meet with staff, and to provide feedback. Members of BMBOR have also been involved and present at meetings to address the categories of signs in the ordinance that real estate agents use, such as: yard signs, garage door signs, site signs, commercial signs, and others. It is our understanding, that based on the lawsuit Reed vs. Gilbert, AZ, signs cannot be regulated on content such as "real estate". In other words, the ordinance cannot single out a type of

business (or the content on the sign); but, rather the ordinance addresses types and/or categories of signs.

Next, throughout this process, we have worked collaboratively with the City staff throughout this process. There has been give-and-take as we compromised on various parts of the ordinance. We felt it was important to be cooperative and to do our part to compromise. As a result, there are several items that we did not get changed as we had requested. We have been willing to let those items go in order to move the ordinance forward. However, as we have attended these meetings, and have seen the challenges presented, we have come to realize that it may be the wishes of this Commission to continue working on the ordinance until all issues and concerns have been addressed to the satisfaction of each individual and business that is affected. If the intent of the Commission is to accommodate all concerns, then we too would like to ask that the items we have not been able to get revised be made at this time as well.

However, and more importantly, whether or not you reconsider at this time the items for revision we requested previously, we would ask that you make a decision to move forward with the ordinance so that it can move through all the proper channels with the City Commission and get things back on track so agents can order needed signs to provide service to their clients.

We have said it before, and we will reiterate, the staff has been great working with us throughout this entire process. And, we appreciate the opportunity to be involved on behalf of the 477 small business owners who are members of BMBOR.

Thank you for listening to our concerns and thank you for moving this ordinance forward as soon as possible.

Below are the areas where the Realtor® group compromised or accepted the proposed ordinance and would like reconsidered if the Commission is choosing to accommodate each request that is made.

1. In the proposed ordinance, signs on garage doors would be limited to the size of yard signs, which is 8 sq. ft. Right now, some Realtors® have invested in garage door signs that measure approximately 24-30 sq. ft.; so, if all requests are to be accommodated, we request this be changed.
2. Signage on semi-trailers that are parked at various sites are prohibited in the proposed ordinance. While there were not specific concerns expressed in our group, there are some members who use this type of signage and we would request reconsideration to allow these.
3. Illumination of yard signs is currently not allowed in the proposed ordinance. We would like to see low-level solar-powered lighting allowed on yard signs. Again, we were willing to compromise on this, however, we would ask for your consideration if all requests are to be accommodated.
4. The ordinance restricts the sizes and percentage of coverage areas for signs downtown. We did express concern and there was some revision made. However,

again, if all issues are to be addressed until all parties are satisfied, we would request this restriction be removed.

5. Development signs – as drafted, signs are only allowed at entrances. Ideally, it would be beneficial to have signage within a development as well. Should the Commission wish all requests be provided for in the ordinance, we would ask that be revisited.
6. The number of signs on a commercial property is limited and there are requirements for distance between the signs. It would be our preference that these would not be limited.

Again, these are areas where Realtors® compromised in order to move the ordinance forward. It is not our desire to further delay the passage of the ordinance in order to seek further revisions based on these six items. Rather, we encourage your moving the ordinance forward soon so that the process can continue to the next phase with the City Commission.

Thank you.

Jamie McLean, Chair
BMBOR Government Affairs Committee


Darren Schmidt, 2020 President
Bismarck Mandan Board of Realtors®

From: [Daniel Nairn](#)
To: [Hilary Balzum](#)
Subject: FW: Heritage Ridge & Heritage Park 2nd Addition
Date: Monday, April 20, 2020 11:16:10 AM

Good morning,

I am sending this email in support of K&L Homes' request to develop Heritage Ridge & Heritage Park 2nd Additions.

K&L Homes does a great job of developing new neighborhoods that residents are proud to call home. Chad Moldenhauer and his staff at K&L Homes goes above and beyond when developing a new neighborhood. Heritage Ridge and Heritage Park 1st Addition are prime examples. The landscaping, the walking trails, the park land, the design of the homes along with keeping the whole area very well maintained does so much for a neighborhood not to mention the added value to the homes within that neighborhood.

