

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
November 16, 2022**

The Bismarck Planning & Zoning Commission met on November 16, 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 Cole Johnson, Vernon Laning, Paul Levchak, Kevin Martin, Gabe Schell, Mike Schmitz, Paul Zent, and Mike Schwartz.

Commissioners Brian Bitner, Wendy Van Duyne and Trent Wangen were absent.

Staff members present were Jannelle Combs – City Attorney, Ben Ehreth – Community Development Director, Sarah Fricke – Community Development Senior Administrative Assistant, Kim Lee – Planning Manager, Daniel Nairn – Senior Planner, and Jenny Wollmuth – Senior Planner.

Chair Schwartz called the meeting to order and Community Development Senior Administrative Assistant Sarah Fricke took roll call.

MINUTES

Chair Schwartz called for consideration of the minutes of the October 26, 2022 meeting.

MOTION: Commissioner Laning made a motion to approve the minutes of the October 26, 2022 meeting, as presented. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Johnson, Laning, Levchak, Martin, Schell, Schmitz, Schwartz, and Zent voting in favor of the motion.

CONSIDERATION

- 2. TECHNOLOGY HILL ADDITION – MAJOR SUBDIVISION PRELIMINARY PLAT**
- 3. NORBS SUBDIVISION – MAJOR SUBDIVISION PRELIMINARY PLAT**

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

**PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT
CHRISTIANSON FIRST ADDITION FIRST REPLAT**

Chair Schwartz called for the public hearing on the minor subdivision final replat for Christianson First Addition First Replat. The proposed replat would divide the property into two lots for future commercial development on 1.96 acres. The property is located in north

Bismarck, north of 43rd Avenue NE, along the east side of Coleman Street (a replat of Lot 3C of Lot 3, Block 1, Christianson First Addition).

Mr. Nairn provided the following findings related to land use for the minor subdivision final replat:

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

Mr. Nairn said, based on these findings, staff recommends approval of the minor subdivision final replat for Christianson First Addition First Replat.

Commissioner Levchak questioned the access roads to the property. Mr. Nairn replied that this project would include changing the area of access easement through the northern portion of the plat, and that this easement would be dedicated to the public. Mr. Nairn also indicated that the property would also be accessible from the south.

Chair Schwartz opened the public hearing.

Tony Haider, Christianson Companies was present to respond to questions or comments.

Commissioner Laning asked whether the applicant has any issues with dedicating access to the public. Ms. Haider stated that they had no issues and have already revised the plat to reflect this condition.

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 replat for Christianson First Addition First Replat with the condition that a public access road be included on the south side of the property. Commissioner Laning seconded the motion, and the motion was unanimously approved with Commissioners Johnson, Laning, Levchak, Martin, Schell, Schmitz, Schwartz, and Zent voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE
LOT 5 AND THE EAST HALF OF VACATED GEORGIA STREET, BLOCK 2
SHAMROCK INDUSTRIAL PARK**

Chair Schwartz called for the public hearing on the of a zoning change from the P – Public zoning district to the MA – Industrial zoning district for Lot 5 and the East half of vacated Georgia Street adjacent, Block 2 Shamrock Industrial Park. The property is located in south Bismarck, east of South 12th Street and south of Park Avenue (1311 Georgia Street).

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 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. Wollmuth said, based on these findings, staff recommends approval of the zoning change from the P – Public zoning district to the MA – Industrial zoning district for Lot 5 and the East half of vacated Georgia Street adjacent, Block 2, Shamrock Industrial Park.

Commissioner Levchak questioned the ownership of the properties to the south of the property.

Ms. Wollmuth stated the properties to the south are owned by the city and are zoned P – Public.

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 zoning change from the P – Public zoning district to the MA – Industrial zoning district for Lot 5 and the East half of vacated Georgia Street adjacent, Block 2, Shamrock Industrial Park. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Johnson, Laning, Levchak, Martin, Schell, Schmitz, Schwartz, and Zent voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT (DRIVE-THROUGH)
LOT 2, BLOCK 1 WAL-MART ADDITION**

Chair Schwartz called for the public hearing on a special use permit to allow a drive-through on Lot 2, Block 1, Wal-Mart Addition. The property is located in south Bismarck, between East Bismarck Expressway and East Arbor Avenue, along the east side of South Washington Street (715 South Washington Street).

Ms. Wollmuth gave an overview of the request, including the following 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; and
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on these findings, staff recommends approval of the special use permit to allow the operation of a drive-through in conjunction with a coffee shop on Lot 2, Block 1, Wal-Mart Addition.

Commissioner Schell confirmed with Ms. Wollmuth that there is a legal right to the access the property from the east and that no new access points are needed on South Washington Street.

Chair Schwartz opened the public hearing.

AJ Tuck, Moore Engineering, was present to address any questions or comments.

Commissioner Laning asked if the existing building would be torn down. Mr. Tuck answered that they would be tearing down the existing building.

Commissioner Levchak asked if the business would be strictly a drive-through to which Mr. Tuck answered that there would be seating inside, and adequate parking is included in the plan.

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

MOTION: Based on the findings in the staff report, Commissioner Martin made a motion to recommend approval of the special use permit to allow a drive-through on Lot 2, Block 1, Wal-Mart Addition. Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Johnson, Laning, Levchak, Martin, Schell, Schmitz, Schwartz, and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT CA – COMMERCIAL

Chair Schwartz called for the public hearing on a zoning ordinance text amendment to include provisions to allow limited commercial recreation uses up to 10,000 square feet in the CA – Commercial zoning district.

