

BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
August 26, 2020

The Bismarck Planning & Zoning Commission met on August 26, 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 Brian Bitner, Paul Levchak, Kevin Martin, Gabe Schell, Wendy Van Duyne, John Van Dyke, Trent Wangen and Mike Schwartz.

Commissioners Steve Bakken, Brian Eiseman and Vernon Laning were 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 July 22, 2020 meeting.

MOTION: Commissioner Schell made a motion to approve the minutes of the July 22, 2020 meeting, as presented. Commissioner Martin seconded the motion and it was unanimously approved with Commissioners Bitner, Levchak, Martin, Schell, Schwartz Van Duyne, Van Dyke and Wangen voting in favor of the motion.

CONSIDERATION

Chair Schwartz said there were no items for consideration at this time.

FINAL CONSIDERATION – ANNEXATION
LOTS 1-3, BLOCK 3, MEADOWLARK COMMERCIAL 7TH ADDITION

Chair Schwartz called for final consideration of the annexation of Lots 1-3, Block 3, Meadowlark Commercial 7th Addition. The property is located in northeast Bismarck, north of 43rd Avenue NE and east of US Highway 83, between Brookside Lane and 57th Avenue NE, along the west side of North 19th Street.

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 said, based on these findings, staff recommends approval of the annexation of Lots 1-3, Block 3, Meadowlark Commercial 7th Addition and the westerly half of the North 19th Street right-of-way between 57th Avenue NE and Brookside Lane, adjacent to Lots 1-3, Block 3, and the entire right-of-way for Brookside Lane adjacent to Lots 1-2, and the west half of Lot 3, Block 3, as well as the north half of Brookside Lane adjacent to the east half of Lot 3, Block 3, Meadowlark Commercial 7th Addition.

MOTION: Based on the findings contained in the staff report, Commissioner Van Dyke made a motion to recommend approval of the annexation of Lots 1-3, Block 3, Meadowlark Commercial 7th Addition and the westerly half of the North 19th Street right-of-way between 57th Avenue NE and Brookside Lane, adjacent to Lots 1-3, Block 3, and the entire right-of-way for Brookside Lane adjacent to Lots 1-2, and the west half of Lot 3, Block 3, as well as the north half of Brookside Lane adjacent to the east half of Lot 3, Block 3, Meadowlark Commercial 7th Addition. Commissioner Van Duyne seconded the motion and the motion was unanimously approved with Commissioners Bitner, Levchak, Martin, Schell, Schwartz, Van Duyne, Van Dyke and Wangen voting in favor of the motion.

**PUBLIC HEARINGS – ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT
STONERIDGE ADDITION SECOND REPLAT**

Chair Schwartz called for the public hearing on the zoning change from an existing PUD – Planned Unit Development to a new PUD – Planned Unit Development and the minor subdivision final plat for Stoneridge Addition Second Replat. The proposed plat is 16 lots in one block on 1.75 acres and is located in northeast Bismarck, west of Centennial Road and north of East Century Avenue, along the west side of French Street.

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

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

Ms. Wollmuth then gave the findings related to land use for the minor subdivision 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

Ms. Wollmuth said, based on these findings, staff recommends approval of the zoning change from an existing PUD – Planned Unit Development to a new PUD – Planned Unit Development, as outlined in the draft PUD Ordinance attached to the staff report, and the minor subdivision final plat for Stoneridge Addition Second Replat.

Commissioner Levchak asked if parking would be sufficient on the site to meet the requirements of the zoning ordinance. Ms. Wollmuth said it would be.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson, Hagen & Co., said the density would remain the same and the only changes of the site plan are to change the structures from three-story buildings to two-story buildings on the north side and a small access change so that the garages will not face the right-of-way.

Commissioner Van Duyne asked if the common north-south drive would serve as a buffer or if there is a setback requirement.

Mr. Niemiller said there would be plantings installed as a buffer according to the City's landscape requirements.

Additional written comments in opposition to these requests are attached as Exhibit A.

