

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
August 24, 2022**

The Bismarck Planning & Zoning Commission met on August 24, 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. Vice Chair Lanning presided and was present in the Tom Baker Meeting Room.

Commissioners present were Brian Bitner, Cole Johnson, Vern Lanning, Paul Levchak, Gabe Schell, Mike Schmitz, Wendy Van Duyne, Trent Wangen and Paul Zent.

Commissioners Kevin Martin and Mike Schwartz were absent.

Staff members present were 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.

Vice Chair Lanning called the meeting to order and Community Development Director Ben Ehreth took roll call.

MINUTES

Vice Chair Lanning called for consideration of the minutes of the July 27, 2022 meeting.

MOTION: Commissioner Schmitz made a motion to approve the minutes of the July 27, 2022 meeting, as presented. Commissioner Zent seconded the motion, and it was unanimously approved with a voice vote.

CONSIDERATION

- 2. BOULDER RIDGE FIRST ADDITION FIRST REPLAT – MAJOR SUBDIVISION PRELIMINARY PLAT**
- 3. SILVER RANCH FOURTH ADDITION – ZONING CHANGE AND MAJOR SUBDIVISION PRELIMINARY PLAT**
- 4. LOTS 49 & 50, BLOCK 2, SONNET HEIGHT SUBDIVISION**
- 5. LOT 1 AND PART OF LOT 2, BLOCK 1, MEADOW LARK HILL SECOND ADDITION REPLAT**

MOTION: Based on the findings contained in the staff reports, Commissioner Wangen made a motion to approve consent agenda items 2 through 5, granting tentative approval or calling for a public hearing on the items as recommended by staff. Commissioner Zent seconded the motion and it was unanimously approved with Commissioners Bitner, Johnson, Lanning, Levchak, Schell, Schmitz, Van Duyne, Wangen and Zent voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE AND MAJOR SUBDIVISION FINAL PLAT
BRUNSKILL SUBDIVISION**

Vice Chair Lanning called for the public hearing on the zoning change and major subdivision final plat for Brunskill Subdivision. The proposed plat is five lots in one block on 39.95 acres

and is located southeast of Bismarck, in the northwest quadrant of the intersection of 66th Street SE and 55th Avenue SE (The SE¼ of the NE¼ Section 30, T138N-R80W/Apple Creek Township).

Ms. Wollmuth 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 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 Apple Creek Township Board of Supervisors has not yet made a recommendation for 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;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth then provided the following findings related to land use for the major subdivision final plat:

1. All technical requirements for consideration of a final plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed plat is not an urban subdivision;
4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required;

5. A scoping sheet for a post-construction stormwater management permit (PCSMP) has been conditionally approved by the City Engineer and the Burleigh County Engineer;
6. The Apple Creek Township Board of Supervisors has not yet made a recommendation for the proposed final plat;
7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is 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.
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; and
12. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on these findings, staff approval the zoning change from the A – Agricultural zoning district to the RR – Residential and RR5 – Residential zoning districts and a major subdivision final plat for Brunskill Subdivision, with the understanding that future subdivision of Lot 5 that would create lots less than 5 acres will not be permitted. 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 Apple Creek Township.

Commissioner Levchak asked about the zoning for Lots 4 and 5. Ms. Wollmuth responded that Lots 4 and 5 would both be zoned RR – Residential in order to not have just Lot 4 be zoned RR – Residential, but with a condition that Lot 5 could not be further subdivided in the future.

Commissioner Johnson asked what the minimum lot size was for the RR – Residential zoning district. Ms. Wollmuth replied that the minimum lot size would be 65,000 square feet, but nothing smaller. She noted that any proposal to split that lot further would come before the Planning and Zoning Commission for a public hearing as a rural residential lot split.

