

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
July 27, 2022**

The Bismarck Planning & Zoning Commission met on July 27, 2022, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. The meeting was held in person and via Zoom. Chair Schwartz presided and was present in the Tom Baker Meeting Room.

Commissioners present were Brian Bitner, Cole Johnson, Paul Levchak, Kevin Martin, Mike Schmitz, Mike Schwartz, Wendy Van Duyne, Trent Wangen and Paul Zent.

Commissioners Vernon Laning and Gabe Schell were absent.

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

Chair Schwartz welcomed Mayor Mike Schmitz to the Planning and Zoning Commission and said he is joining a great group of people including a very sharp Planning staff.

MINUTES

Chair Schwartz called for consideration of the minutes of the June 22, 2022, meeting.

MOTION: Commissioner Zent made a motion to approve the minutes of the June 22, 2022, meeting, as presented. Commissioner Wangen seconded the motion, and it was unanimously approved with Commissioners Johnson, Martin, Schmitz, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion. Due to audio issues, Commissioners Bitner and Levchak did not vote.

CONSIDERATION

- 2. YEGEN STRIP ADDITION – MAJOR SUBDIVISION PRELIMINARY PLAT**
- 3. MISTY WATERS – PUD AMENDMENT**

MOTION: Based on the findings contained in the staff reports, Commissioner Johnson made a motion to approve consent agenda items 2 and 3, granting tentative approval or calling for a public hearing on the items as recommended by staff. Commissioner Van Duyne seconded the motion and it was unanimously approved with Commissioners Bitner, Johnson, Levchak, Martin, Schmitz, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING – MAJOR SUBDIVISION FINAL PLAT GEORGE SUBDIVISION

Chair Schwartz called for the public hearing on the major subdivision final plat for George Subdivision. The proposed plat is two lots in one block on 40.17 acres and is located

northeast of Bismarck, north of 43rd Avenue NE along the east side of 80th Street NE (NW¼ of the SW¼ of Section 16, T139-R79W/Gibbs Township).

Ms. Lee gave an overview of the request, including the following findings related to land use for the major subdivision 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 (PCSMP) with written concurrence from the County Engineer.
3. The Gibbs Township Board of Supervisors has recommended tentative approval of the proposed plat.
4. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
5. The provision of neighborhood parks and open space is not needed because the proposed preliminary plat is not an urban subdivision with residential zoning districts.
6. 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.
7. 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.
8. The proposed subdivision is within two miles of the city limits and will require an agreement with the South Central Regional Water District prior to recordation of the plat.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
11. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
12. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Lee said, based on these findings, staff recommends approval of the final plat for George Subdivision, including the granting of a waiver from the City's subdivision requirements to delay the construction of the George Drive along the northern edge of the plat until such time as the northern half of this roadway is dedicated in conjunction with the platting of the property to the north.

A similar waiver would need to be granted by Burleigh County in conjunction with their acceptance of right-of-way dedicated in this plat on behalf of Gibbs Township.

Chair Schwartz asked if in order to continue to be used as a livestock pavilion, would the lots have to be combined.

Ms. Lee said that is correct and added that both lots would have to be purchased and the lots combined, or the current owner would need to combine them to continue the livestock pavilion use. She said the current owner is wanting to sell them separately at this time.

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 Bitner made a motion to recommend approval of the major subdivision final plat for George Subdivision, including the granting of a waiver from the City's subdivision requirements to delay the construction of the George Drive along the northern edge of the plat until such time as the northern half of this roadway is dedicated in conjunction with the platting of the property to the north. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Martin, Schmitz, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

**PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT AND SPECIAL USE PERMIT
(AUTO LAUNDRY/CAR WASH)
JACKS FIRST ADDITION**

Chair Schwartz called for the public hearing on the minor subdivision final plat for Jacks First Addition and a special use permit to allow an auto laundry / car wash on Lot 1, Block 1, Jacks First Addition. The proposed plat is three lots in one block on 3.06 acres and is located in south-central Bismarck, between South 9th Street and South 11th Street, along the south side of East Bismarck Expressway (a replat of Lot 2, less the West 38.07 feet and all of Lots 3-6, Block 12, Wachter's Addition, and all of Lots 1 and 2, Block 1, Wachter's 17th Addition).