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

MOTION: Based on the findings contained in the staff report, Commissioner Van Dyke made a motion to recommend approval of the zoning change from an existing PUD – Planned Unit Development to a new PUD – Planned Unit Development, as outlined in the draft PUD Ordinance attached to the staff report, and the minor subdivision final plat for Stoneridge Addition Second Replat. Commissioner Levchak seconded the motion and the motion was unanimously approved with Commissioners Bitner, Levchak, Martin, Schell, Schwartz, Van Duyne, Van Dyke and Wangen voting in favor of the motion.

PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT SILVER RANCH SECOND ADDITION

Chair Schwartz called for the public hearing on the final plat and the zoning change from the R10 – Residential, CA – Commercial, P – Public and A – Agricultural zoning districts to the R10 – Residential, CA – Commercial and P – Public zoning districts for Silver Ranch Second Addition. The proposed plat is 46 lots in one block on 24.55 acres and is located northeast of Bismarck, on the south side of 43rd Avenue NE (a replat of Lots 1-24, Block 7, Silver Ranch First Addition First Replat, and part of the NE¼ of Section 19, T139N-R79W/Gibbs 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 provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts.
6. The proposed subdivision 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 located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
11. The proposed subdivision would not adversely affect the public health, safety and general welfare

Mr. Nairn said, based on these findings, staff recommends approval of the zoning change from the R10 – Residential, CA – Commercial, P – Public and A – Agricultural zoning districts to the R10 – Residential, CA – Commercial and P – Public zoning districts, and of a major subdivision final plat for Silver Ranch Second Addition, including the waiver request for cul-de-sacs, with the following conditions:

1. An easement for an emergency vehicle turnaround is obtained immediately beyond the southeast terminus of Silver Ranch Road in conjunction with recordation of the plat.
2. The City would not enter into any contracts relating to the construction of municipal infrastructure in any delineated wetland areas until a resolution on the jurisdictional determination, avoidance and mitigation is achieved with the US Army Corps of Engineers.

Commissioner Levchak said both police and fire have expressed concerns regarding transportation and access to this location, as far as there not being an additional access point and the conditions of the existing roadway, but the findings in the staff report say this change would not adversely affect safety or public welfare.

Mr. Nairn said the issue will be a factor in the Silver Ranch Third Addition as well, which is next on the agenda. He said there is a net reduction in residential uses for this plat and the issue relates to the development in its entirety regarding emergency service access only being available from 43rd Avenue NE. He said this could pose a problem if the road were ever to become blocked, then emergency services would have to go approximately three miles out of their way to access the subdivision, which was also discussed when Silver Ranch First Addition was subdivided. He said there is not a single tipping point, but staff did want that discussed and the level of service could be improved with both a secondary access which would potentially be achieved with the extension of, for example, Century Avenue to the south.

Commissioner Levchak said he drove the location today and the road is in very poor condition. He said construction of these subdivisions will have heavy truck traffic and assuming there is a 6-ton axel limit here, this is a County road servicing a City project. He then asked if the County Engineer has been consulted.

Mr. Nairn said the County Engineer advised on Silver Ranch First Addition but has not given input directly with this second phase.

Commissioner Schell said that 43rd Avenue NE from Roosevelt to 52nd Street NE was the annexation route for Silver Ranch First Addition, so a portion of this is a City roadway.

Commissioner Levchak said the primary access then would be owned by the City, but half a mile from Centennial Road is a county roadway.

Mr. Schell said that is correct to 26th Street NE, and the County has scheduled reconstruction there to the point of Roosevelt Street.

Commissioner Levchak asked if the reconstruction will include shoulders or other improvements.

Commissioner Schell said it would be similar to how North Washington, north of 57th Avenue NE, was constructed with lighting and wider widths, but is pending availability of federal funding.

Commissioner Levchak said he did vote against this item when it was on the consent agenda and he intends to do the same today.

Commissioner Van Dyke asked which roadways will be reconstructed in 2021.

Commissioner Schell clarified that Burleigh County is scheduled to improve 43rd Avenue NE from 26th Street NE to Roosevelt and the City then would likely improve State Street to 26th Street NE in 2022.

