

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
September 25, 2024**

The Bismarck Planning & Zoning Commission met on September 25, 2024, 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 (via Zoom), Robert Field, Cole Johnson, Daniel Lukens, Mike Schmitz, Mike Schwartz, Sheldon Sivak, and Paul Zent.

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

MINUTES

Chair Schwartz called for consideration of the minutes of the August 28, 2024, meeting.

MOTION: Commissioner Lukens made a motion to approve the minutes of the August 28, 2024, meeting, as presented. Commissioner Johnson seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

CONSIDERATION

2A. 2024 AMENDMENTS TO THE GROWTH PHASING PLAN

**2B. PART OF LINCOLN TOWNSHIP, SECTION 22, T138N-R80W
FUTURE LAND USE PLAN AMENDMENT**

MOTION: Based on the findings contained in the staff reports, Commissioner Schmitz made a motion to approve consent agenda items 2A, 2B, calling for public hearings as recommended by staff. Commissioner Bitner seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

**CONTINUED PUBLIC HEARING – EAST CENTURY AVENUE AND 52ND STREET NE
MAJOR STREET PLAN AMENDMENT**

Chair Schwartz called for the continued public hearing on the major street plan amendment on East Century Avenue and 52nd Street NE. The property is located northeast of Bismarck, along East Century Avenue and 52nd Street NE, between Interstate-94 and East Calgary Avenue. Parts of Section 19, T139N-R79W, Gibbs Township & Section 24, T139N-R80W, Hay Creek Township.

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 major street plan amendment would not adversely impact the public health, safety, and general welfare.

Mr. Johnson said, based on the findings contained in the staff report, staff recommends approval of the major street plan amendment for East Century Avenue and 52nd Street NE, as presented.

Commissioner Johnson asked about the plans for the east side of the property. Mr. Johnson explained that there are plans to connect to utilities and Century Avenue.

Chair Schwartz opened the public hearing.

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

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to approve the major street plan amendment on East Century Avenue and 52nd Street NE. Commissioner Sivak seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

**PUBLIC HEARING – MAJOR SUBDIVISION FINAL PLAT, ZONING MAP AMENDMENT
AND MAJOR STREET PLAN AMENDMENT
LANDSBERGER SECOND SUBDIVISION**

Chair Schwartz called for the public hearing on the zoning map amendment from the A – Agricultural zoning district to the RR – Residential zoning district, major subdivision final plat, and major street plan amendment for Landsberger Second Subdivision. The property is located northeast of Bismarck, along the east side of 52nd Street Northeast between 57th Avenue Northeast and 71st Avenue Northeast.

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 zoning map amendment, major subdivision final plat, and major street plan amendment would not adversely impact the public health, safety, and general welfare.

Mr. Johnson said, based on the findings contained in the staff report, staff recommends approval of the on East Century Avenue and 52nd Street NE, as presented.

Chair Schwartz opened the public hearing.

Landon Niemiller from Swenson Hagen & Co came forward to explain that the applicant will address culvert needs as they appear. Commissioner Johnson asked about adjacent landowners. Mr. Niemiller answered that the same family owns properties to the north and east of the proposed plat.

An adjacent property owner named John Schaffner stated the proposed major street plan amendment runs across his property on the west side, therefore he is in opposition to the proposed major street plan amendment.

Mr. Niemiller made a statement that the major street plan amendment does not mean the road will be built. All landowners would have to agree to allow the road to be constructed.

Eric Kilzer, another neighboring property owner, is concerned with the road being constructed for safety reasons.

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

Mr. Johnson explained that right-of-way would be dedicated on the plat but it would not be dedicated anywhere on the remainder of major street plan amendment at this time. There is no timeline for the road, and it would only be constructed if an affected landowner wished to develop their land.

Commissioner Schmitz asked which roadways have dedications. Mr. Nairn explained that there were problems with the original plan for this roadway that staff are proposing to fix and that the major street plan for the road would only take affect with the development of the properties. The goal of the plan is to provide an adequate transportation network.

Commissioner Field stated the original road plan makes more sense because it is along a section line. Casey Einrem, with the Burleigh County Highway Department, explained that the original line goes through a house and tree rows. He then said that shifts happen frequently when land is platted.

Commissioner Bitner asked if the plat could be approved without the major street plan amendment. Mr. Einrem said unless the major street plan amendment occurs first, a right-of-way dedication will be a challenge. Commissioner Bitner asked if the Landsberger Second Subdivision has an approach. Mr. Einrem said an approach exists.

Mr. Einrem then explained that many factors must occur before a road is constructed.

Commissioner Field made a motion to table the major street plan amendment. Commissioner Schmitz asked staff if splitting the projects will work. Mr. Nairn said staff may separate the major street plan amendment and the plat will still have a right-of-way dedication on the north side of the plat.

