BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
June 24, 2020

The Bismarck Planning & Zoning Commission met on June 24, 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, many of the Planning and Zoning Commissioners and staff participated in the meeting remotely via Zoom. Chair Schwartz presided and was present in the Tom Baker Meeting Room.

Commissioners present were Steve Bakken, Brian Bitner, Vernon Laning, Paul Levchak, Kevin Martin, Gabe Schell, Wendy Van Duyne, John Van Dyke, Trent Wangen and Mike Schwartz.

Commissioner Brian Eiseman 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 Jannelle Combs – City Attorney.

MINUTES

Chair Schwartz called for consideration of the minutes of the May 27, 2020 meeting.

MOTION: Commissioner Laning made a motion to approve the minutes of the May 27, 2020 meeting. Commissioner Bakken seconded the motion and it was unanimously approved with Commissioners Bakken, Bitner, Laning, Levchak, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion.

Commissioner Van Dyke joined the meeting at this time.

CONSIDERATION

A. SILVER RANCH SECOND ADDITION – PRELIMINARY PLAT AND ZONING CHANGE
B. SILVER RANCH THIRD ADDITION – PRELIMINARY PLAT, FRINGE AREA ROAD MASTER PLAN AMENDMENT AND ZONING CHANGE
C. TRACT 500 OF BLOCKS 27 AND 38, AND LOTS 3, 4, AND THE NORTH 20 FEET OF LOT 5, AND LOTS 9 AND 10, BLOCK 38, NORTHERN PACIFIC SECOND ADDITION – ZONING CHANGE

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

A. Silver Ranch Second Addition – Preliminary Plat and Zoning Change

B. Silver Ranch Third Addition – Preliminary Plat, Fringe Area Road Master Plan Amendment and Zoning Change

C. Tract 500 of Blocks 27 and 38, and Lots 3, 4, and the North 20 feet of Lot 5, and Lots 9 and 10, Block 38, Northern Pacific Second Addition – Zoning Change

No items were pulled from the consent agenda for discussion.

MOTION: Based on the findings contained in the staff reports, Commissioner Bakken made a motion to approve consent agenda items A, B and C, granting tentative approval or calling for a public hearing on the items as recommended by staff. Commissioner Bitner seconded the motion and it was approved with Commissioners Bakken, Bitner, Laning, Martin, Schell, Van Duyne, Wangen and Schwartz voting in favor of the motion. Commissioners Levchak and Van Dyke opposed the motion.

FINAL CONSIDERATION – ANNEXATION
NORTH 223 FEET OF LOT 1, BLOCK 3, TIMBERLANE PLACE SECOND SUBDIVISION

Chair Schwartz called for final consideration of the annexation of the North 223 feet of Lot 1, Block 3, Timberlane Place Second Subdivision. The property is located southwest of Bismarck, south of Riverwood Drive/Mills Avenue and east of Traynor Lane.

Ms. Lee 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. Lee said based on the above findings, staff recommends approval of the annexation of the North 223 feet of Lot 1, Block 3, Timberlane Place Second Subdivision.

Commissioner Van Dyke asked if the property would be contiguous to the City upon approval of the proposed annexation.

Ms. Lee said that is correct and added that City utility capital charges would be applied if this property is not combined with the adjacent property already within city limits. She said there are other options, but the owner has requested to have his properties combined.

Commissioner Levchak asked how the property currently has water serviced.

Ms. Lee said it either has a well or is serviced through South Central Regional Water District and would now connect to City services.

Commissioner Van Dyke asked if there would be a recorded easement if the properties were to not be combined in order to ensure access and utilities.

Ms. Lee said yes, that would be a requirement.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the annexation of the North 223 feet of Lot 1, Block 3, Timberlane Place Second Subdivision. Commissioner Levchak seconded the motion and the motion was approved with Commissioners Bakken, Bitner, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Van Dyke and Wangen voting in favor of the motion.