Mr. Hutchings gave an overview of the requests, including the following 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 waived the requirement for a Post-Construction Stormwater Management Permit (PCSMP).
3. The proposed subdivision is located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. The site would 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.

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

Mr. Hutchings then gave the findings related to land use for the special use permit:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed 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 minor subdivision final plat for Jacks First Addition with the following conditions:

1. The development agreement for the off-site improvements within East Bismarck Expressway would need to be signed by the applicant prior to the minor plat being forwarded to the City Commission for final action.
2. The off-site easement for storm sewer drainage must be secured and recorded in conjunction with the proposed plat.

Staff further recommends approval a special use permit to allow an auto laundry / car wash on Lot 1, Block 1, Jacks First Addition, with the following condition:

1. Development of the site and operation of the proposed drive-throughs shall generally comply with the site plan submitted with the application.

Commissioner Van Duyne asked if the west building would remain in place and the rental car area would be allocated for the proposed car wash. Mr. Hutchings said that is correct.

Commissioner Levchak asked if the roadway would be relocated. Mr. Hutchings said the access easements within the plat would be and are included in the plat to ensure access between lots and to the adjacent property that is not part of the plat. He added south 11th Street is an existing platted street so it was included in the replat as well.

Commissioner Johnson asked if the access easements through multiple lots is concerning. Mr. Hutchings said that is typically ideal as one access easement is existing and connects to the adjacent gas station to the west, so this would reaffirm the existing access and create additional access easement to the middle lot for access to all rights-of-way.

Chair Schwartz opened the public hearing.

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

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the minor subdivision final plat for Jacks First Addition with the following conditions: 1. The development agreement for the off-site improvements within East Bismarck Expressway would need to be signed by the applicant prior to the minor plat being forwarded to the City Commission for final action; and 2. The off-site easement for storm sewer drainage must be secured and recorded in conjunction with the proposed plat; and approval of a special use permit to allow an auto laundry / car wash on Lot 1, Block 1, Jacks First Addition, with the following condition: 1. Development of the site and operation of the proposed drive-throughs shall generally comply with the site plan submitted with the application. Commissioner Martin seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Martin, Schmitz, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE PART OF BLOCK 10, PART OF BLOCK 18 AND ALL OF BLOCK 19, COFFIN'S ADDITION

Chair Schwartz called for the public hearing on the zoning change from the RM30-Residential and CG-Commercial zoning districts to the RMH – Residential zoning district for Lots 1-18, Block 10 and the S½ of the vacated Ingals Avenue adjacent to Lot 1, Block 10; Lots 1-24, Block 19; all of the vacated Indiana Avenue adjacent to Blocks 10 and 19; and Lots 1-5 and 13-24, Block 1, and the N½ of the vacated Michigan Avenue adjacent to Block 18, Coffin Addition (Holiday Estates of Bismarck). The property is located in south-central Bismarck, on both sides of South 9th Street between East Ingals Avenue and the vacated East Michigan Avenue.

Ms. Lee gave an overview of the request, 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 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.

Ms. Lee said, based on the above findings, staff recommends approval of the zoning change from the RM30 – Residential and CG – Commercial zoning districts to the RMH – Residential zoning district for Lots 1-18, Block 10 and the S½ of the vacated Ingals Avenue adjacent to Lot 1, Block 10; Lots 1-24, Block 19; all of the vacated Indiana Avenue adjacent to Blocks 10 and 19; and Lots 1-5 and 13-24, Block 1, and the N½ of the vacated Michigan Avenue adjacent to Block 18, Coffin Addition (Holiday Estates of Bismarck).

Commissioner Levchak asked if they would still continue to be able to utilize setback requirements that do not meet what is required for a new park. Ms. Lee said that is correct as contextual front yard setback requirements were put in place in 2017, they applied it to all residential properties platted prior to 1979 because the 1982 ordinance changed how front yards are measured. She said anything prior to 1979, new homes or other, could be placed in line with the existing homes rather than having to meet current setback requirements. She said this will help the property look better and makes more sense.

Commissioner Levchak asked if there is a sunset on that or if it would be in perpetuity. Ms. Lee said it would be in perpetuity as it is tied to the land use, not the ownership. She said when staff realized several mobile home parks were zoned inconsistently, they met with the park owners and offered to initiate the zoning change on their behalf. She said of those only one has opted to not have their zoning changed.

Chair Schwartz opened the public hearing.