Commissioner Field withdrew his motion.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to approve the zoning map amendment from the A – Agricultural zoning district to the RR – Residential zoning district and major subdivision final plat for Landsberger Second Subdivision. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

Chair Schwartz asked what will happen with the major street plan amendment. Mr. Ehreth explained that the commission may request staff to prepare a stand-alone major street amendment. The consensus of the Planning and Zoning Commission was to do so.

PUBLIC HEARING – PARTS OF RIVERVIEW ADDITION AND MCKENZIE ADDITION ZONING MAP AMENDMENT

Chair Schwartz called for the public hearing on the zoning map amendment from the R5 – Residential zoning district to a Planned Unit Development (PUD) on Lots 5 and 6, Block 1, Riverview Addition and Lot 7 and the East 75 feet of Lots 8-12, Block 28, McKenzie Addition. The property is located in west-central Bismarck, west of North Washington Street between West Avenue A and West Rosser Avenue, along the east side of Raymond Street.

Ms. Wollmuth 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 zoning map amendment would not adversely impact the public health, safety, and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the zoning map amendment from the R5 – Residential zoning district to a Planned Unit Development (PUD) on Lots 5 and 6, Block 1, Riverview Addition and Lot 7 and the East 75 feet of Lots 8-12, Block 28, McKenzie Addition.

Commissioner Schmitz recused himself from the public hearing, on the grounds that the applicant has been a client of his.

Chair Schwartz opened the public hearing.

Mother Mary Joseph Campbell addressed the commission to explain that convents are unique in that they are used for educational purposes but are not a school. She stated the design of the building is traditional and matches the neighborhood.

Commissioner Zent asked if the proposed building will be across from Cathedral. It will be to the south of Cathedral, along Raymond Street.

Elizabeth Roller made a statement in support of the proposed convent. She said the houses that currently stand on the property should be torn down as they have been problematic.

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

MOTION: Commissioner Bitner made a motion to approve the zoning map amendment from the R5 – Residential zoning district to a Planned Unit Development (PUD) on Lots 5 and 6, Block 1, Riverview Addition and Lot 7 and the East 75 feet of Lots 8-12, Block 28, McKenzie Addition. Commissioner Field seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schwartz, Sivak, and Zent voting in favor of the motion.

PUBLIC HEARING – LOT COVERAGE IN R5 – RESIDENTIAL ZONING DISTRICT

Chair Schwartz called for the public hearing on the zoning ordinance text amendment to amend section 14-04-03 of the Bismarck Code of Ordinances related to lot coverage requirements in the R5 – Residential zoning district.

Ms. Oster 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 zoning ordinance text amendment would not adversely impact the public health, safety, and general welfare.

Ms. Oster said, based on the findings contained in the staff report, staff recommends approval of the zoning ordinance text amendment to amend section 14-04-03 of the Bismarck Code of Ordinances related to lot coverage requirements in the R5 – Residential zoning district.

Chair Schwartz asked about the City Engineer's standards. Michael Greer, Design and Construction Engineer at the City of Bismarck, explained that certain amounts of impervious surface are assumed based on zoning for stormwater management plans. The impervious surface assumptions are higher, 40% for R5 and 50% of R10, because they account for other kinds of impervious surfaces that are not included in the lot coverage maximums. He said that the required study would allow Engineering to determine stormwater impacts of greater lot coverage.

Chair Schwartz opened the public hearing.

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

MOTION: Commissioner Zent made a motion to approve the zoning ordinance text amendment to amend section 14-04-03 of the Bismarck Code of Ordinances related to lot coverage requirements in the R5 – Residential zoning district. Commissioner Sivak seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

PUBLIC HEARING – SONNET HEIGHTS SUBDIVISION TENTH REPLAT MINOR SUBDIVISION FINAL PLAT

Chair Schwartz called for the public hearing on the minor subdivision final plat for Sonnet Heights Subdivision Tenth Replat. The property is located in north Bismarck, north of 43rd Avenue NE and west of Ottawa Street along the north side of East LaSalle 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 minor subdivision final plat would not adversely impact the public health, safety, and general welfare.

Mr. Johnson said, based on the findings contained in the staff report, staff recommends approval of the minor subdivision final plat for Sonnet Heights Subdivision Tenth Replat.

Chair Schwartz opened the public hearing.

Kyle Dollinger from Brosz Engineering came forward to answer questions.

Commissioner Zent stated the eight lots on the plat appeared to be long. Mr. Dollinger explained that each lot has a significant drop off on the north side.