Commissioner Van Dyke asked what the residential density would be and how it aligns with the Future Land Use Plan.

Mr. Nairn said there would be 24 residential lots, so 1 unit per acre, but this figure includes all of the common and park spaces which tend to make the density lower. He said the Future Land Use Plan originally had this planned to be Low Density Residential, so it is a lower density but still within that range.

Commissioner Van Dyke asked if there would be a development agreement for the CA-Commercial portion to allow a minimum amount of residential.

Mr. Nairn said not at this time.

Commissioner Van Dyne said she has concerns with the transportation access and asked exactly where the roadway segment is to be improved.

Mr. Nairn said 26th Street NE to Roosevelt would be improved by Burleigh County and State Street to 26th Street NE is City-owned and scheduled for improvements at a later date. He said there are not any improvements planned at this time for Roosevelt Street to 52nd Street NE.

Commissioner Van Dyne asked what the future holds for Century Avenue.

Mr. Nairn said there is an easement for utilities along the corridor of that future roadway and the Fringe Area Road Master Plan shows that line, but the landowner would have to initiate that improvement.

Commissioner Schell said another option for secondary access could be Calgary Avenue at Sunrise Elementary School connecting to 52nd Street NE. Although east Century Avenue is an arterial roadway, the other secondary routes could be implemented sooner.

Commissioner Levchak said the plat north of Iron Drive shows a series of lots already subdivided.

Mr. Nairn said that is correct as they are part of Silver Ranch First Addition First Replat.

Commissioner Levchak asked if the large lot would be zoned commercial.

Mr. Nairn said that is correct.

Commissioner Schell asked what there would be for park connectivity.

Mr. Nairn said Bismarck Parks and Recreation District (BPRD) does plan on having a multi-use trail to connect on the south side, through the coulee with a trail leading along Silver Ranch Road, north through the proposed Silver Ranch Third Addition and then back into the coulee.

Commissioner Van Duyne said, with the new elementary school proposed to be located in the next item on the agenda, has there been any discussion of a pedestrian crossing at 43rd Avenue NE.

Mr. Nairn said pedestrian crossings have been discussed to be offered in the school vicinity and how the trail connection would cross also at Silver Ranch Road and 43rd Avenue NE.

Commissioner Schell said those are items typically seen in the site plan review process and the permitting phase. He said possibly a traffic impact study could also be conducted or other accommodations could be made.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson, Hagen & Co., said it was determined that the grade in the southeast is too steep so cul-de-sacs are planned to be installed. He said they placed the commercial-zoned lot in the proposed area to provide a lot on both sides of the proposed roadway to assist with funding its improvement.

Chair Schwartz asked when construction is anticipated to start. Mr. Niemiller said it would start in the fall of 2021.

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

MOTION: Based on the findings contained in the staff report, Commissioner Van Dyke made a motion to recommend approval of the zoning change from the R10 – Residential, CA – Commercial, P – Public and A – Agricultural zoning districts to the R10 – Residential, CA – Commercial and P – Public zoning districts, and of a major subdivision final plat for Silver Ranch Second Addition, including the waiver request for cul-de-sacs, with the following conditions: 1. An easement for an emergency vehicle turnaround is obtained immediately beyond the southeast terminus of Silver Ranch Road in conjunction with recordation of the plat; and 2. The City would not enter into any contracts relating to the construction of municipal infrastructure in any delineated wetland areas until a resolution on the jurisdictional determination, avoidance and mitigation is achieved with the US Army Corps of Engineers. Commissioner Martin seconded the motion and the motion was approved with Commissioners Bitner, Martin, Schell, Schwartz Van Duyne, Van Dyke and Wangen voting in favor of the motion. Commissioner Levchak opposed the motion.