Commissioner Zent asked if this property was located in the extraterritorial area and was under the City of Bismarck's jurisdiction rather than Apple Creek Township's jurisdiction. Ms. Wollmuth replied that the City had jurisdiction up to 66th Street SE in this area. Commissioner Levchak stated that one of the letters with what appeared to be a petition was confusing. Ms. Wollmuth noted, based on her discussions with property owners on that

document, that staff was assuming those on the document were opposed to the request, but agreed that it was unclear based on what was submitted.

Commissioner Schell suggested the applicant move the lot line to include the existing building on Lot 4 rather than Lot 1.

Commissioner Zent asked if Apple Creek Township had submitted a resolution regarding the proposed actions. Ms. Wollmuth noted that nothing had been received by the Planning office.

Vice Chair Lanning opened the public hearing.

Monte Seibel, an Apple Creek Township Supervisor, stated that the township was okay with five (5) acre lots, but were opposed to one and a half (1½) acre lots. He added that if the Planning and Zoning Commission is intending to approve the request, he could get a petition to oppose the request.

Nikki Lyons appeared in opposition to a minimum lot size of 65,000 square feet, noting that they moved to this area because of the requirement for five acre lots.

Daniel Brunskill, the applicant, stated the lot line between Lots 1 and 4 could not move further to the west because of the setback requirements. In addition, the lot line between Lots 4 and 5 could not move further to the east because of the terrain and required setbacks. He indicated that he can't make Lot 4 any bigger, adding that he has no intention of further subdividing the lots to create smaller lots, as he would then need to construct interior roadways.

Commissioner Schell asked why the land including the existing accessory building couldn't be added to Lot 4. Mr. Brunskill replied that he would prefer to keep the accessory building with the larger lot, adding that there was a natural aquifer in that area and a low spot that goes through between the proposed Lots 1 and 4.

Commissioner Zent asked why the property was being subdivided. Mr. Brunskill replied that it was his intention to sell Lot 4 to his sister and brother-in-law and keep horses on Lot 1.

Commissioner Zent then explained Apple Creek Township's rationale for a five (5) acre minimum, noting that it preserved the agricultural feel of the area and would provide additional area for a septic system. He added that he was involved in writing the current regulations as an Apple Creek Township Supervisor.

Vice Chair Lanning asked Mr. Brunskill if he had given any consideration to combining Lots 4 and 5 as one lot. Mr. Brunskill replied that he was told he had to have a combined approach for Lots 1 and 4, and the approach for Lot 5 is further to the west on a hill.

Vice Chair Lanning then asked Mr. Brunskill what the plans for Lots 2 and 3 were. Mr. Brunskill replied that he had no immediate plans for Lots 2 and 3.

Commissioner Schell asked Mr. Brunskill what his intentions were for the pole barn on Lot 1. Mr. Brunskill replied that he would use it as a horse barn.

Commissioner Schell noted that it sounds like Lot 1 would remain larger and function more as an agricultural use and asked why all of the Lots could not be five (5) acres in size. Mr.

Brunskill stated that he is creating five lots out of 40 acres just like the 40 acre to the south and that he has not intention to subdivide the parcels further and would be ok with a requirement that none of the lots be further subdivided.

Commissioner Bitner asked for clarification on Mr. Brunskill's mention of the County's comment on driveway locations. Mr. Brunskill replied that shared access would be required for the Lots 1 and 4 and for Lots 2 and 3, and if the lots were to be further subdivided he would be required to construct interior roadways to provide access to those lots.

Commissioner Zent noted that changing the lot line between Lots 1 and 4 would resolve the issue and address Apple Creek Township's concerns.

Written comments related to this request are attached as Exhibits A and B.

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

MOTION: Commissioner Levchak made a motion to reject the proposal and deny the application for a zoning change and major subdivision final plat for Brunskill Subdivision. Commissioner Zent seconded the motion. The motion was approved on an 7-2 vote with Commissioners Bitner, Johnson, Lanning, Levchak, Schmitz, Van Duyne and Zent voting in favor of the motion and Commissioners Schell and Wangen voting against the motion.