Written comments in opposition to the request are attached as Exhibit A.

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

Commissioner Levchak asked if the one park has opted to not have the zoning changed, would they be allowed to operate.

Ms. Lee said the change in rezoning it to RMH would allow newer homes to be moved in and newer homes are longer and would not fit with the current requirements. She said the other park can continue to operate, but it will not be able to bring in longer homes. She said that it is possible that park has more owner-occupied units rather than rental units.

MOTION: Based on the findings in the staff report, Commissioner Wangen made a motion to recommend approval of the zoning change from the RM30 – Residential and CG – Commercial zoning districts to the RMH – Residential zoning district for Lots 1-18, Block 10 and the S½ of the vacated Ingals Avenue adjacent to Lot 1, Block 10; Lots 1-24, Block 19; all of the vacated Indiana Avenue adjacent to Blocks 10 and 19; and Lots 1-5 and 13-24, Block 1, and the N½ of the vacated Michigan Avenue adjacent to Block 18, Coffin Addition (Holiday Estates of Bismarck). Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Martin, Schmitz, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT (EMC) LOT 39, BLOCK 1, BISMARCK AIRPORT ADDITION

Chair Schwartz called for the public hearing on a special use permit to allow an electronic message center sign on Lot 39, Block 1, Bismarck Airport Addition. The property is located in south Bismarck, along the east side of University Drive between Airport Road and Maverick Avenue (2301 University Drive, Building 48).

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

1. The proposed special use would comply with all applicable provisions of the zoning ordinance and be consistent with the general intent and purpose of the zoning ordinance if recommended conditions are met.
2. The proposed special use would be compatible with adjacent land uses and zoning if recommended conditions are met.
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 if recommended conditions are met;
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 if recommended conditions are met;
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 if recommended conditions are met; and

8. The proposed special use would not adversely affect the public health, safety and general welfare if recommended conditions are met.

Mr. Nairn said, based on these findings, staff recommends approval of the special use permit to allow an electronic message center sign on Lot 39, Block 1, Bismarck Airport Addition, with the following conditions:

1. The size of the electronic message center is no greater than 32 square feet, the maximum allowable size in Section 14-03.1-07(5)(d) of the City Code of Ordinances (Signs/Residential Zoning District Standards).
2. All operational requirements of the ordinance shall be met.

Commissioner Levchak asked that since the sign would be so close to the airport he assumes the FAA has provided comments. Mr. Nairn said the airport did have to sign off on the request and he will let them comment further. He said the sign would be placed outside of the airport operations area and face University Drive.

Wayne Munson, Bismarck Sign Co., said there was a few different options to consider such as the sign located 165 feet away at United Tribes Technical College which the majority of traffic view and the closest area on University Drive to see this sign is closer to 400 feet away. He said when designing for safety they always recommend a larger sign as the Department of Transportation studies have shown better viewability reduces the amount of time that needs to be spent trying to view it. He added that the structure also dictates the size and it will be sound and stable. He said if this were a commercial property, based on the adjacent roadway classification, this sign could be 72 square feet and in working with the applicant have designed a safe and appropriate sign for the property.

Greg Haug, Bismarck Airport Director, said Executive Air approached him to have a sign and the FAA rules would not be considerable enough to require comment or approval in that capacity.

Commissioner Zent said traffic coming south would likely be looking for an airport sign and entrance and other large signs might hinder that or in trying to find UTTC. He said the size proposed as probably as big as we would want to go.

Mr. Haug said for distance and size those are all good factors to consider as well as the UTTC signage and other airport signs.

Ben Ehreth stated that the Planning and Zoning Commission does not have the authority to increase the area of the sign beyond the size limitation outlined in the zoning ordinance. He noted that if it is the desire of the applicant to increase the area of the sign they could apply to the Board of Adjustment to either challenge staff's interpretation of this section of the ordinance or apply for a variance.

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 recommend approval of the special use permit to allow an

electronic message center sign on Lot 39, Block 1, Bismarck Airport Addition, with the following conditions: 1. The size of the electronic message center is no greater than 32 square feet, the maximum allowable size in Section 14-03.1-07(5)(d) of the City Code of Ordinances (Signs/Residential Zoning District Standards); and 2. All operational requirements of the ordinance shall be met. Commissioner Johnson seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Martin, Schmitz, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT (OVERSIZE ACCESSORY BUILDING)
LOT 10, BLOCK 7, COPPER RIDGE SECOND SUBDIVISION**

Chair Schwartz called for the public hearing on a special use permit to increase the total allowable square footage of accessory buildings on the property to 3,200 square feet by constructing a 2,960 square-foot accessory building on Lot 10, Block 7, Copper Ridge Second Subdivision. The property is located southeast of Bismarck, south of 62nd Avenue SE and east of 52nd Street SE along the south side of Woodrow Drive (5601 Woodrow Drive).