We love Heritage Ridge so much we have put our current home in Heritage Ridge up for sale and have bought another lot within the development to build our new home.

Both my husband Jason and I fully support K&L Homes in their developing Heritage Ridge & Heritage Park's 2nd Addition. We feel developing the 2nd Additions will only add to the value of our current neighborhood.

Tammy DeWitt
5721 & 5938 Crested Butte Rd
Bismarck, ND 58503

Sent from [Mail](#) for Windows 10

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Ben Ehreth](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: zoning changes
Date: Monday, April 20, 2020 10:47:08 AM

From: Marilyn Schon [mailto:[\[REDACTED\]](#)]
Sent: Monday, April 20, 2020 8:34 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: zoning changes

April 20, 2020

Dear Community Development Department:

We are writing in opposition of the proposed changes in zoning in regards to the Elk Ridge Second Addition's minimum of R5-Residential changing to also allowing R-10 Residential zoning. After purchasing a large lot for a premium price and building a home we do not feel that it is fair or right that smaller lots should be sold allowing more houses and congestion in our area. This will drive down the value of homes in our neighborhood. And please keep all proposed roads as planned. We do not want to see extra traffic on Tyler Parkway.

Why didn't all home owners in the neighborhood receive a letter about this proposed change? Why did we have to rely on our neighbor for the information? Why is this being pushed through during Covid-19 lock down?

Sincerely,

Curtis and Marilyn Hedstrom

From: [Daniel Nairn](#)
To: [Hilary Balzum](#)
Subject: FW: Continued Public Hearing for Sign Code
Date: Thursday, April 16, 2020 12:59:56 PM

From: Joe Gusaas [mailto:]
Sent: Thursday, April 16, 2020 12:36 PM
To: Daniel Nairn <dnairn@bismarcknd.gov>
Subject: Re: Continued Public Hearing for Sign Code

Daniel,

I would like to see this removed:

Roadway Functional Class. Off-premise advertising signs may only be located adjacent to a minor or principal arterial roadway. If the right-of-way of an arterial roadway includes a local or frontage roadway, the sign may be adjacent to said local or frontage roadway. y
Functional Class. Off-premise advertising signs may only be located adjacent to a minor or principal arterial roadway. If the right-of-way of an arterial roadway includes a local or frontage roadway, the sign may be adjacent to said local or frontage roadway.

We have roads that do not fall into this criteria that have higher traffic counts than roads that do fall into it.

thanks,

Joe Gusaas

From: [Daniel Nairn](#)
To: [Hilary Balzum](#)
Subject: FW: Continued Public Hearing for Sign Code
Date: Friday, April 17, 2020 8:07:07 AM

From: Kate Herzog [mailto:[\[REDACTED\]](#)]
Sent: Monday, April 13, 2020 3:25 PM
To: Daniel Nairn <dnairn@bismarcknd.gov>
Subject: Re: Continued Public Hearing for Sign Code

Hi Daniel,
Thanks for the update. As far as the sign ordinance goes I'd refer back to our Feb 7 discussion, summarized below:

Feb 7, 2020:

Comments from the council so far on allowing EMCs in the Downtown Core weren't super supportive. Council members thought that it wouldn't work well with the Downtown aesthetic and had some concerns on light mitigation as we have hotels, hospital rooms and a huge amount of upcoming housing units. At this point the group thinks the current prohibition of EMCs in the DC is fine and if someone really wants an EMC in the Downtown Core they could possibly appeal to P&Z or City Commission.

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Elk Ridge Second Addition proposed zoning change
Date: Monday, April 20, 2020 10:47:50 AM

From: Frank Losos [mailto:]
Sent: Sunday, April 19, 2020 8:51 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Elk Ridge Second Addition proposed zoning change

Frank & Kim Losos

4601 Kites Ln.
Bismarck, ND 58503

19th April 2020

Dear Community Development Department,

We are writing in opposition of the proposed changes in zoning in regards to the Elk Ridge Second Addition's minimum of R5-Residential changing to also allowing R10-Residential zoning. The proposed zoning change to allow R10-Residential housing (10 families per acre) would allow as small as 4,356 sq ft lots (if dividing 1 acre = 43,560 sq.ft by 10) per family, or 8712 sq ft lots per two-family dwelling, which by example would place four one-family houses or two two-family houses on the current average lot size of 100ft. X 145ft. that has a square footage range between 13,500 - 15,000Sq ft.