**FINAL CONSIDERATION – ANNEXATION
PUBLIC HEARINGS – ZONING CHANGE, FRINGE AREA ROAD MASTER PLAN
AMENDMENT AND FINAL PLAT
SILVER RANCH THIRD ADDITION**

Chair Schwartz called for the public hearing on the final plat; the zoning change from the A – Agricultural zoning district to the R10 – Residential, RM20 – Residential and P – Public zoning districts; the Fringe Area Road Master Plan amendment to shift the location of the north-south collector approximately 750 feet to the east; and final consideration of the partial annexation of Silver Ranch Third Addition. The proposed plat is 300 lots in 15 blocks on 158.99 acres and is located northeast of Bismarck, on the north side of 43rd Avenue NE (part of the S½ of Section 18, T139N-R79W/Gibbs 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 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, provided necessary sanitary sewer trunklines and water mains are extended to the boundaries of the subdivision.
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 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.

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 waived by

the Bismarck Parks and Recreation District.

6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and/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, provided that the developer pays for extension of water and sewer services to and through this development.
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 partial annexation, the zoning change from the A – Agricultural zoning district to the R10 – Residential, RM20 – Residential and P – Public zoning districts, the Fringe Area Road Master Plan amendment to shift the location of the north-south collector approximately 750 feet to the east, and the major subdivision final plat for Silver Ranch Third Addition, with the following conditions:

1. The requested zoning may be altered for unbuildable Lots 20-21, Block 8, Lot 6, Block 14, and Lot 2, Block 15 prior to the public hearing with the City Commission.
2. The final street names are approved by Central Dakota Communications Center (CenCom) prior to scheduling a public hearing with the City Commission.
3. Easements for emergency vehicle turnarounds are obtained immediately beyond the termini of any roads where necessary to meet fire apparatus access roadway standards of the International Fire Code.
4. The City would not enter into any contracts relating to the construction of municipal infrastructure in any delineated wetland areas until a resolution on the jurisdictional determination, avoidance and mitigation is achieved with the US Army Corps of Engineers.

Commissioner Levchak asked if the water main currently in this location can support the proposed development.

Commissioner Schell said they do study the size of the existing mains compared to the size of the proposed development, which is how the need for a second line was determined. He said more water storage is needed in this location as well potentially with further future development, but it is felt that is adequate for the time being.

Commissioner Levchak said the collector roadway is to route streets from which to flow into it and then those connect to an arterial, but this would require some of the residential driveways to back into a collector roadway in order to leave the location.

Mr. Nairn said that is correct, that the roadway would be multifunctional with the residential uses and this would be a more minor collector, which is standard practice for collector roadways in the city. He added that it is correct that traffic would be a bit higher here.

Commissioner Levchak added that it continues further north but maybe it should not be classified as a collector roadway.

Commissioner Schell said when the roadway classifications are designated there is also a stormwater component to that, so usually a collector roadway can be wider and also utilized as a more reliable piece of infrastructure.

Commissioner Levchak asked what the proposed width of that roadway is. Mr. Nairn said the entire right-of-way is 80 feet wide. Commissioner Schell said the street itself would be 44 feet across from curb to curb.

Commissioner Van Dyke said there is one point of access and emergency services has concerns with there not being a plan to add a second point of access.

Mr. Nairn said the secondary access policy at the scale of the subdivision would be met with this plat, but the concerns raised were related to secondary access to the Silver Ranch development as a whole.

Commissioner Schell said the proposed school site would be zoned R10-Residential.

Mr. Nairn said that is correct and schools are allowed in residential zoning districts, so they followed the precedent used in Elk Ridge 2nd Addition similarly to allow some flexibility in the event it does not become the new school site.

Commissioner Van Duyne asked if emergency services have concerns related to the conditions of the recommendation and the location of the proposed school.

Mr. Nairn said the concern is of the distance to the other access point. He said that could be alleviated by future connections to the south.

Commissioner Bitner asked approximately how much new traffic might be generated by this development, adding that with the proposed reconstruction is a way out yet this could add a lot of traffic.

Mr. Nairn said a formal traffic impact study has not been completed yet to quantify a number, but the assumption of increased trips per household per day especially with the new school potentially being located here is correct.

Commissioner Bitner said development would drive the need for reconstruction and asked if there is the potential for an impact fee to be assessed.