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 Apple Creek Township Board of Supervisors has been notified of the request, but has not provided a recommendation for the proposed special use.
4. 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.
5. Adequate public facilities and services are in place or would be provided at the time of development.
6. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
7. 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.
8. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice.
9. 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 increase the total allowable square footage of accessory buildings on the property to 3,200 square feet by constructing a 2,960 square-foot accessory building on Lot 10, Block 7, Copper Ridge Second Subdivision.

Written comments in opposition to the request are attached as Exhibit B.

Commissioner Martin said a letter submitted from the HOA ARC states their covenants only allow up to 2,400 square feet so how can the staff recommendation exceed that.

Mr. Hutchings said the City does not regulate additional requirements beyond what is outlined in the zoning ordinance.

Commissioner Martin said they could modify the recommendation to avoid a conflict with the HOA.

Chair Schwartz opened the public hearing.

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

Commissioner Schmitz said it should seriously be considered that the motion includes modified language for an allowance up to 2,960 square feet.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to recommend approval of the special use permit to increase the total allowable square footage of accessory buildings on the property to 3,200 square feet by constructing a 2,960 square-foot accessory building on Lot 10, Block 7, Copper Ridge Second Subdivision. Commissioner Levchak seconded the motion, and the motion was approved with Commissioners Bitner, Johnson, Levchak, Schwartz, Wangen and Zent voting in favor of the motion. Commissioners Martin and Schmitz opposed the motion.

PUBLIC HEARING - SPECIAL USE PERMIT (DRIVE-THROUGHS) LOT 2, BLOCK 1, TRILLIUM THIRD ADDITION SECOND REPLAT

Chair Schwartz called for the public hearing on a special use permit to allow two drive-throughs in conjunction with a financial institution and coffee shop on Lot 2, Block 1, Trillium Third Addition Second Replat. The property is located in southeast Bismarck, south of East Bismarck Expressway in the southeast quadrant of the intersection of Rock Island Place and Burlington Drive.

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 two drive-throughs in conjunction with a financial institution and coffee shop on Lot 2, Block 1, Trillium Third Addition Second Replat, with the following condition:

1. Development of the site and operation of the proposed drive-throughs shall generally comply with the site plan submitted with the application.

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 Wangen made a motion to recommend approval of the special use permit to allow two drive-throughs in conjunction with a financial institution and coffee shop on Lot 2, Block 1, Trillium Third Addition Second Replat, with the following condition:
1. Development of the site and operation of the proposed drive-throughs shall generally comply with the site plan submitted with the application.
Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Martin, Schmitz, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

OTHER BUSINESS

UPDATE ON TOGETHER 2045

Mr. Nairn said a full draft is available online now at bismarcknd.gov/together2045 and it can also be downloaded there. He said comments on the draft plan are being taken until September 9th to be worked into the next draft update. He said they are also in the middle of the second round of public input and are wanting to hear how people are responding to the draft plan. He added that they have had various public input opportunities, and more are planned with various public entities and political subdivisions. Mr. Nairn said they are getting

assistance from various consultants through grant funds to help incorporate the plan into the zoning ordinance. He closed by saying the full version should be ready in October.

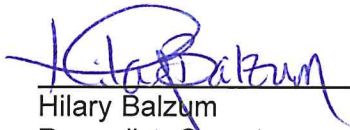
Chair Schwartz said a lot of time has been invested and it is a great opportunity for comment for the general public.

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 5:54 p.m. to meet again on August 24, 2022.

