

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
September 22, 2021**

The Bismarck Planning & Zoning Commission met on September 22, 2021, 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. Vice Chair Laning presided and was present in the Tom Baker Meeting Room.

Commissioners present were Steve Bakken, Cole Johnson, Vernon Laning, Paul Levchak, Gabe Schell, Trent Wangen and Paul Zent.

Commissioners Brian Bitner, Kevin Martin, Mike Schwartz and Wendy Van Duyne 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, Daniel Nairn – Senior Planner and Jenny Wollmuth – Senior Planner.

MINUTES

Vice Chair Laning called for consideration of the minutes of the August 25, 2021 meeting.

MOTION: Commissioner Bakken made a motion to approve the minutes of the August 25, 2021 meeting, as presented. Commissioner Johnson seconded the motion and it was unanimously approved with Commissioners Bakken, Johnson, Laning, Levchak, Schell, Wangen and Zent voting in favor of the motion.

CONSIDERATION

2. **LOT 3, BLOCK 1, CAPITAL ELECTRIC HEADQUARTERS ADDITION AND LOT 3, BLOCK 1, BUFFALO JUMP ADDITION – ZONING CHANGE**
3. **AUDITOR'S LOT 12 AND PARTS OF AUDITOR'S LOTS 11, 17, 18, 19 AND 20, PARK HILL AUDITOR'S LOTS**

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve consent agenda items 2 and 3, calling for a public hearing on the items as recommended by staff. Commissioner Zent seconded the motion and it was unanimously approved with Commissioners Bakken, Johnson, Laning, Levchak, Schell, Wangen and Zent voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE
BLOCKS 11 AND 12, NORTHERN PACIFIC ADDITION**

Vice Chair Laning called for the public hearing on a City-initiated zoning change from the RT – Residential, RM30 – Residential, and PUD – Planned Unit Development zoning districts to the DF – Downtown Fringe zoning district for Blocks 11 and 12, Northern Pacific Addition.

The property is located in central Bismarck, bounded by East Avenue B, North 5th Street, East Avenue C, and North 3rd Street.

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

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.

Mr. Nairn said based on these findings, staff recommends approval of the zoning change from the RT – Residential, RM30 – Residential, and PUD - Planned Unit Development zoning districts to the DF – Downtown Fringe zoning district for all of Blocks 11 and 12, Northern Pacific Addition.

Commissioner Levchak asked if this would change any of the off-street parking requirements.

Mr. Nairn said it would for the properties included in the request as off-street parking is not a requirement in the DF-Downtown Fringe zoning district.

Commissioner Levchak asked if the parking time durations have been studied. Mr. Nairn said they do periodically study that and in 2019 significant utilization of street parking or constraints were not found.

Vice Chair Laning opened the public hearing.

Kate Herzog, COO, Downtowners Association, said they submitted comments of support related to the zoning change and they do not see an issue with it changing to DF-Downtown Fringe. She said she likes that new development of those properties would now also require Downtown Design Review as well. The comments referenced are attached as Exhibit A.

Loran Galpin, 611 and 613 North 3rd Street, said he started developing historical properties in the 1980s with the intention of trying to save some of those properties. He said the changes happening are delightful and the City is providing encouragement to contributing properties. He said he visited with some of the adjacent property owners and they are excited for some new uses and opportunities as well. He added that his neighbor to the north plans to participate and he does not see any future parking problems. Mr. Galpin said reinvestment opportunities are there and people are anxious for them. He said he is in favor of and supports the efforts of the City.