Commissioner Schell said there is not a development agreement and added that North Dakota Century Code does not allow impact fees. He said there has not been any discussions of off-site improvements yet. The road is in poor condition prior to any development activity occurring, and trying to determine the direct impact of what the development would cause can prove difficult. Commissioner Schell added that this segment of 43rd Avenue was included in the voter-approved half cent sales tax and could be programmed by the City Commission for an improvement if they so choose.

Commissioner Levchak stated that this would address only the half mile section, the rest of it would be the responsibility of Burleigh County and asked if that is correct.

Commissioner Schell stated that Burleigh County has already constructed or has programmed for reconstruction other segments of 43rd Avenue and designed them to accommodate truck traffic.

Commissioner Van Dyke said the more development there is the more you commit to paying with sales tax rather than having a developer pay for infrastructure and furthering a problem.

Commissioner Schell said it should be looked at where the needs are based on traffic and development and often there are plans of how to grow and sometimes it takes a developer willing to do that.

Commissioner Van Duyne said Bismarck Public Schools has updated their strategic plan and future facility plans and asked what the proposed capacity of the new school would be.

Mr. Nairn said the site design is not final, that it would take up approximately 12.5 acres, which is sufficient eventually for a four-section school similar to Sunrise or Liberty Elementary. He added that the proposed location was intentionally set away from the arterial designated roadways for safety purposes.

Commissioner Van Duyne asked if this would fulfill an immediate capacity need in the area or an anticipated future need.

Mr. Nairn said Darin Scherr, Bismarck Public Schools Business and Operations Manager, is available to speak to that further.

Mr. Scherr said it is anticipated this school would relieve capacity on a couple of other existing schools and they are trying to get ahead of enrollment needs. He said the school is expected to initially serve 250 students with potential for future expansion; however, they are unsure of what boundary the school would open enrollment for. He said Sunrise Elementary is over-enrolled by approximately 125 students and the plan is to have this new school open in the Fall of 2022.

Chair Schwartz opened the public hearing.

Jason Petryszyn, Swenson, Hagen & Co., said the school would have an initial capacity of 250 students, the subdivision would have 300 lots and 100 of those would be annexed immediately. He added that not all lots would have elementary age residents, but likely some will. He said they did look to place the school further east, but infrastructure needs brought it to this proposed location instead. Mr. Petryszyn added that they do need to start grading the site this year yet in order to meet the opening deadline and the CA-Commercial zoned lot that was referenced earlier is still being negotiated with the Bismarck Fire Department as a potential location for a fire station.

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

Commissioner Bitner said he is not sure whether to support or deny the requests as he has concerns of tax payers paying to improve the site. He said he feels it should be tabled instead.

MOTION: Commissioner Van Dyke made a motion to recommend denial of the partial annexation; the zoning change from the A – Agricultural zoning district to the R10 – Residential, RM20 – Residential and P – Public zoning districts; the Fringe Area Road Master Plan amendment to shift the location of the north-south collector approximately 750 feet to the east; and the major subdivision final plat for Silver Ranch Third Addition, due to the project does not align with the timing of the Growth Phasing Plan, the project has inadequate roadways to service the school with no predetermined funding source for improvement and also the alignment of the north-south collector has numerous access points. Commissioner Levchak seconded the motion and with Commissioners Levchak and Van Dyke voting in favor of the motion and Commissioners Bitner, Martin, Schell, Schwartz Van Duyne and Wangen opposing the motion, the motion failed.

MOTION: Commissioner Bitner made a motion to continue the public hearing on the requests for the partial annexation; the zoning change from the A – Agricultural zoning district to the R10 – Residential, RM20 – Residential and P – Public zoning districts; the Fringe Area Road Master Plan amendment to shift the location of the north-south collector approximately 750 feet to the east; and the major subdivision final plat for Silver Ranch Third Addition to

the September 23rd meeting of the Bismarck Planning and Zoning Commission, to allow time for City staff to obtain further information from the Burleigh County Engineer. Commissioner Levchak seconded the motion and with Commissioners Bitner, Levchak, Martin, Schwartz Van Duyne and Wangen voting in favor of the motion and Commissioners Schell and Van Dyke opposing the motion, the motion was approved.