**FINAL CONSIDERATION – ANNEXATION
PUBLIC HEARING – MAJOR SUBDIVISION FINAL PLAT
COUNTRY WEST XXXI ADDITION**

Vice Chair Lanning called for final consideration of the annexation and for the public hearing on the major subdivision final plat for Country West XXXI Addition. The proposed plat is nine lots in one block, northwest of the intersection of Valley Drive and Tyler Parkway (Part of the SE¼ of Section 19, T139N-R80W/Hay Creek Township).

Mr. Nairn gave an overview of the requests, including the following findings related to land use for the major subdivision 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 with any potential for additional residences,

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;
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Nairn then provided 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; and
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on these findings, staff recommends approval of the annexation and final plat for Country West XXXI Addition, with the following condition:

1. All lots within Country West XXXI Addition are combined such that no lots remain without legal access to a public right-of-way in conjunction with recordation of the final plat.

Commissioner Schell asked about the condition, questioning if all of the lots had to be combined with the adjacent lot or just be combined with any lot. Mr. Nairn replied that they had to be combined with any lot as long as access to a public right-of-way is provided.

Vice Chair Lanning asked if all nine owners are in agreement with the proposed layout. Mr. Nairn replied that the property is currently owned by three of the adjacent land owners and that they are working with the other owners.

Commissioner Levchak asked if the lots needed to be combined within a specific time frame. Mr. Nairn said they would have to record the plat within six months. Ms. Lee added that staff would expect the lots to be combined in conjunction with recording of the plat.

Commission Schmitz asked about the possibility of orphan lots. Mr. Nairn said that would not be allowed; all lots would need to be combined with a lot along Valley Drive.

Commissioner Zent asked who would own the triangle-shaped lot on the eastern edge of the proposed plat. Mr. Nairn said that currently the three applicants own that parcel in common and final disposition has not yet been determined, but it will be combined with an adjacent lot.

Vice Chair Lanning opened the public hearing.

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

MOTION: Based on the findings contained in the staff report, Commissioner Johnson made a motion to recommend approval of the annexation and the major subdivision final plat for Country West XXXI Addition with the following condition: 1. All lots within Country West XXXI Addition are combined such that no lots remain without legal access to a public right-of-way in conjunction with recordation of the final plat. Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Lanning, Levchak, Schell, Schmitz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMITS LOT 8, BLOCK 8, SHAMROCK ACRES THIRD ADDITION

Vice Chair Lanning called for the public hearing on the special use permit for an accessory dwelling unit and oversized accessory building on Lot 8, Block 8, Shamrock Acres Third Addition. The property is located north of Bismarck, east of US Highway 83 and north of 84th Avenue NE on the east side of 26th Street NE at the intersection with Clover Lane (2620 Clover Lane).

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

1. The proposed special uses comply 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 uses are compatible with adjacent land uses and zoning;
3. The proposed special uses 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 uses 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 uses are consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed special uses would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on the above findings, staff recommends approval of the special use permit for an accessory dwelling unit and to increase the total allowable square footage of accessory structures on a lot to 3,200 Square feet for Lot 8, Block 8, Shamrock Acres Third Addition, with the following conditions:

1. The location of the site substantially conforms to the site plan or an alternative location on the lot complies with all setback and other requirements.
2. At least water and electrical utilities are provided for the accessory dwelling unit.
3. An adequately sized septic system compliant with all applicable requirements is installed.
4. All applicable floodplain development regulations are followed at the time of building permit submittal.

Commissioner Levchak asked if the applicant would be constructing the new building at least one foot above the base flood elevation. Mr. Nairn noted that the City requirement in the floodplain would be two feet above the base flood elevation and the applicant is aware of that requirement.

Vice Chair Lanning asked if the existing home on the property would be located within the special flood hazard area with the proposed preliminary FIRM map. Commissioner Schell replied that it would.

Vice Chair Lanning opened the public hearing.

Brian Cassidy, the applicant, indicated that the building would be elevated on fill to comply with the new floodplain map.