The small lots 55ft. X 145ft. (7,975sq ft) drawn in the plot on Prairie Hawk Dr. west of the proposed Ivory Ln., and those south on the proposed Ivory Ln., would require single-family houses. Conversely, all of the other lots drawn on the example provided, that are bigger than 61ft. X 145ft. (8712 sq ft.) or any future slight enlarging change of width of just 6ft to those little lot sizes, would allow the building of two family unit houses.

In the proposed drawings there appears to be 118 lots (allowing 24 one family unit lots and 94 two family lots). That would be up to 188 families and automobiles squeezed into an area of just over 5 square blocks.

The current maximum of R5-Residential zoning, if maintained in this proposed area, would allow the accommodating of up to 118 families. As is, R5-Residential zoning would allow lots reasonably as small as 61ft X 145ft (if dividing 43,560 sq ft by 5) and by having a smaller minimum size requirement for each house, would thereby provide plenty of opportunity to lower-income level buyers into the proposed development without the change to R10-Residential zoning.

We built in this area because of its larger lot size. We paid a premium price for that larger lot. The increased congestion by adding a development next-door that looks like row-houses is not something we think is fair, just, or right. There is no necessity to change that

zoning other than to make a few individuals an enhanced profit. These individuals do not live in this neighborhood. This profit is at the expense of the current homeowners. The current homeowners have invested in their property and the quiet neighborhood setting is part of that value. We value our space! Please keep the zoning as it currently exists.

Furthermore, please keep all proposed roads as originally planned! We sure don't need extra traffic on Tyler Pkwy. due to road elimination. There will be enough traffic on that road as people head to Horizon middle school daily. The addition of the proposed elementary school will also compound the daily traffic on Tyler Pkwy. Please do not eliminate the proposed road.

Sincerely,

Frank & Kim Losos

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Replat of Eugenes First Addition (former Kelly Inn)
Date: Tuesday, April 21, 2020 2:56:38 PM

From: Daniel Vondrachek [mailto: [REDACTED]]
Sent: Tuesday, April 21, 2020 11:33 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Cc: Dan Vondrachek II < [REDACTED] >; Kyle Freier < [REDACTED] >
Subject: Replat of Eugenes First Addition (former Kelly Inn)

Vondrachek Family LLLP, owner of the Woodhouse building just East of site in question, has no objections to the replat of Lot 1, Block 1, Eugenes First Addition to the city of Bismarck. The request filed by the owner, State Street Investments has our full support on the replat of the Lot.

Jenny, if you have and questions about our support of the replat, please call me at [REDACTED].

Thanks,
Dan Vondrachek, Pres.

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
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4601 Kites Ln.
Bismarck, ND 58503

19th April 2020

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In the proposed drawings there appears to be 118 lots (allowing 24 one family unit lots and 94 two family lots). That would be up to 188 families and automobiles squeezed into an area of just over 5 square blocks.

The current maximum of R5-Residential zoning, if maintained in this proposed area, would allow the accommodating of up to 118 families. As is, R5-Residential zoning would allow lots reasonably as small as 61ft X 145ft (if dividing 43,560 sq ft by 5) and by having a smaller minimum size requirement for each house, would thereby provide plenty of opportunity to lower-income level buyers into the proposed development without the change to R10-Residential zoning.

We built in this area because of its larger lot size. We paid a premium price for that larger lot. The increased congestion by adding a development next-door that looks like row-houses is not something we think is fair, just, or right. There is no necessity to change that

zoning other than to make a few individuals an enhanced profit. These individuals do not live in this neighborhood. This profit is at the expense of the current homeowners. The current homeowners have invested in their property and the quiet neighborhood setting is part of that value. We value our space! Please keep the zoning as it currently exists.

