

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
July 26, 2023**

The Bismarck Planning & Zoning Commission met on July 26, 2023, 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 Cole Johnson presided and was present in the Tom Baker Meeting Room.

Commissioners present were Brian Bitner, Robert Field, Paul Levchak, Daniel Lukens, Gabe Schell, Mike Schmitz, and Paul Zent.

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

MINUTES

Vice Chair Johnson called for consideration of the minutes of the June 28, 2023 meeting.

MOTION: Commissioner Zent made a motion to approve the minutes of the June 28, 2023 meeting, as presented. Commissioner Schmitz seconded the motion, and it was unanimously approved with Commissioners Field, Johnson, Levchak, Lukens, Schell, Schmitz, and Zent voting in favor of the motion.

CONSIDERATION

2. GROWTH PHASING PLAN AMENDMENT

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

**PUBLIC HEARING – ZONING MAP AMENDMENT
SCHILLING SECOND ADDITION LOT 2, BLOCK 1**

Vice Chair Johnson called for the public hearing on a zoning map amendment from the CG – Commercial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, Schilling Second Addition. The property is located in north Bismarck, east of State Street/US Highway 83 and south of 43rd Avenue NE on the east side of the State Street frontage road.

Mr. Nairn gave an overview of the request and stated that, as a cumulative result of all findings contained in the staff report, City of Bismarck staff find that the zoning map amendment would not adversely impact the public health, safety, and general welfare.

Mr. Nairn said, based on the findings, staff recommends approval of the zoning map amendment of Lot 2, Block 1, Schilling Second Addition, with the following condition:

- 1) The 26-foot access easement on the east side of Lot 2, Block 1, Schilling Second Addition is relocated such that no building foundation would be within the easement.

Mr. Nairn then stated he spoke with one member of the public who was initially concerned about a storage use but was satisfied when presented with more specifics about the building design requirements.

Commissioner Schell questioned whether the amount of parking followed the ordinance. Mr. Nairn replied that the applicant has supplied parking data from comparable storage uses to justified a reduced number of parking spaces for the storage portion of the building, and the leasing area may include retail and standard commercial parking calculations would apply to this space. He stated that number of spaces provided meets these reduced standards.

Chair Johnson opened the public hearing.

Will Hutchings with Stantec came forward to explain their parking calculations being based on observed data. They are expecting a mid-September closing date so the finalization of the zoning ordinance would only need to be held for a few weeks to satisfy the current owner's request.

Chair Johnson closed the public hearing as there were no further comments.

Mr. Nairn stated there was a minor change since the distribution of the agenda regarding limitations to the use of the storage units. The revised language was shown to the Planning and Zoning Commission.

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the zoning map amendment from the CG – Commercial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, Schilling Second Addition, including all conditions proposed by staff and the shown revisions to the PUD ordinance. Commissioner Bitner seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Levchak, Lukens, Schell, Schmitz, and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING MAP AMENDMENT EDGEWOOD VILLAGE SEVENTH ADDITION FIRST REPLAT, LOT 52, BLOCK 1

Vice Chair Johnson called for the public hearing on a zoning map amendment from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lot 52, Block 1, Edgewood Village Seventh Addition First Replat. The property is located in northeast Bismarck, east of Nebraska Drive and south of 43rd Avenue NE, in the northwest quadrant of the intersection of Knudsen Avenue and Minnesota Drive.

Mr. Johnson provided an overview of the request and stated that, as a cumulative result of all findings contained in the staff report, City of Bismarck staff find that the proposed zoning map amendment would not adversely impact the public health, safety, and general welfare.

Mr. Johnson said, based on the findings, staff recommends approval of the zoning map amendment from the RM30 – Residential zoning district to the PUD – Planned Unit

Development zoning district for Lot 52, Block 1, Edgewood Village Seventh Addition First Replat, with the following condition:

1. An access easement to the benefit of the public is prepared, accepted by the City Commission, and recorded with the Burleigh County Recorder prior to administrative approval of a site plan for the development.

Commissioner Schell asked if the number of units stated in the PUD ordinance had any reasoning behind it. Mr. Johnson stated that 31 units is the maximum number of units and if one structure originally planned to act as a community club house is converted into a dwelling unit, 31 is still the maximum.

Commissioner Levchak questioned if the water and sewer for the private driveway would be from a single meter or if each unit would have its own meter.

Chair Johnson opened the public hearing.

Landon Niemiller with Swenson Hagen & Co. came forward to follow up on questions. Mr. Niemiller confirmed that 31 units would be the maximum number of structures in this project including if the community clubhouse was converted to another dwelling unit at a later date. The owner of the development would be responsible for maintaining utilities and it would have a single meter.

Commissioner Zent questioned the location of a 55+ community being right next to a high school. Mr. Niemiller responded that because this is one lot it will function nicely as a 55+ community and this is a mixed-use district.

There being no further comments, Chair Johnson 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 map amendment from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lot 52, Block 1, Edgewood Village Seventh Addition First Replat. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Levchak, Lukens, Schell, Schmitz, and Zent voting in favor of the motion.

Vice Chair Johnson recused himself from the following item. Commissioner Schell made a motion to nominate Commissioner Zent to act as Chair for this item; Commissioner Levchak seconded the motion and the motion was unanimously approved with Commissioners Bitner, Field, Levchak, Lukens, Schell, Schmitz, and Zent voting in favor of the motion.