**PUBLIC HEARING – ZONING CHANGE
LOT 1, BLOCK 1, PAT’S ACRES AND AUDITOR’S LOTS A, B AND C OF THE
NE¼ OF THE NE¼ OF SECTION 14, T139N-R81W/WEST HAY CREEK
TOWNSHIP**

Chairman Schwartz called for the public hearing on a zoning change from the A – Agricultural and RR – Residential zoning district to a PUD – Planned Unit Development zoning district for Lot 1, Block 1, Pat’s Acres and Auditor’s Lots A, B and C of the NE¼ of the NE¼ of Section 14, T139N-R81W/West Hay Creek Township. The property is located northwest of Bismarck, west of River Road, along the south side of Burnt Creek Loop.

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

1. The proposed zoning change does not generally conform to the Future Land Use Plan in the 2014 Growth Management Plan, as amended; however, because of the seasonal nature of the commercial recreation uses, the proposed zoning change would be consistent with the Future Land Use Plan which identifies the long-term use of the land as rural residential.
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 Hay Creek Township Board of Supervisors has recommended approval of the proposed zoning change.
5. 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.
6. 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. Hutchings said based on these findings, staff recommends approval of the zoning change from the A – Agricultural and RR – Residential zoning district to a PUD – Planned Unit Development zoning district for Lot 1, Block 1, Pat’s Acres and Auditor’s Lots A, B and C of the NE¼ of the NE¼ of Section 14, T139N-R81W/West Hay Creek Township as outlined in the draft PUD ordinance attached to the staff report.

Commissioner Bitner asked if access to the property would only be from Burnt Creek Loop and he asks this question because Fernwood Drive is currently a gravel road.

Mr. Hutchings said that is correct and is also indicated as such in the draft ordinance.

Commissioner Levchak asked if a sewer system would be in place for larger events held at the site.

Mr. Hutchings said that is not known at this time, but will be determined as needed.

Commissioner Van Dyke asked if there would be any overnight stays by guests.

Mr. Hutchings said there would not be.

Commissioner Bitner said at some point in the permitting process the sizing criteria of the septic system would be determined.

Mr. Hutchings said that is correct and the Building Inspections Division would determine that adequately.

Chair Schwartz opened the public hearing.

Chase Dauenhauer, owner, said he is in partnership with Papa’s Pumpkin Patch and when this opportunity presented itself he wanted to take the steps to work it out. He added that he is continuing to work with Papa’s Pumpkin Patch and it will be very similar to their previous operations.

Commissioner Bitner asked if the owner would work within the near future to route traffic to avoid Fernwood Drive.

Mr. Dauenhauer said it has been discussed some already and could definitely be a possibility.

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

MOTION: Commissioner Van Dyke made a motion to recommend approval of the request for a zoning change from the A – Agricultural and RR – Residential zoning district to a PUD – Planned Unit Development zoning district for Lot 1, Block 1, Pat’s Acres and Auditor’s Lots A, B and C of the NE¼ of the NE¼ of Section 14, T139N-R81W/West Hay Creek Township as outlined in the draft PUD ordinance attached to the staff report. Commissioner Levchak seconded the motion and the motion was unanimously approved with Commissioners Bitner, Levchak, Martin, Schell, Schwartz Van Duyne, Van Dyke and Wangen voting in favor of the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT (CHILD CARE CENTER)
LOT 6, BLOCK 4, TATLEY MEADOWS V (3030 SOUTH WASHINGTON STREET)**

Chair Schwartz called for the public hearing on a special use permit to allow the operation of a child care center on Lot 6, Block 4, Tatley Meadows V. The property is located in south Bismarck, along the west side of South Washington Street and the north side of Rutland Drive (3030 South Washington Street).

Mr. Hutchings 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.

Mr. Hutchings said, based on these findings, staff recommends approval of the special use permit to allow the operation of a child care center on Lot 6, Block 4, Tatley Meadows V with the following condition:

1. A final landscape plan must be approved and all landscaping and fencing installed and inspected prior to operation of the child care center.