Commissioner Levchak noted that he lived in the neighborhood, welcomed them to the neighborhood and noted that the adjacent road has historically overtopped in rain and snowmelt events.

Judy Barth, an adjacent owner, noted that the covenants for the subdivision indicate that there cannot be a secondary residence. She expressed concerns that a septic system that close to the coulee would contaminate the area and noted that it was a not a good area with the flooding that occurs. She went on to state that if one person does this, what is to prohibit others from doing it. She added that none of the neighbors would not want rentals in that area.

Vice Chair Lanning asked for clarification as to whether or not the owner needs to live on the property. Mr. Ehreth responded that the ADU ordinance requires the property owner to live in one of the units.

Written comment related to this request is attached as Exhibit C.

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

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to approve the special use permits to construct an accessory dwelling unit and increase the total allowable square footage of accessory structures on a lot to 3,200 Square feet for Lot 8, Block 8, Shamrock Acres Third Addition, with the following conditions: 1) The location of the site substantially conforms to the site plan or an alternative location on the lot complies with all setback and other requirements; 2) At least water and electrical utilities are provided for the accessory dwelling unit; 3) An adequately sized septic system compliant with all applicable requirements is installed; and 4) All applicable floodplain development regulations are followed at the time of building permit submittal. Commissioner Schwartz seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Lanning, Levchak, Schell, Schmitz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT LOT 8, BLOCK 15, REPLAT OF PART OF TIBESAR FIRST SUBDIVISION

Vice Chair Lanning called for the public hearing on the special use permit for an accessory dwelling unit on Lot 15, Block 8, Replat of Part of Tibesar First Addition. The property is located in central Bismarck, south of Interstate 94 and west of US Highway 83/State Street on the south side of East Capitol Avenue (1013 East Capitol Avenue).

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; and
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 an internal accessory dwelling unit on Lot 8, Block 15, Replat of Part of Tibesar First Subdivision.

Vice Chair Lanning opened the public hearing.

Alex Shevchenko, the applicant, stated that the unit would be occupied by his grandmother so she can be close to them and they can take care of her, as she does not speak English.

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

MOTION: Based on the findings contained in the staff report, Commissioner Johnson made a motion to approve the special use permit for an internal accessory dwelling unit on Lot 8, Block 15, Replat of Part of Tibesar First Subdivision. Commissioner Van Duyne 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 LOT 1, BLOCK 2, CRESCENT RIDGE SECOND SUBDIVISION

Vice Chair Lanning called for the public hearing on the special use permit for an oversized accessory building on Lot 1, Block 2, Crescent Ridge Second Subdivision. The property is located north of Bismarck, east of 41st Street NE in the southwest quadrant of the intersection of 84th Avenue NE and 44th Street NE (8324 44th Street NE).

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 Hay Creek Township Board of Supervisors has recommended approval of 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; and
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 for an oversized accessory building on Lot 1, Block 2, Crescent Ridge Second Subdivision.

Vice Chair Lanning opened the public hearing.

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

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to approve the special use permit for an oversized accessory building on Lot 1, Block 2, Crescent Ridge Second Subdivision. Commissioner Levchak 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 LOT 2, BLOCK 1, WASHINGTON SQUARE ADDITION

Vice Chair Lanning called for the public hearing on the special use permit for an electronic message center on Lot 2, Block 1, Washington Square Addition. The property is located in north Bismarck, south of Ash Coulee Drive and west of North Washington Street on the north side of Colt Avenue (4100 North Washington Street).

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 2, Block 1, Washington Square Addition, with the following condition:

1. All operational requirements of the ordinance shall be met.

Vice Chair Lanning opened the public hearing.

Nate Wolf, the applicant, noted that the sign would be in the northeast corner of the property rather than the southeast corner of the property. He then stated that the restriction on motion makes the sign useless, adding that they need to be able to use the sign past 9:00pm for their business.