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: Part of B10, PT B18 and all of B19, coffin addition
Date: Monday, July 25, 2022 11:25:38 AM

From: Chris Babel <[REDACTED]>
Sent: Monday, July 25, 2022 10:34 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Part of B10, PT B18 and all of B19, coffin addition

CAUTION: *External Email - Use caution clicking links or opening attachments*****

I received a letter dated July 15th for rezoning of this partial of land. The hearing is scheduled for Wed. July 27th at 5:00 pm. After trying to take off work to attend I was unable to. I have called the Planning and Zoning Commission to have all the info and to ask my questions. With that being said I hope you strongly consider NOT rezoning this section and hope you take my written word as seriously as if I could attend the meeting. Me my wife and future son (any day now) moved into this neighborhood July 2019 and hope to raise a family here. We live right across the street from this park, and it would be a dream if some day it would change into, stores, offices, apartments, homes, etc. If this goes through, I'm sure that would never happen no matter how long goes by. They've already been moving in new trailers since the out of state owned (Utah based company) took over. So, if they haven't been following the guidelines then what's the point. Change it for them and not for the North Dakota residents born and raised looking out for our community first. Thanks for your time and please leave this be. The way this city will be growing out from downtown after it is done going north will leave better quality lands to be changed for our next generation.

Thanks,
Chris and Denise Babel

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Special Use 5601 Woodrow Drive
Date: Thursday, July 21, 2022 11:23:15 AM

From: Darin Anderson [REDACTED]
Sent: Thursday, July 21, 2022 10:50 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Cc: Darin Anderson [REDACTED]
Subject: Special Use 5601 Woodrow Drive

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Dear Planning & Zoning Commissioners,

RE: Special use permit request for 5601 Woodrow Drive.

I don't feel this permit should be approved due to the size of the building and request. It will take away from the aesthetics of the development and hurt others property values. There have been several buildings going up in the development which DO NOT conform to the development covenants. Those include Morton tin sheds (3 of which) are already up. No enforcement of those builds.

If this is approved, it will only continue to add to the problems in the development and future development and housing prices.

The standard of 3,200 square feet was set for a reason and should be strictly adhered to.

Thanks
Darin Anderson
Copper Ridge Development Resident.

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Cc: [Allison Carlson](#); [Tracy Walters](#)
Subject: FW: Request for Special Use Permit - Robert and Kristine Thune - Lot 10, Block 7, Copper Ridge 2nd Subdivision
Date: Tuesday, July 26, 2022 3:01:59 PM
Attachments: [Approval Letter \(with conditions\) to Bob Thune 5-16-22.pdf](#)
Importance: High

From: Garrett Ludwig <[REDACTED]>
Sent: Tuesday, July 26, 2022 9:43 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Cc: Chad Wachter <[REDACTED]>
Subject: Request for Special Use Permit - Robert and Kristine Thune - Lot 10, Block 7, Copper Ridge 2nd Subdivision
Importance: High

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Dear Bismarck Community Development Department:

This office represents the Developer and Architectural Review Committee ("ARC") for Copper Ridge 2nd Subdivision to the City of Bismarck.

We recently received a letter from your office stating that Robert and Kristine Thune are seeking approval for 2960 sq ft building on their lot in Copper Ridge 2nd. Please be advised that Mr. and Mrs. Thune DO NOT have approval from the ARC for a 2960 sq ft building. They have only obtained approval for a 2400 sq ft building. Attached for your records is a copy of the letter showing what Mr. and Mrs. Thune have approval for. Also, below is a copy of the email that we have sent to Mr. Thune informing him that the building he is seeking a special permit for would be a violation of covenants.

Please consider this to be an objection by the Developer and ARC of Copper Ridge 2nd Subdivision to the City of Bismarck to Robert and Kristine Thune's request for a special use permit.

Garrett D. Ludwig

KELSCH RUFF KRANDA NAGLE & LUDWIG

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storage locations including individual and network storage devices; and 3) refrain from disseminating or copying this communication. Thank you.

Kelsch Ruff Kranda Nagle & Ludwig

103 Collins Avenue, PO Box 1266

Mandan ND 58554-7266

Phone 701-663-9818 (toll free 1-888-663-9818)

Fax 701-663-9810

gludwig@kelschlaw.com

From: Garrett Ludwig

Sent: Monday, July 25, 2022 2:24 PM

To: Bob Thune [REDACTED]

Cc: Chad Wachter [REDACTED]

Subject: FW: Copper Ridge Ordinances

Importance: High

Mr. Thune –

We received the attached letter from the Bismarck Community Development Department which states you are seeking approval for a 2960 square foot building to be constructed on your property. As you know, you did not obtain approval from the ARC for a building of this size. You only received ARC approval for a 2400 sq foot building by the ARC (see attached copy of prior approval letter). Therefore, if you were to construct a building which exceeded 2400 square feet, such would be a violation of covenants and would have to be removed. So hopefully this is just a misunderstanding and your only intention is to construct a building that is in accordance with the approval you received.