PUBLIC HEARINGS – MAJOR SUBDIVISION FINAL PLAT
FIRST RESPONDERS ADDITION

Chair Schwartz called for the public hearing on the major subdivision final plat for First Responders Addition. The proposed plat is one lot in one block on 4.65 acres and is located in east Bismarck, between East Main Avenue / County Highway 10 and Apple Creek Road, along the west side of 52nd Street SE (part of Auditor's Lot 6 of the E½, and part of Lot 7B of Auditor's Lot 7 of the SE¼ of Section 1, T138N-R80W/City Lands).

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

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

2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PSCSMP) with the following conditions: 1) the two proposed ponds outside of the plat are temporary as a permanent area-wide stormwater management system is being planned to include the proposed plat and all unplatted properties adjacent to the plat; and 2) two offsite stormwater and drainage easements are provided and approved by the City Commission and recorded with the Burleigh County Recorder prior to the recordation of final 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 these findings, staff recommends approval of the major subdivision final plat for First Responders Addition, with the understanding that required off-site stormwater and drainage easements are approved and recorded prior to recordation of the final plat.

Commissioner Levchak asked if there would be access to this property from Midwest Drive and through the neighboring properties.

Ms. Wollmuth said she anticipates traffic would go south on 52nd Street SE and then west on Midwest Drive to the property.

Commissioner Levchak asked if access is allowed onto 52nd Street SE.

Ms. Wollmuth said there is a non-access line along that right-of-way so there would not be direct access allowed.

Chair Schwartz opened the public hearing.

Matt Geiger, 161 Commercial LLC, said he owns the property in question and current adjacent uses to the north, south and west are zoned Conditional MA-Industrial. He said this property is already annexed as well as zoned for the intended use. He said he also owns the subdivision to the east and he will protect that investment very carefully with a good fit of use at this location.

Commissioner Levchak asked if the rural homeowners to the east have been contacted about this change.

Mr. Geiger said he did not contact them directly because it is already zoned and annexed, but they did receive an adjacent property owner notification from the Planning Division about this request.

Ms. Wollmuth added that the staff recommendation does include a condition of off-site easements being required and she understands the owner and his consulting engineering are working with the City Engineer on getting those completed.

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 recommend approval of the major subdivision final plat for First Responders Addition, with the understanding that required off-site stormwater and drainage easements are approved and recorded prior to recordation of the final plat. Commissioner Laning seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Laning, Levchak, Martin, Schell, Van Duyne, Van Dyke, Wangen and Schwartz voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE
PARTS OF S½ OF SECTION 19 & THE N½ OF SECTION 30, T139N-R80W/HAY CREEK TOWNSHIP & CITY LANDS

Chairman Schwartz called for the public hearing on a zoning change from the A – Agricultural, R5 – Residential, R10 – Residential, RM30 – Residential and RT - Residential zoning districts to the P – Public zoning district for parts of the S½ of Section 19 and the N½ of Section 30, T139N-R80W/Hay Creek Township and City Lands. The property is located in northwest Bismarck, north of Burnt Boat Drive and between Clairmont Road and Tyler Parkway.

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

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 would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.

5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.

6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.

7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Nairn said it was discovered after the staff report was prepared that there is an error in the project location map which impacted the adjacent property owner notification process, and not all needing to be notified had been notified. He said staff would like to change their recommendation from approve to continue in order to allow time for renotification of the adjacent property owners.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson Hagen & Co., said he spoke with staff regarding the notification error and they determined together that continuing the request at this time would be best.

Commissioner Levchak asked if the public hearing would be held at the next meeting if the motion is to continue the request.

Ms. Lee said she suggests continuing the public hearing so that it does not need to be re-advertised.

Additional written comments in support of the request are attached as Exhibits A-C.