Mr. Ehreth stated that the operations requirements, including the prohibition on live action video and the hold time after 9:00 p.m., are ordinance requirements that cannot be varied by the Planning and Zoning Commission. He added that they could request a variance based on a hardship or challenge staff's interpretation of the requirements.

Commissioner Schell asked for clarification on the use of animation and the use of the sign after 9:00 p.m. Mr. Nairn replied that the prohibition on the use of animation is city-wide and applies to all EMCs in all zoning districts. He added that the hold time requirement after 9:00 p.m. is because of the proximity of this sign to residential zoning districts.

Vice Chair Lanning asked for clarification on the requirements and the location of the sign. Mr. Nairn replied that the location in the northeast corner rather than the southeast corner of the property does not change the requirement since the adjacent parcel to the east is within a residential zoning district.

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

MOTION: Based on the findings contained in the staff report, Commissioner Zent made a motion to approve the special use permit for an electronic message center on Lot 2, Block 1, Washington Square Addition. Commissioner Bitner 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

Mr. Ehreth indicated that there had been some questions regarding covenants after the last Planning and Zoning Commission meeting. He noted that because the City isn't a party to covenants, they are enforced sporadically by the associations, and the Community Development Department doesn't have the staff time to enforce them, the City does not enforce covenants. Staff can suggest that applicants check with their association regarding proposed actions, but we cannot enforce the covenants of the association.

Commissioner Bitner noted that enforcement of covenants is a civil action that would need to be taken by the association or members of the association. Commissioner Levchak stated that covenants become void if they are not enforced. Ms. Combs added that enforcement is a civil action, but that covenants don't automatically become void if they are not enforced. They can be voided by a court or by a sunset clause in the covenants themselves.

Mr. Ehreth then noted that Hilary Balzum had accepted another position in the City's Public Works Department and that the Community Development Department is interviewing candidates for that position.

Mr. Ehreth then noted that there will be Planning Commissioner training on Tuesday, September 13th in conjunction with the Western Planner Conference. If any of the Commissioners are interested in attending, he asked that they let him know.

ADJOURNMENT

There being no further business, Vice Chair Lanning declared the Bismarck Planning & Zoning Commission adjourned at 6:30 p.m. to meet again on August 24, 2022.

Respectfully submitted,

Kim L. Lee, AICP
Recording Secretary

Vern Lanning
Vice Chair

Kim Lee

Subject: FW: Brunskill Subdivision

From: Grady [REDACTED]
Sent: Monday, August 22, 2022 10:11 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Brunskill Subdivision

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

Dear Planning and Zoning Commission,

I am writing in opposition to the lot in the Brunskill Subdivision planned to be zoned RR with a minimum lot size of 65,000 sf. This is poor planning mixing lots of a minimum of five acres with one, or a few of a smaller size. The Apple Creek Township where the lot resides does not allow anything smaller than a five acre lot which is consistent with the current surrounding development. Allowing one will just lead to the next one, and the next one, which is again poor planning. Approval of plats that allow for lots sized as low as 65,000 sf should be reserved to acreages of 160 acres or more in a rural setting, and should include pavement to and throughout the development and appropriately planned access for emergency situations. Thanks for your consideration of not approving this development as currently planned.

Grady Wolf
7040 55 Ave SE
Bismarck, ND 58504
[REDACTED]

Kim Lee

Subject: FW: Brunskill Subdivision Proposal
Attachments: scan.pdf

-----Original Message-----

From: Jodi Schmidt [REDACTED]
Sent: Tuesday, August 23, 2022 10:07 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Brunskill Subdivision Proposal

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

Please see the attached document in regards to the meeting tomorrow discussing the Brunskill Subdivision.

Please confirm receipt of this email.

Thank you
Jodi Schmidt



August 12, 2022

Dear Property Owner:

Please be advised that the Bismarck Planning & Zoning Commission will be conducting a public hearing on Wednesday, August 24, 2022, at 5:00 p.m. in the Tom Baker Meeting Room, City-County Building, 221 North 5th Street, Bismarck, North Dakota, which may be of interest to you.