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

MOTION: Based on the findings contained in the staff report, Commissioner Johnson made a motion to approve the minor subdivision final plat for Sonnet Heights Subdivision Tenth Replat. Commissioner Field seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT (ACCESSORY DWELLING UNIT)
OLIVE TREE SUBDIVISION LOTS 14 & 15, BLOCK 2**

Chair Schwartz called for the public hearing on the special use permit to allow an accessory dwelling unit on Lots 14 and 15, Block 2, Olive Tree Subdivision. The property is located northwest of Bismarck, west of Burnt Creek Loop, south of Olive Tree Drive, at the end of Green Tree Loop.

Ms. Oster 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 special use permit would not adversely impact the public health, safety, and general welfare.

Ms. Oster said, based on the findings contained in the staff report, staff recommends approval of the special use permit to allow an accessory dwelling unit on Lots 14 and 15, Block 2, Olive Tree Subdivision.

Chair Schwartz opened the public hearing.

Landon Niemiller came forward to answer any questions.

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

MOTION: Commissioner Field made a motion to approve the special use permit to allow an accessory dwelling unit on Lots 14 and 15, Block 2, Olive Tree Subdivision. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT (ACCESSORY BUILDING)
TJ RANCH ESTATES – REPLAT L1 & 2, LOT 1A, BLOCK 1**

Chair Schwartz called for the public hearing on the special use permit to increase the allowable size of accessory structures to 3,200 square feet on Lot 1A, Block 1, TJ Ranch Estates Replat Lots 1 & 2. The property is located northeast of Bismarck, in the southeast quadrant of the intersection of 71st Avenue NE and 66th Street NE.

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 special use permit would not adversely impact the public health, safety, and general welfare.

Mr. Johnson said, based on the findings contained in the staff report, staff recommends approval of the special use permit to increase the allowable size of accessory structures up to 3,200 square feet on Lot 1A, Block 1, TJ Ranch Estates Replat Lots 1 & 2.

Chair Schwartz opened the public hearing.

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

MOTION: Commissioner Bitner made a motion to approve the special use permit to increase the allowable size of accessory structures to 3,200 square feet on Lot 1A, Block 1, TJ Ranch Estates Replat Lots 1 & 2. Commissioner Sivak seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

PUBLIC HEARING – MEADOW VILLAGE ADDITION FIRST REPLAT PLANNED UNIT DEVELOPMENT AMENDMENT

Chair Schwartz called for the public hearing to amend the planned unit development, specifically landscaping and setback requirements for future mixed density residential development, for Meadow Village Addition First Replat. The property is located in south Bismarck, east of South Washington Street along the west side of Boston Drive and north side of East Burleigh Avenue.

Ms. Wollmuth 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 planned unit development amendment would not adversely impact the public health, safety, and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the planned unit development amendment for Meadow Village Addition First Replat.

Chair Schwartz opened the public hearing.

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

MOTION: Commissioner Schmitz made a motion to approve the planned unit development amendment for Meadow Village Addition First Replat. Commissioner Johnson seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

OTHER BUSINESS

Mr. Nairn introduced Maggie Squire from Clarion Consultants. Ms. Squire presented an update on the Land Development Code, encouraging to the Planning and Zoning Commission to review an issues assessment. She summarized findings, including suggested amendments to Title 14 of Code of Ordinances and a character assessment of the area with suggestions for suitable zoning.

Commissioner Johnson asked if the consultant is writing a new Land Development Code and confirmed that staff would be able to update graphics of the code. Ms. Squire responded that Clarion will be writing the new code with city staff. Commissioner Schmitz said large diverse group providing input. Chair Schwartz encouraged all to comment.

Mr. Nairn introduced the commission an inquiry to amend the zoning ordinance related to dog kennels. Brandon Schmidt explained that he would like to open a dog day care, but he has had trouble finding land and he is requesting a zoning ordinance amendment. Commissioner Field notes that kennels can be noisy and ask what changes are proposed.

Commissioner Schmitz asked staff what the timeline is for this ordinance amendment. Mr. Nairn explained that staff would like direction from the Planning and Zoning Commission.

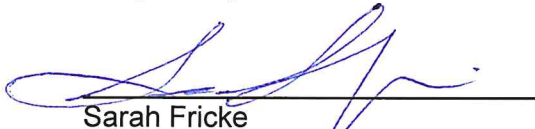
Commissioner Zent advised staff takes time to write it well due to previous bad experiences with neighboring kennels.

Commissioner Johnson asked if kennels are only allowed in industrial zoning districts. Mr. Johnson answered that right now, kennels are allowed in the MA and MB zoning districts with an approved special use permit.

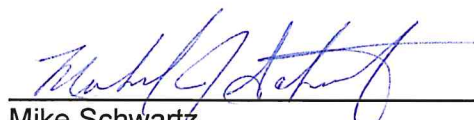
ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 6:50 p.m. to meet again on October 23, 2024.

Respectfully submitted,



Sarah Fricke
Recording Secretary



Mike Schwartz
Chair