MOTION: Commissioner Laning made a motion to continue the public hearing on the request for a zoning change from the A-Agricultural, R5-Residential, R10-Residential, RT-Residential and RM30-Residential zoning districts to the P-Public zoning district on part of Sections 19 & 30, T139N-R80W/Hay Creek Township & City Lands, to the next meeting to allow time for renotification of the adjacent property owners with corrected information. Commissioner Levchak seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Laning, Martin, Levchak, Schell, Van Duyne, Van Dyke, Wangen and Schwartz voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT
LOT 8, BLOCK 2, PRAIRIE PINES FIRST SUBDIVISION (9421 CEDAR LANE)

Chair Schwartz called for the public hearing on a special use permit to increase the total area of accessory buildings to 3,200 square feet by constructing a 3,000 square-foot accessory building and a 200 square-foot accessory building on Lot 8, Block 2, Prairie Pines First Subdivision. The property is located north of Bismarck, south of 97th Avenue NE and west of 41st Street NE, along the east side of Cedar Lane (9421 Cedar Lane).

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 to increase the total area of accessory buildings to 3,200 square feet by constructing a 3,000 square-foot accessory building and a 200 square-foot accessory building on Lot 8, Block 2, Prairie Pines First Subdivision (9421 Cedar Lane).

Commissioner Laning said the request is for a 3,200 square-foot building and a 200 square-foot building, but a 20 x 20 building would be 400 square feet, not 200.

Ms. Wollmuth said she may have misspoken and clarified the request is for one 3,000 square-foot building and one 200 square-foot building so the total would be 3,200 square feet, not 3,400 square feet.

Commissioner Van Dyke said considering there has been multiple requests on the most recent agendas similar to this one, has staff entertained an ordinance amendment to grant these approvals administratively.

Ms. Wollmuth said at this time staff does not have plans to modify the requirements or criteria for special use permits for oversized accessory buildings.

Chair Schwartz opened the public hearing.

Commissioner Levchak said this will be a nice-looking building, but added that it looks very commercial and asked what the intended use is.

Core Morlock, 9421 Cedar Lane, said he collects cars and currently has them stored in four different locations throughout the state, so with this building he would be able to have them all in one place.

Commissioner Laning asked if the total square footage would be 3,200 square feet.

Mr. Morlock said that is correct, that he would build one 3,000 square-foot building and one 10 x 20 square-foot building, not 20 x 20 square feet, for a total of 3,200 square feet.

Written comments in support of the request are attached as Exhibits D-F.

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

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to approve the special use permit to increase the total area of accessory buildings to 3,200 square feet by constructing a 3,000 square-foot accessory building and a 200 square-foot accessory building on Lot 8, Block 2, Prairie Pines First Subdivision (9421 Cedar Lane). Commissioner Bakken seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Laning, Levchak, Martin, Schell, Van Duyne, Van Dyke, Wangen and Schwartz voting in favor of the motion.

OTHER BUSINESS

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 5:35 p.m. to meet again on July 22, 2020.

Respectfully submitted,

Hilary Balzum
Recording Secretary

Mike Schwartz
Chair

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: rezoning of Clairmont Family trust property
Date: Monday, June 22, 2020 1:46:00 PM

From: [redacted]]
Sent: Saturday, June 20, 2020 9:17 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: rezoning of Clairmont Family trust property

I reside at 1732 Golf Drive, this is the street that is used for access to the area proposed for rezoning.
I am in favor of this proposal provided there will be provisions for the parking of vehicles off the street to prevent congestion on Golf Drive.

thank you
Dale Pfliger

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Clairmont foundation property
Date:	Tuesday, June 23, 2020 3:27:49 PM

From: Cynthia Goulet [mailto:[redacted]]
Sent: Tuesday, June 23, 2020 1:36 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Clairmont foundation property