**PUBLIC HEARING – ZONING MAP AMENDMENT
BASIN ELECTRIC FOURTH ADDITION LOT 1, BLOCK 1 AND TRACTS 1A, 2A AND 3A
OF LOT 1, LOT 2, BLOCK 1, BASIN ELECTRIC THIRD ADDITION AND LOT 3, BLOCK 1,
WISDOM OFFICE PARK ADDITION**

Commissioner Zent called for the public hearing on a zoning map amendment from the RT – Residential zoning district to the Conditional CG – Commercial zoning district for Basin Electric Fourth Addition, Lot 1, Block 1; Tracts 1A, 2A, and 3A of Lot 1 and Lot 2, Block 1,

Basin Electric Third Addition; Lot 3, Block 1, Wisdom Office Park Addition. The property is located in northeast Bismarck, in the southwest quadrant of the intersection of East Century Avenue and North 19th Street.

Mr. Nairn provided an overview of the request and stated that, as a cumulative result of all findings contained in the staff report, City of Bismarck staff find that the proposed zoning map amendment would not adversely impact the public health, safety, and general welfare.

Mr. Nairn said, based on the findings, staff recommends approval of the zoning map amendment from the RT – Residential zoning district to the Conditional CG – Commercial zoning district for Basin Electric Fourth Addition, Lot 1, Block 1; Tracts 1A, 2A, and 3A of Lot 1 and Lot 2, Block 1, Basin Electric Third Addition; Lot 3, Block 1, Wisdom Office Park Addition.

Commissioner Schell questioned the reason for the change from only one lot in the request and why it did not continue to the cemetery to the east. Mr. Nairn explained that this is a separate project and the other was withdrawn. The area of the district was proposed by the applicant and does connect existing CG – Commercial zoning districts to the north and south.

Landon Niemiller came forward to explain that this is not spot zoning as much of the surrounding area is also zoned commercial. The Conditional CG is more appropriate for the applicant's intentions. Commissioner Levchak asked if any additional driveways will be necessary. Mr. Niemiller replied that there are limited access points, however, no additional approaches are allowed.

There being no further comments, Commissioner Zent 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 map amendment from the RT – Residential zoning district to the Conditional CG – Commercial zoning district for Basin Electric Fourth Addition, Lot 1, Block 1; Tracts 1A, 2A, and 3A of Lot 1 and Lot 2, Block 1, Basin Electric Third Addition; Lot 3, Block 1, Wisdom Office Park Addition. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Levchak, Lukens, Schell, Schmitz, and Zent voting in favor of the motion.

Vice Chair Johnson returned to continue presiding over the meeting.

PUBLIC HEARING – ANNEXATION

NORTHERN SKY DRIVE AND WILKINSON PLACE RIGHTS-OF-WAY IN NORTHERN SKY SECOND ADDITION FIRST REPLAT

Vice Chair Johnson called for final consideration of the annexation of that portion of Northern Sky Drive right-of-way and Wilkinson Place right-of-way not previously annexed and included in the plat of Northern Sky Second Addition First Replat. The property is located in northwest Bismarck, in the northwest quadrant of the intersection of North Washington Street and Ash Coulee Drive.

Mr. Johnson provided an overview of the request and stated that, as a cumulative result of all findings contained in the staff report, City of Bismarck staff find that the proposed annexation would not adversely impact the public health, safety, and general welfare.

Mr. Johnson noted that it was brought to staff's attention that the visual exhibit provided in the agenda packet was an outdated version of the alignment one of the rights-of-way due to a previous project and stated that this would be corrected prior to the project's consideration at the Bismarck City Commission meeting should it be approved here.

Mr. Johnson said, based on the findings, staff recommends approval the annexation of that portion of Northern Sky Drive right-of-way and Wilkinson Place right-of-way not previously annexed and included in the plat of Northern Sky Second Addition First Replat.

Commissioner Schell questioned the condition in the development agreement to annex the parcels adjacent to the rights-of-way by 2030. This developer agreement states that the parcels adjacent to the given rights-of-way could be annexed separately from the rights-of-way, and at a later date up to February of 2030, so long as the requests were filed with the City contemporaneously. This discussion came after a motion was initially made to approve the annexation without any conditions; however, after the discussion, this original motion was rescinded and replaced by a motion to approve the annexation with a condition that it not be brought before the City Commission until a request for the annexation of the parcels adjacent to the given rights-of-way.

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the annexation of the portion of Northern Sky Drive right-of-way not previously annexed and the Wilkinson Place right-of-way, Northern Sky Second Addition First Replat with the condition that an annexation request of the remaining area of Northern Sky Second Addition First Replat be submitted to the City prior to the current project's consideration by the Bismarck City Commission. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Levchak, Lukens, Schell, Schmitz, and Zent voting in favor of the motion.

OTHER BUSINESS

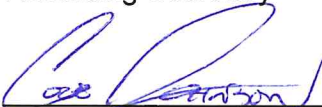
ADJOURNMENT

There being no further business, Chair Johnson declared the Bismarck Planning & Zoning Commission adjourned at 5:57 p.m. to meet again on September 23, 2023.

Respectfully submitted,



Sarah Fricke
Recording Secretary



Cole Johnson
Vice Chair