Furthermore, please keep all proposed roads as originally planned! We sure don't need extra traffic on Tyler Pkwy. due to road elimination. There will be enough traffic on that road as people head to Horizon middle school daily. The addition of the proposed elementary school will also compound the daily traffic on Tyler Pkwy. Please do not eliminate the proposed road.

Sincerely,

Frank & Kim Losos

Mr. Chairmen and Board Members,

My name is Scott Bina and I am the General Manager of Mann Signs. I spoke at the last Public Hearing regarding the new sign ordinance and we have been involved in this process since it started back in November of 2018. We continue to feel that the new ordinance would bring positive changes to our community. The city staff has done a good job of reaching out to all of the stakeholder groups and has kept us informed throughout this entire process. We appreciate the staff's willingness to listen to our feedback and to try to understand the different issues that affect each of the groups.

There has been a lot of discussion about portable signs during this entire process. We feel that these signs do serve a purpose for a variety of customers in our community. We also believe that portable signs should have a time limit on how long they can be placed in one location for a variety of reasons. The current sign ordinance with no time limit is creating an unfair advantage that benefits the portable sign companies. The proposed time limit of 300 days is not much of a change from the way things currently are and would be hard for the city staff to enforce.

In an effort to keep this process moving forward we will support the 300 day time limit on portable signs. The majority of the new sign ordinance does not pertain to portable signs and has been supported by the other stakeholder groups. Any further delays on approval due to this one issue could negatively impact the rest of the groups involved in this process.

We ask for your support in approving this ordinance as presented by city staff.

Thank you,

Scott Bina

Mann Signs Inc.

From: [Daniel Nairn](#)
To: [Hilary Balzum](#)
Subject: FW: Agenda Packet for Next Week
Date: Friday, April 17, 2020 3:48:13 PM

From: Matt Reichert [mailto:]
Sent: Friday, April 17, 2020 3:26 PM
To: Daniel Nairn <dnairn@bismarcknd.gov>
Cc: Kim Lee <klee@bismarcknd.gov>
Subject: RE: Agenda Packet for Next Week

Daniel and Kim,

Aspen Group LLP is formally requesting the below change to the Site Signage portion of the proposed new sign ordinance.

Site Sign Page 12

Section q(i)

Change maximum sign size of 60 SF to a maximum of 64 SF (that equals 2 – 4'x8' sign panels – the alumicor sign panels are sold in 4'x8' sheets).

Change maximum height of 8' to a maximum height of 12' (this would include the legs of the sign stand of 3'-4' and 2 – 4'x8' sheets of signage as noted above)(Signs lower to the ground than that get beat up by lawn mowers, trimmers and snow removal equipment and they look bad and are costly to replace.)

Thanks for the help guys!!!

Sincerely,

Mathew Reichert

Broker/Partner - CCIM

Aspen Group LLP
424 South 3rd Street, Suite 2
Bismarck, ND 58504

701-223-2322 fax

www.aspengrouprealestate.com



From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Ben Ehreth](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Off-Street Parking and Loading
Date: Wednesday, April 22, 2020 8:05:16 AM
Attachments: [Parking Ordinance Column, June 28, 2019.pdf](#)

From: Tory Jackson [mailto:████████████████████]
Sent: Tuesday, April 21, 2020 10:18 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Off-Street Parking and Loading

Bismarck Planning and Zoning Commissioners:

I am writing to voice my support for the proposed amendments to the Off-street Parking and Loading requirements set forth in Title 14 of the City Code of Ordinances.

I've been practicing real estate law for 13 years and have worked on dozens of development projects. I have seen firsthand how inflexible parking ordinances lead to more surface parking than is actually needed and fail to recognize emerging development and transportation trends. A one-size-fits-all approach to parking, which the current ordinance often requires, leads to a number of undesirable consequences such as increasing the costs of both new development and redevelopment projects, exacerbating urban sprawl, reducing property tax values, and increasing the need for expensive public infrastructure. Flexibility is the best approach for a parking ordinance, as property owners have ample incentives to provide adequate parking for their particular use. The proposed amendments add some much-needed flexibility to the parking ordinance without jeopardizing legitimate public interests in orderly development.