The ARC will not approve a building which exceeds 2400 square feet. Please contact me if you would like to discuss this further.

Garrett D. Ludwig

KELSCH RUFF KRANDA NAGLE & LUDWIG

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Fax 701-663-9810
gludwig@kelschlaw.com

From: Garrett Ludwig
Sent: Monday, May 16, 2022 2:46 PM
To: Bob Thune [REDACTED]
Subject: RE: Copper Ridge Ordinances

Mr. Thune –

Please see attached an approval letter (with conditions/exceptions) sent on behalf of the ARC of your subdivision with regard to your proposed shop.

Please refer to the attached letter for more specific information.

Garrett D. Ludwig

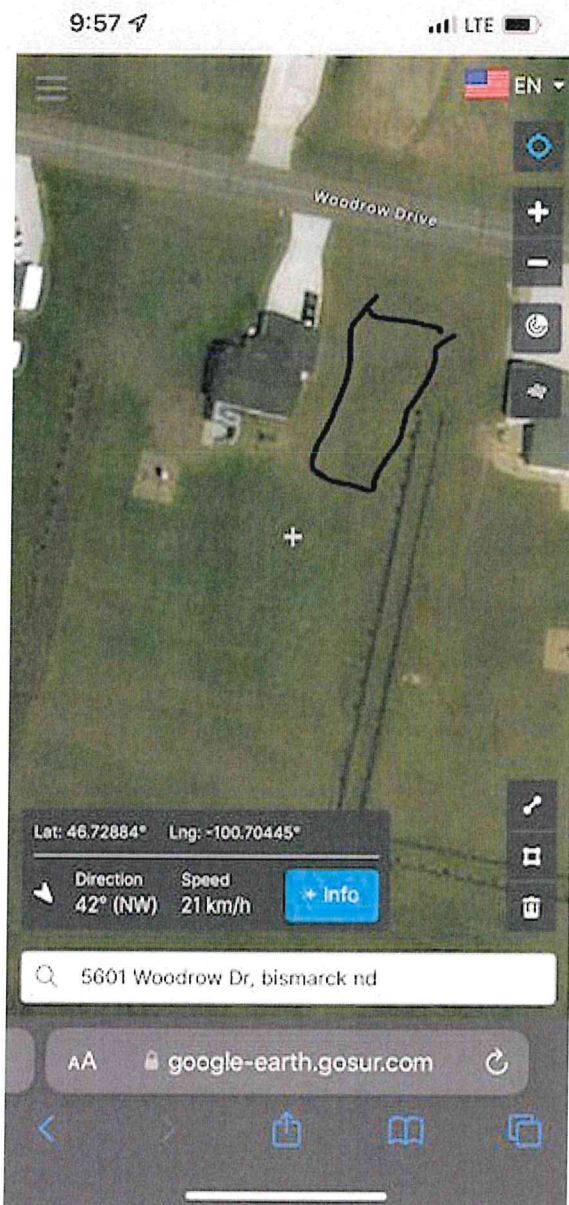
KELSCH RUFF KRANDA NAGLE & LUDWIG

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gludwig@kelschlaw.com

From: Bob Thune [REDACTED]
Sent: Thursday, May 12, 2022 10:39 AM
To: Garrett Ludwig <gludwig@kelschlaw.com>
Subject: Re: Copper Ridge Ordinances

1. The shop will be a timber framed build with vinyl siding
2. I intend to match the shop to the house to the best of my abilities
3. Picture attached
4. It is intended for vehicle



storage and wood shop only

Sent from my iPhone

> On May 3, 2022, at 11:53 AM, Garrett Ludwig <gludwig@kelschlaw.com> wrote:

>

> Hi Bob -

>

> I will need some additional information with regard to this project:

>

> 1. I will need to know the type of siding and materials that you intend to use;

> 2. I will need confirmation as to whether the siding, roofing, windows and doors will match in color and type with what is on the house.

3. We need to see where on your lot you intend on constructing the building. If your contractor does not have plans that show this, then you can just use a google map image of your lot and draw on there where the shop will be.