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

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the zoning change from the RT – Residential, RM30 – Residential, and PUD - Planned Unit Development zoning districts to the DF – Downtown Fringe zoning district for all of Blocks 11 and 12, Northern Pacific Addition. Commissioner Johnson seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Laning, Levchak, Schell, Wangen and Zent voting in favor of the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT (CREMATORIUM)
PART OF AUDITOR'S LOT A OF THE N½ OF THE NW¼ OF SEC 26, T139N-R80W/CITY
LANDS**

Vice Chair Laning called for the public hearing on a special use permit to allow a crematorium as an accessory use to Fairview Cemetery on part of Auditor's Lot A of the N½ of the NW¼ of Section 26, T139N-R80W/City Lands (being platted as Lot 3, Block 1, Fairview Cemetery Addition).

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 to allow a crematorium as an accessory use to Fairview Cemetery on part of Auditor's Lot A of the N½ of the NW¼ of Section 26, T139N-R80W/City Lands (being platted as Lot 3, Block 1, Fairview Cemetery Addition), with the following conditions:

1. The plat for Fairview Cemetery Addition is recorded and the associated zoning change takes effect.
2. Adequate fire protection measures are provided prior to site plan approval.
3. The crematorium continues to function as accessory to the adjacent cemetery.

Vice Chair Laning opened the public hearing.

Landon Niemiller, Swenson, Hagen & Co., said they are still working on the best water line route for the site and have dedicated easements on the proposed plat. He said if it is found that additional easements are necessary they will be dedicated as needed.

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

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the special use permit to allow a crematorium as an accessory use to Fairview Cemetery on part of Auditor's Lot A of the N½ of the NW¼ of Section 26, T139N-R80W/City Lands (being platted as Lot 3, Block 1, Fairview Cemetery Addition), with the following conditions: 1. The plat for Fairview Cemetery Addition is recorded and the associated zoning change takes effect; 2. Adequate fire protection measures are provided prior to site plan approval; and 3. The crematorium continues to function as accessory to the adjacent cemetery. Commissioner Zent seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Laning, Levchak, Schell, Wangen and Zent voting in favor of the motion.

OTHER BUSINESS

UPDATE ON BODEN ADDITION

Mr. Nairn said staff will be re-notifying the adjacent property owners when Boden Addition is ready to come back for its continued public hearing. He said there have not been many changes recently and the developer is working with Bismarck Parks and Recreation District with some decisions to be made in October. He said the request would then come back to this Commission once the plat has been revised and resubmitted to City staff.

OTHER BUSINESS

There was no other business to discuss at this time.

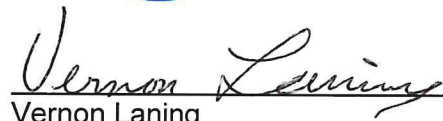
ADJOURNMENT

There being no further business, Vice Chair Laning declared the Bismarck Planning & Zoning Commission adjourned at 5:26 p.m. to meet again on October 27, 2021.

Respectfully submitted,



Hilary Balzum
Recording Secretary



Vernon Laning
Vice Chair

Sept 14, 2021

Bismarck Planning and Zoning Board



The Downtown Business Association of Bismarck which represents over 200 members with 9,000 employees, and along with our Downtown Bismarck Community Foundation, is lending support to the proposed zoning change of an area in north central Downtown Bismarck to Downtown Fringe zoning designation.

Our primary area of support is to facilitate infill on current undeveloped parcels and under-developed areas, while being sensitive to historically contributing structures in the area. The change to Downtown Fringe will also allow for the Downtown Design Review committee to weigh in on any development concepts in the area to ensure a better product.

Title: Blocks 11 and 12, Northern Pacific Addition

Status: Planning & Zoning Commission – Consideration

Owner(s): Various owners (see attachment)

Project Contact: Daniel Nairn, AICP

Location: In central Bismarck, bounded by East Avenue B, North 5th Street, East Avenue C, and North 3rd Street

Project Size: 6.67 Acres

Request: Rezone to Downtown Fringe to address nonconformities and facilitate redevelopment/reuse

A handwritten signature in black ink, appearing to read "Kate Herzog".

Kate Herzog, COO
Chief Operating Officer
Downtowners Bismarck

President
Downtown Council