Greetings,
I write in favor of the zoning change for the Clairmont Family Trust property. My husband and I have lived on Valley Drive, which borders the north end of the Trust property, for approximately two years. Hiking on the trails on this property has become one of our favorite activities. We hike those trails in all seasons, and in spring, summer and fall, average two or more times a week. On our treks, and especially in spring/summer/fall seasons, we always see other persons using the trails: dog owners with their dogs, mountain bikers, and fellow hikers. And in this time of COVID 19, we have seen significantly increased use of the current trails, especially by families. That has been a wonderful development to see. I foresee that with some enhancements made to the property that still fully preserve the "wilderness" aspect, its use will continue to increase.
The property ideally lends itself to being an "urban wilderness park." It will be a unique addition to the City for that reason, different from other city parks, and will truly be a treasure for the City.
Sincerely,
Cynthia Wagner Goulet
3125 Valley Drive
Bismarck, ND 58503

Sent from my iPhone

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Comments re: Zoning Change for Clairmont Family Trust property
Date: Wednesday, June 24, 2020 9:24:52 AM

From: Wgoulet [mailto:[redacted]]
Sent: Tuesday, June 23, 2020 5:03 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Comments re: Zoning Change for Clairmont Family Trust property

Greetings,
I write in favor of the zoning change for the Clairmont Family Trust property. My wife and I have lived on Valley Drive, which borders the north end of the Trust property, for approximately two years. Hiking on the trails on this property has become one of our favorite activities. We hike those trails in all seasons, and in spring, summer and fall, average two or more times a week. On our treks, and especially in spring/summer/fall seasons, we always see other persons using the trails: dog owners with their dogs, mountain bikers, and fellow hikers. And in this time of COVID 19, we have seen significantly increased use of the current trails, especially by families. That has been a wonderful development to see. I foresee that with some enhancements made to the property that still fully preserve the "wilderness" aspect, its use will continue to increase.
The property ideally lends itself to being an "urban wilderness park." It will be a unique addition to the City for that reason, different from other city parks, and will truly be a treasure for the City.
Sincerely,
Wally Goulet
3125 Valley Drive
Bismarck, ND 58503

From: Jenny Wollmuth
To: Hilary Balzum
Subject: Fwd: building notice 9421
Date: Tuesday, June 16, 2020 1:10:26 PM

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From: Gregory Meduna <[redacted]>
Sent: Tuesday, June 16, 2020 11:29:24 AM
To: Jenny Wollmuth <jwollmuth@bismarcknd.gov>
Subject: building notice 9421