> 4. Lastly, we will need confirmation that there will not be any sort of living quarters in the shop.

>

> You can just send that over via email as well.

>

> Thanks.

>

>

> Garrett D. Ludwig

> KELSCH RUFF KRANDA NAGLE & LUDWIG

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> Fax 701-663-9810

> gludwig@kelschlaw.com

>

>

>

> -----Original Message-----

> From: Bob Thune <[REDACTED]>

> Sent: Monday, May 2, 2022 12:28 PM

> To: Garrett Ludwig <gludwig@kelschlaw.com>

> Subject: Re: Copper Ridge Ordinances

>

>

>

> Sent from my iPhone

>

>> On Apr 19, 2022, at 8:47 AM, Bob Thune <[REDACTED]> wrote:

>>

>> Hi I am looking to put a shed in this year and need the ordinances on size, location, and

easements from property line, ext. I understand that you are the person to get in touch with this information

>>

>> Thank you

>>

>> Bob Thune

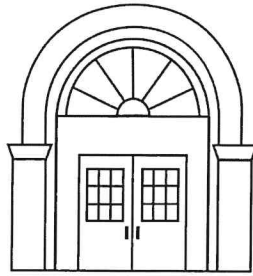
>> 

>>

>> Sent from my iPhone

ARLEN M. RUFF, P.C.
TODD D. KRANDA, P.C.*
DANIEL J. NAGLE, P.C.**
GARRETT D. LUDWIG, P.C.*
ALEXANDER S. KELSCH, P.C.
MIKAYLA M. REIS
GRANT D. ADKINS***

*Also Licensed in Minnesota
**Also Licensed in South Dakota
***Also Licensed in Florida



KELSCH RUFF KRANDA
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Attorneys at Law

C. F. Kelsch
1890 - 1987

William C. Kelsch
1932 - 2012

Thomas F. Kelsch
Retired

Thomas D. Kelsch
Retired

 MERITAS
LAW FIRMS WORLDWIDE

May 16, 2022

SENT VIA EMAIL ONLY
BOB THUNE

Re: Copper Ridge 2nd Subdivision Request to Architectural Review Committee
Our File No. 18108

Dear Mr. Thune:

This office represents the Developer and Architectural Review Committee ("ARC" or "Committee") of Copper Ridge 2nd Subdivision to the City of Bismarck. We have received your request for approval, and plans, for a 2,400 sq. ft. shop which you wish to construct on your lot located at 5601 Woodrow Drive.

The general building plans for this project, as submitted, are approved by the ARC subject to the following exceptions/conditions:

1. Based on the aerial image you provided, it is unclear where the front setback line of this building will be located. Please be advised that your proposed building cannot be closer to the front of your lot than the house is - i.e., the front of the proposed building facing Woodrow Drive must have either the same, or a greater, set back distance from the front property line than does the front of your house.
2. In your submission you state that you intend to match the shop to the house to the best of your abilities. Just so there is no confusion regarding this requirement, the exterior materials used on the building should closely match the type and color of materials used on your house. If you have difficulty locating materials that match the color/type used on your house, you must have ARC approval before any non-matching materials are installed.

Please be advised that while the general plans, subject to the exceptions/conditions set forth above, are being approved by the ARC, it is still exclusively the owners' and their agents' responsibility to maintain compliance with the Declaration of Restrictions and Obligations ("Covenants") for Copper Ridge 2nd Subdivision to the City of Bismarck. I would like to direct your attention to Paragraph 3(E) of the Covenants, which provides as follows:

“In spite of the above provisions, the Committee shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this Declaration, and no member of the Committee shall have any liability, responsibility, or obligation, whatever for any decision or lack of a decision, in the carrying out of duties as a member of the Committee. The Committee and its members shall have only an advisory function, and the sole responsibility for compliance with all of the terms of this Declaration shall rest with the homeowner. Each homeowner agrees to save, defend, and hold harmless the Committee and each of its members on account of any activities of the Committee relating to the owner’s property or buildings to be constructed on his or her property.”

Only the improvements submitted are being approved and the same must be completed in accordance with the Covenants. Any further improvements not contained in the plans being approved herein must be submitted to this office in the same fashion for separate and subsequent approval.

If you have any questions, please feel free to contact me.

Sincerely,

/s/ Garrett D. Ludwig

Garrett D. Ludwig

c. Chad Wachter