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

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said, based on these findings, staff recommends approval of a zoning ordinance text amendment for Section 14-04-010 (CA Commercial District) of the City Code of Ordinances.

Commissioner Levchak questioned whether the change would include requirements to provide off-street parking. Ms. Lee indicated that business owners are already required to provide off-street parking and this would not change.

Commissioner Schmitz asked if the amendment would include a small archery range that had been previously denied by the Board of Adjustment. Ms. Lee stated archery ranges are included in the limited commercial recreation facilities.

Commissioner Johnson asked about the process if an individual requests a project over 10,000 square feet, to which Ms. Lee stated the ordinance can be revisited, if appropriate.

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 a zoning ordinance text amendment to include provisions to allow limited commercial recreation uses up to 10,000 square feet in the CA – Commercial zoning district. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Johnson, Laning, Levchak, Martin, Schell, Schmitz, Schwartz, and Zent voting in favor of the motion.

PUBLIC HEARING – COMPREHENSIVE PLAN TOGETHER 2045: BISMARCK'S COMPREHENSIVE PLAN

Mr. Nairn presented an overview of Together 2045: Bismarck's Comprehensive Plan including examples of public opinion research, historical research, and expert review. Staff recommends approval.

Commissioner Zent asked if Burleigh County sheriff and rural fire have a position on the plan. Mr. Nairn stated that county residents and officials were involved in the process of developing this plan in several ways, but that there have not been any specific comments from Burleigh County emergency services regarding the plan.

Commissioner Levchak spoke about potential disadvantages for residents in the Transitional Rural subdivisions. Commissioner Levchak stated he does not agree with the plan, as written, and he would like it to include wordage that reveals both advantages and disadvantages of annexation. Mr. Nairn replied that the plan establishes a process for engaging rural residents in discussion about terms of annexation at some time in the future, when warranted, and is not intended to imply that the City would forcibly annex these areas.

Commissioner Johnson stated he has received good feedback from the public. He then asked about future growth in areas that are already developed. Mr. Nairn then spoke about a few areas of anticipated redevelopment.

Commissioner Schell questioned if this plan, upon adoption, would supersede existing plans, such as the 2014 Growth Management plan that was added to the 1980 plan. Mr. Nairn stated that if adopted, Together 2045 would replace all of the existing plans noted in the resolution and introduction of the plan.

Chair Schwartz asked Mr. Nairn if there were any surprises as the plan was developed. Mr. Nairn responded that affordable housing was raised often, and although this was a known issue he was surprised by the broad consensus that this is a problem for Bismarck.

Chair Schwartz called for the public hearing on Bismarck's Comprehensive Plan, Together 2045.

AARP State Director, Josh Askvig, came forward to commend staff on their outreach efforts to the public and empowering people to choose how they live as they age.

A resident that lives on Tyler Parkway, Greg Dehne, came forward concerned with the extension of Tyler Parkway depicted in the plan. He was concerned with traffic issues in residential areas. Commissioner Schell offered that if such a project is formally proposed, the area residents would be engaged prior to any decision.

A resident named Rudra Tamm made a statement to the commission that the majority of people favor growth and that it is the commission's responsibility to decide whether the city grows upwards or outwards. Commissioner Johnson thanked him for his comments.

Commissioner Schmitz described the plan as broad-based and purposefully not too detailed to allow for changes as they arise.

Chair Schwartz made a statement that due to Bismarck's continuing growth, a plan for the future is necessary and thanked staff for all of their efforts and commended Mr. Nairn for taking the lead on the plan.

Chair Schwartz closed the public hearing.

MOTION: Commissioner Laning made a motion to recommend approval of Together 2045: Bismarck's Comprehensive Plan. Commissioner Martin seconded the motion, and the motion was approved with Commissioners Johnson, Laning, Martin, Schell, Schmitz, Schwartz, and Zent voting in favor of the motion. Commissioner Levchak opposed the motion to recommend approval.

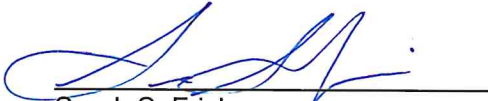
OTHER BUSINESS

Commissioner Johnson questioned why Technology Hill Addition is submitted as only one lot as it has been discussed in the past that an additional lot may be obtained by Bismarck Parks and Recreation District. Janelle Combs came forward to explain why the project was done this way. Ms. Combs stated earlier this year, when the City was in discussions with Bismarck State College about acquiring the land, it was presented to City Commission that Bismarck State College was under pressure due to the approaching winter season to get the plat approved and sale of the property finalized. After discussions with Bismarck Parks and Recreation District it was decided the entire parcel would be given to Bismarck State College. Ms. Combs noted that Bismarck State College has long term leases with Bismarck Parks for several different locations and perhaps in the future the two could enter into a lease for portions of this property. Ms. Combs also noted that Burlington Northern Santa Fe (BNSF) had indicated to the City that the existing bike trails were on their property and they would no longer allow them to remain.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 6:45 p.m. to meet again on December 21, 2022.

Respectfully submitted,



Sarah S. Fricke
Recording Secretary

Mike Schwartz
Chair