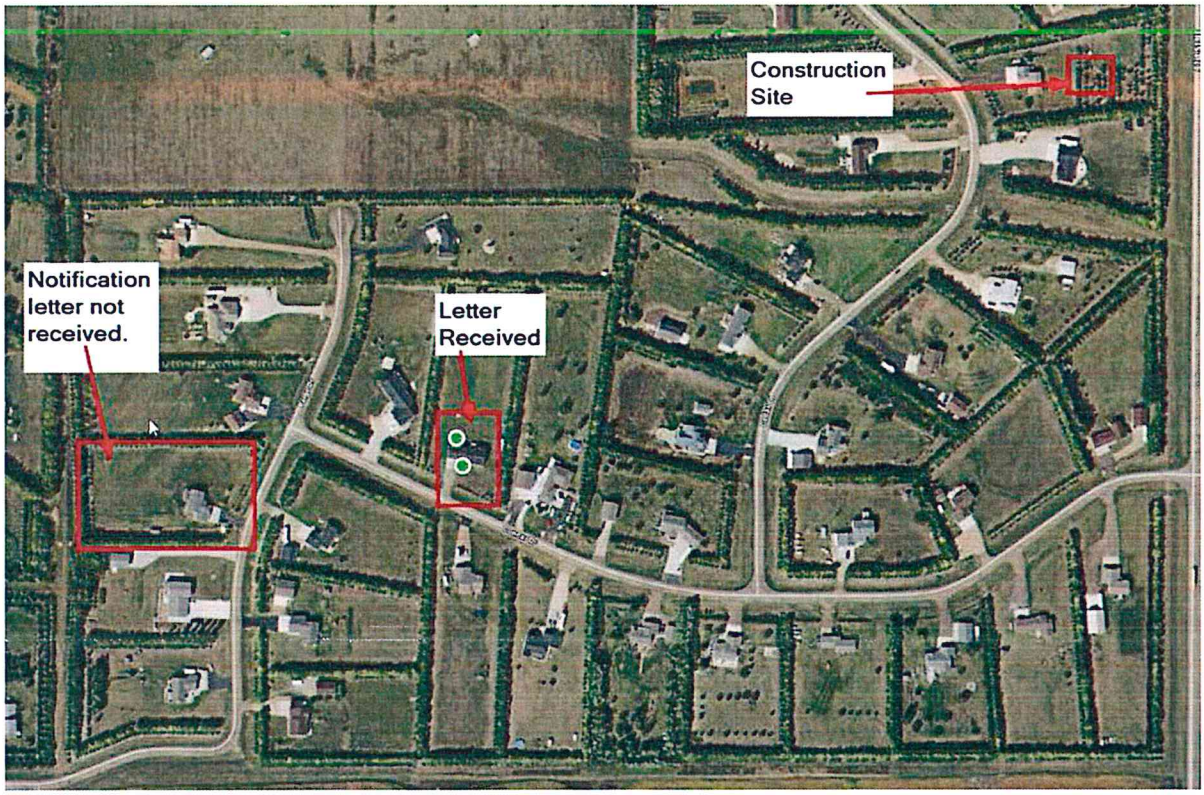
Hello Jenny,

I received a letter regarding planned construction at 9421 Cedar Lane. I have no concerns with the requested 3200sqft outbuilding request. I find this request reasonable considering the location of the building. There are many smaller buildings in our subdivision that were placed in front of the home near the road. This not only looks terrible but many of these building included the addition of another approach and culvert. The request at 9421 is fine with me and find it hard to believe any reasonable person would find issue with this request.

Also, some of my neighbors are telling me they aren't getting these notification letters. How far from this construction site should property owners be notified? The map below shows someone I know didn't receive notifications for the last 2 garage builds. I have also received letters for buildings over on Dublin in the past which isn't even part of our subdivision.

Thanks,

Greg



From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Cc:	Allison Carlson; Joanie Sanda
Subject:	FW: Corey Morlock special use permit
Date:	Thursday, June 18, 2020 8:31:01 AM

-----Original Message-----
From: Shelly Lang [mailto:[redacted]]
Sent: Wednesday, June 17, 2020 3:27 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Corey Morlock special use permit

As a resident of Prairie Pines First Subdivision, I feel the Bismarck Planning & Zoning Commission along with Burleigh County Commissioners should follow the policy for this area. There is already talk that if this passes others will be requesting larger and larger buildings. These commissions also need to consider this is a residential area and not zoned commercial. What will this larger building be used for? If the use of this building becomes commercial what will be the consequences? What protections will Burleigh County gives the residents of a Prairie Pines First Subdivision?
Again I would ask that you follow the policies of this area for buildings on a residential lot of less than 2 acres.
Thank you.
Michelle Lang

Sent from my iPad

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: COREY MORLOCK-SPECIAL USE PERMIT
Date:	Wednesday, June 24, 2020 9:24:20 AM

From: Jennifer Markwed [mailto:[redacted]]
Sent: Tuesday, June 23, 2020 4:56 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: COREY MORLOCK-SPECIAL USE PERMIT

We are Corey's next-door neighbors and support this 100%.

We are emailing you in support of Corey Morlock receiving a special use permit for constructing a shop/accessory building.

This will be a great addition to his property and will increase property values in the area and in our development.

THANK YOU

Michael and Jennifer Markwed
9401 Cedar Ln
Bismarck, ND 58503