Pastor Todd Fuehrer thanked those present for their consideration and said approval of this request would help to utilize a building more that is not used five days a week and provide a much-needed use.

Commissioner Bitner asked if the building would remain a church.

Pastor Fuehrer said for the first phase of the changeover it would remain a church along with Wednesday night events until the church itself relocates.

Commissioner Levchak asked if there is a timeframe for the relocation.

Pastor Fuehrer said that is unknown at this time but they are hoping soon.

Chair Schwartz opened the public hearing.

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

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to approve the special use permit to allow a child care center for Lot 6, Block 4, Tatley Meadows V (3030 South Washington Street), with the following condition: 1. A final landscape plan must be approved and all landscaping and fencing installed and inspected prior to operation of the child care center. Commissioner Bitner seconded the motion and the motion was unanimously approved with Commissioners Bitner, Levchak, Martin, Schell, Schwartz Van Duyne, Van Dyke, and Wangen voting in favor of the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT (DRIVE-THROUGH)
LOT 2, BLOCK 1, EUGENES FIRST ADDITION FIRST REPLAT (1800 NORTH
11TH STREET)**

Chair Schwartz called for the public hearing on a special use permit to allow the operation of an auto laundry - car wash on Lot 2, Block 1, Eugenes First Addition First Replat. The property is located in north-central Bismarck, north of East Divide Avenue between North 11th Street and State Street (1800 North 11th Street).

Mr. Hutchings 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.

Mr. Hutchings said, based on these findings, staff recommends approval of the special use permit for an auto laundry - car wash on Lot 2, Block 1, Eugenes First Addition First Replat (1800 North 11th Street).

Chair Schwartz opened the public hearing.

Commissioner Levchak said this would be a lot of in and out traffic added to the area and he would feel better if it was signed that no left turns are allowed.

Commissioner Schell said as far as in and out access, North 12th Street and the frontage road would be utilized and most would avoid the area at peak times of the day.

Commissioner Martin said there was a restaurant and hotel in this location before so those who frequent the area would know and it might be a non-issue.

Commissioner Van Dyke asked if there is still a North Dakota Department of Transportation project underway to mitigate safety issues here.

Commissioner Schell said there is and that it is getting under contract with the first stage being outreach and public input opportunities.

Blake Carlson, PACES Lodging, said this would be a unique use for Bismarck, but the franchise is in existence already all over the country. He said the Fargo location sees approximately 500 vehicles a day, which is an average of one vehicle every three and a half minutes but with the ability to serve several vehicles at once. He said they can pay at the bay and flow to the west to North 11th Street to head either north or south, or east to the access road instead and then over to State Street.

Commissioner Van Dyke asked how many bays there would be.

Mr. Carlson said there would be 10 at this location.

Commissioner Levchak asked if signage has been considered to control turns onto State Street.

Mr. Carlson said they discussed traffic needs in general, however, this location would be smaller in size compared others like it.

Commissioner Van Dyke said he does not see it funneling through the site and working like they hope it will.

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

Commissioner Van Dyke said he would like to see site plans of other sites and he feels there will be stacking issues in the vacuum area on the west side of the property.

MOTION: Based on the findings contained in the staff report, Commissioner Wangen made a motion to approve the special use permit to allow the operation of an auto laundry/car wash on Lot 2, Block 1, Eugene's First Addition First Replat (1800 North 11th Street). Commissioner Martin seconded the motion and the motion was approved with Commissioners Bitner, Martin, Schell, Schwartz Van Duyne and Wangen voting in favor of the motion. Commissioners Levchak and Van Dyke opposed the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT (TEMPORARY SIGNS)
LOT 1, BLOCK 1, YMCA ADDITION (1608 NORTH WASHINGTON STREET)**

Chair Schwartz called for the public hearing on a special use permit to allow two portable signs to be placed for a period of up to two years on Lot 1, Block 1, YMCA Addition. The property is located in west-central Bismarck, in the southwest corner of the intersection of North Washington Street and West Divide Avenue (1608 N Washington Street).

Mr. Nairn 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.