Daniel Brunskill is requesting approval of a major subdivision final plat for Brunskill Subdivision, a five-lot subdivision on 39.95 acres. The property is located southeast of Bismarck, in the northwest quadrant of the intersection of 66th Street SE and 55th Avenue SE (the SE1/4 of the NE1/4 of Section 30, T138N-R80W/Apple Creek Township).

Daniel Brunskill is also requesting approval of a zoning change from the A – Agricultural zoning district to the RR – Residential and RR5 – Residential zoning districts for Brunskill Subdivision.

The existing zoning allows the following major uses: A-Agricultural – general agricultural uses.

The proposed zoning change would allow the following major uses: RR – Residential – rural residential and related uses with a minimum lot size of 65,000 square feet; and RR5 – Residential – rural residential and related uses with a minimum lot size of 5 acres.

A map showing the location involved in the requests and a reduction of the proposed plat are enclosed for your information.

At the hearing, the Bismarck Planning & Zoning Commission will provide an opportunity for all interested parties to be heard with respect to this item. Interested parties may submit written or email comments regarding this request no later than 8:00 AM the day of the meeting to the Community Development Department, PO Box 5503, Bismarck, North Dakota 58506-5503, fax: 701-222-6450, or email - planning@bismarcknd.gov. Written comments received will be sent to the Planning and Zoning Commissioners prior to the meeting and included in the minutes of the meeting. Written comments received after 8:00 AM on Wednesday, August 24, 2022, and those submitted anonymously will not be forwarded to the Planning & Zoning Commissioners or included in the minutes of the meeting. Interested persons may also call 701-355-1840 with questions, for additional information, or to facilitate alternate means to appear at the public hearing without having to appear in person.

The agenda packet for the meeting, which will include a staff report for this request, will be posted online at www.bismarcknd.gov, under Agendas and Minutes/City Planning and Zoning Commission, by the end of the day on Friday, August 12th. The meeting will also be aired live on Government Access – Cable Channel 2 and can be viewed on-line at freetv.org under Government Access/Bismarck Planning and Zoning Commission.



If you have any questions or need any additional information on this request, please contact Jenny Wollmuth, the planner in our office assigned to this request, at 701-355-1845 or jwollmuth@bismarcknd.gov.