When the proposed amendments first came to my attention last year, I wrote a column which appeared in the Bismarck Tribune on June 28, 2019. I've attached a copy for your review.

I applaud city staff for their thoughtful handling of this issue and urge the Commission to approve the amendments.

Thank you for your time and consideration.

Tory Jackson

Tory L. Jackson
Attorney at Law
100 West Avenue A
Bismarck, ND 58501
████████████████████



JACKSON
LAW FIRM



Bismarck parking ordinance needs rethinking

On Tuesday night, the Bismarck City Commission approved a request from the Community Development Department to conduct a review and potential rewrite of the city's off-street parking requirements. Changes to the parking ordinance are certainly needed and long overdue.

The current parking ordinance (Section 14-03-10 of the city code of ordinances) sets forth the number of parking spaces required for various property uses. For example, an office building must have one parking space for each 300 square feet of gross floor area. A full-service restaurant needs one parking space for each 75 square feet of gross floor area (including any patio) plus a space for each employee (and even more spaces if it includes a bar). A fast food restaurant is required to provide one parking space for each 60 square feet of gross floor area.



**TORY
JACKSON**

Requiring a certain number of parking spaces based on floor area alone makes little sense. Even within a certain property use category, each individual property has unique parking needs regardless of the size of the building.

Not every office building is the same, and businesses use their office space differently. Depending on the floor layout and type of business, some office buildings house more employees per square foot than others. Some businesses only need parking for employees, while others need parking for customers and other guests as well. The parking ordinance does not account for such differences.

Relying on a simple square footage formula also fails to account for how parking needs change over time. Changes in the restaurant industry provide a good example. Drive-through customers now account for up to 75% of sales at many fast food restaurants. Full-service restaurants see increasing sales through online carry-out ordering and third-party delivery services. These changes have resulted in less need for parking at many restaurants, while the parking ordinance remains stuck in the past.

Because of its simplistic and inflexible requirements, the ordinance usually mandates more parking than is needed, which creates a number of undesirable consequences. Requiring unnecessarily large parking lots contributes to urban sprawl while also increasing the cost of repurposing older buildings. The ordinance forces property owners to devote land to parking instead of more productive uses that enlarge the city's tax base. Excess parking spaces increase the amount of stormwater runoff, resulting in more water pollution and additional strain on public infrastructure.

Given the disconnect between the current parking ordinance and the reality of how properties are used, it's no surprise that building owners and developers often seek variances from the normal parking requirements. Since 2014, 38 variance requests (22% of all variance requests during that time span) were submitted to the Board of Adjustment to reduce off-street parking requirements. Twenty-six of those requests were granted, resulting in a reduction of 1,200 off-street parking spaces that otherwise would have been required by the city ordinance. When property owners are constantly seeking variances from a particular ordinance, it's a strong indication that the ordinance no longer comports with reality and needs to be revised.

The city's review and potential rewrite of the parking ordinance should start with the basic assumptions that flexibility is the best approach and that property owners are in the best position to determine how much parking they need. Property owners have ample incentive to provide adequate parking for their particular use, as the success of a business depends on it. They don't need the city government to impose formulaic parking requirements based on a misguided and out-of-date ordinance.

City staff should be applauded for listening to property owners and developers and raising this issue with the commission. Let's hope their review leads to a more sensible and flexible parking ordinance.

Tory Jackson is an attorney and writer. His legal practice involves real estate and business matters, with a particular focus on historic rehabilitation projects. He holds degrees from Bismarck State College, the University of Virginia and Harvard Law School. He lives in Bismarck.

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Replat of Eugenes First Addition (former Kelly Inn)
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Cc: Dan Vondrachek II < [REDACTED] >; Kyle Freier < [REDACTED] >
Subject: Replat of Eugenes First Addition (former Kelly Inn)

Vondrachek Family LLLP, owner of the Woodhouse building just East of site in question, has no objections to the replat of Lot 1, Block 1, Eugenes First Addition to the city of Bismarck. The request filed by the owner, State Street Investments has our full support on the replat of the Lot.

Jenny, if you have and questions about our support of the replat, please call me at [REDACTED].

Thanks,
Dan Vondrachek, Pres.