Mr. Nairn said, based on these findings, staff recommends approval of the special use permit for Lot 1, Block 1, YMCA Addition with the following condition:

1. Two portable signs may be placed for a period not to exceed two years beyond final approval in the locations shown on the attached site plan.

Commissioner Levchak asked if the signs would only be up for two to three months or would they be up for up to two years.

Mr. Nairn clarified that the special use permit is good for two years so essentially, they would not have to ask for a new special use permit each time they want to place a temporary sign. He said these signs would be allowed for three periods per year for up to three weeks each period, so approximately eighteen weeks total per year.

Commissioner Levchak asked if the structure itself would be removed completely each time.

Mr. Nairn said that is correct.

Commissioner Levchak said he feels they exhausted the sign ordinance when they were working to approve and implement it.

Commissioner Bitner said if the ordinance allows it with a special use permit then is the request because it would be for a period of two years.

Mr. Nairn said it needs a special use permit approved because they would be adjacent to single-family residential uses, so having a notification process with the special use permit process was added to allow nearby residents to chance to comment. He said staff did not receive any responses from the adjacent owners on the request.

Commissioner Van Duyne said she would like to abstain from discussion and voting on this request as she serves on the YMCA Board of Directors.

Chair Schwartz opened the public hearing.

Commissioner Levchak asked the applicant if they understand removal of the structure completely is a requirement.

Bill Bauman, YMCA Executive Director, said they absolutely understand that requirement and fully intend to comply with it. He said the signs would be used sparingly as in the past.

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

MOTION: Based on the findings contained in the staff report, Commissioner Wangen made a motion to approve the special use permit for Lot 1, Block 1, YMCA Addition (1608 South Washington Street), with the following condition: 1. Two portable signs may be placed for a period not to exceed two years beyond final approval in the locations shown on the attached site plan. Commissioner Van Dyke seconded the motion and the motion was unanimously approved with Commissioners Bitner, Levchak, Martin, Schell, Schwartz Van Dyke and Wangen voting in favor of the motion. Commissioner Van Duyne abstained.

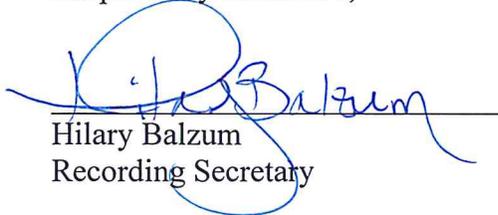
OTHER BUSINESS

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 7:35 p.m. to meet again on September 23, 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](#)
Cc: [Mark Berg](#)
Subject: FW: Stoneridge Addition Replat
Date: Tuesday, August 25, 2020 12:17:45 PM

From: Sam Turnbow [mailto: [REDACTED]]
Sent: Tuesday, August 25, 2020 11:18 AM
To: Jenny Wollmuth <jwollmuth@bismarcknd.gov>; Planning - General Mailbox <planning@bismarcknd.gov>
Cc: Ben Turnbow < [REDACTED] >
Subject: Stoneridge Addition Replat

Members of the planning commission, my name is Sam Turnbow I live at 3715 Centennial Rd. I would like to comment on the traffic situation in and around the area surrounding Legacy high school.

Legacy's enrollment has increased to the point where expansions are needed.

With enrollment comes more vehicle traffic as well as bike and pedestrians.

When Legacy school was designed there were many items that were studied. One of the items of concern was students with vehicles that have connecting classes at BSC. There was a time frame for them to be able to attend that next class, it was important to be close to main roads so that it was more convenient for students to use main roads and not being diverted through residential streets. Due to Calgary Avenue not being completed between Legacy and Centennial road, traffic is going through residential streets and industrial areas.

There has been one vehicular death on Nebraska drive involving a student leaving school, and a pedestrian on the side walk.

There are multiple students crossing four lanes of traffic on Centennial road to get to Sunrise Town Centre, and there are no pedestrian crossings for them to use.

The only available pedestrian crossing is at Century Ave.

Please review these items of concern, for the future safety of East Bismarck.

I have no objection to the Stoneridge addition replat or PUD.

Sam Turnbow
SNT Development
[REDACTED]