Bismarck Community Development Department ~ Planning Division

JW/klee

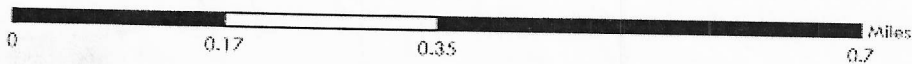
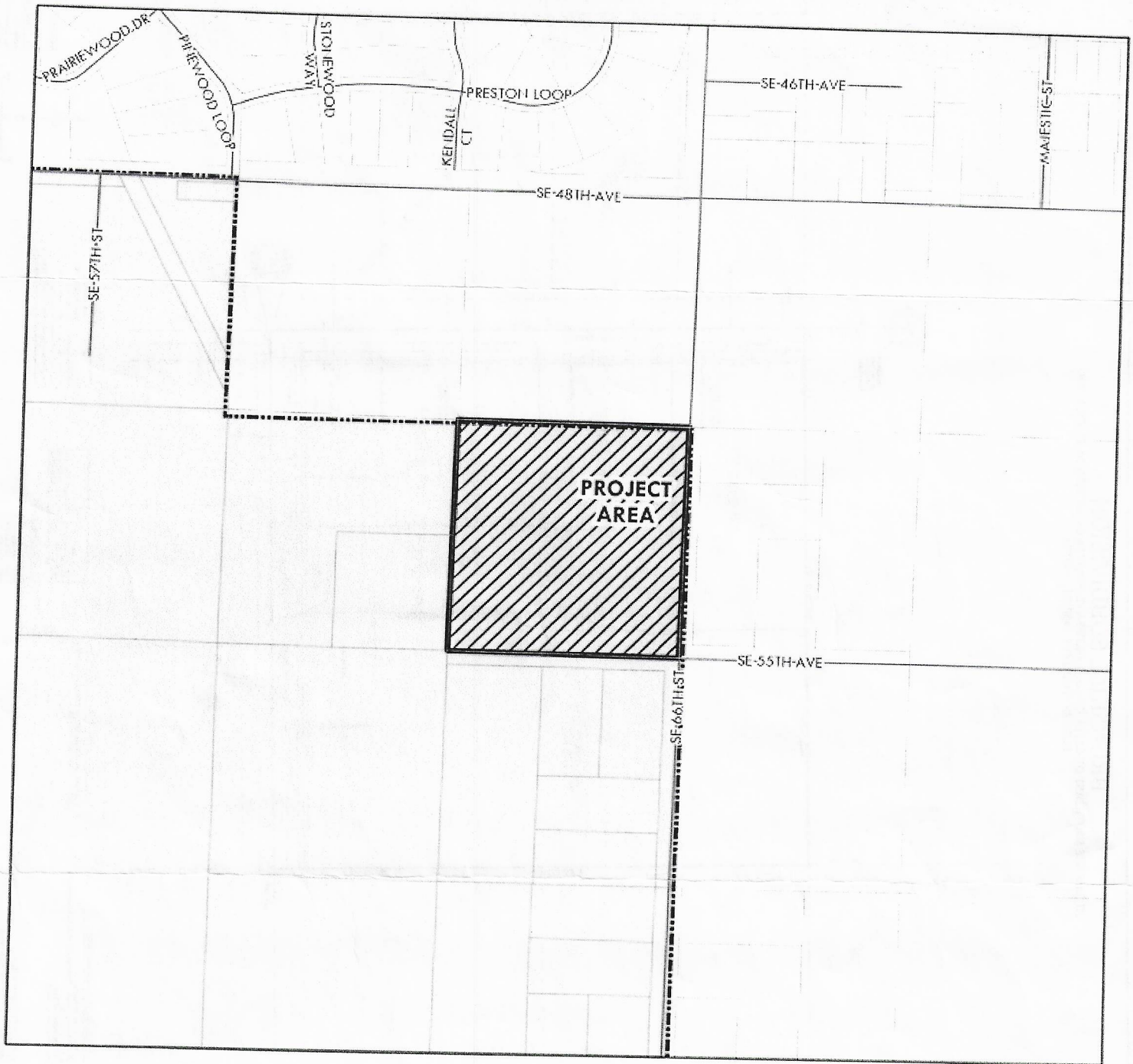
Enc: Location Map
Plat Reduction





Location Map
BRUNSKILL SUBDIVISION

PPLT2022-005
ZC2022-012

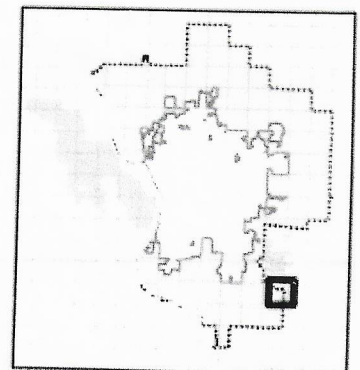


Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
May 23, 2022 (HLB)

*Section, township, and
range indicated in orange*

*This map is for representational use only and does not represent a survey.
No liability is assumed as to the accuracy of the data delineated hereon.*



BRUNSKILL SUBDIVISION
 1ST QUARTER OF THE NORTHEAST CORNER

ALL OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 30, T138N, R79W,
BURLING COUNTY, NORTH DAKOTA



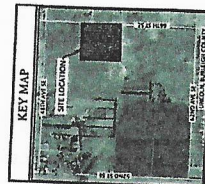
LEGEND

●	MONUMENT SET
○	MONUMENT FOUND
---	EX. EASEMENT
---	EX. PROPERTY LINE
---	EX. SECTION LINE
---	PROPERTY BOUNDARY

SURVEY INFORMATION
DATE OF SURVEY: 05/02/2022
BASIS OF BEARING: MAGN. - NORTH DAKOTA STATE
INTERNATIONAL FEET
VERTICAL DATUM: NAVD83
HORIZONTAL DATUM: NAD83

CURRENT OWNER'S INFORMATION
JAY BLUMKEL
2000 CREEKS EDGE ROAD, MEMPHIS, MO 65558

100



SHEET 1 OF 2

PROJECT ID: 22004-10

DATE: 09-10-2023

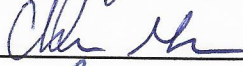
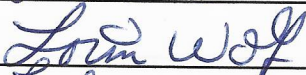
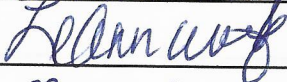
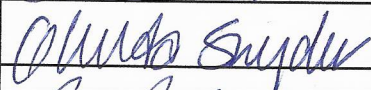
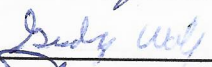
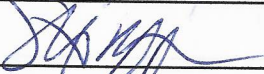
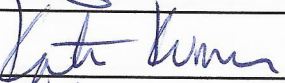
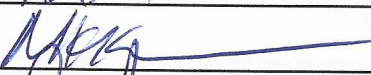
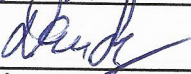
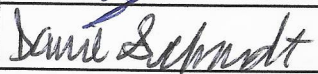
DRAWN BY: GCB

CHECKED BY: CAN

LAND SURVEYS

5306 EAST AVENUE, DENVER, CO

GC3	LAND SURVEYS
ED BY:	CAN

Name	Address	Phone	Signature	Date
Yasemee Nelson	6600 55 th Ave, SE, Bismack, ND ⁵⁸⁵⁰⁴	701-214-3092		Aug. 22, 22
Christ Geiser	6240 55 th Ave SE Bismarck ND	701-226-2257		8-22-22
Lorin Wolf	6245 55th Ave SE Bis	701-220-2662		8-22-22
LeAnn Wolf	6245 55th Ave SE BIS	701-220-5965		8-22-22
Brent Mentele	6702 55th Ave SE Bis	701-426-4098		8-22-22
Carmie Muecke	6702 55th Ave SE Bis	701-220-8553		8/22/22
Glenda Snyder	13 Stanley Dr Lincoln	701 391 1016		8-22-22
Scott Snyder	13 STANLEY DR LINCOLN	701 391 6322		8-22-22
Grody Wolf	7040 55 Ave SE Bismarck	701-595-2981		8-22-22
Scott Becker	7047 55 th Ave SE Bismarck	701 220 8711		8/22/22
Zach Paetz	5800 66 th St. SE	(701) 226-877		8/22/22
Angie Gross	5900 66 th St. SE	701 8701801		8/22/22
James Gross	5900 66 th St SE Bismarck	701-527-2019		8/22/22
Kate Kummer	5924 66 th St SE Bismarck	701-426-0226		8/22/22
Kurt Steinke	5925 66 th St SE Bismarck	701-426-9519		8/22/22
Nikki Lyons	6415 55 th Ave SE Bismarck	701-361-1075		8/22/22
Don Gross	6415 55 th Ave SE Bismarck	701-220-7392		8/22/22
Donnie Schmidt	6515 55 th Ave SE Bismarck	701-391-1557		8/22/22

Kim Lee

Subject: FW: Accessory DU Etc at 2620 Clover Lane

From: Scott Harmstead [REDACTED]
Sent: Wednesday, August 24, 2022 7:34 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Accessory DU Etc at 2620 Clover Lane

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

Hello,

Sorry for the lateness of this email. I received notice of the proposed dwelling unit and accessory building increase at 2620 Clover Lane. My wife and I live a block to the southeast on Keith Dr (2840). I walk on Clover Lane often and there seems to be space for this proposal even with the swale running through the property. I would support this proposal.

Thank you

Scott Harmstead
2840 Keith Dr, Bismarck, ND 58503