

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
November 20, 2024**

The Bismarck Planning & Zoning Commission met on November 20, 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), Cole Johnson, Amber Larson (via Zoom), Daniel Lukens, Gabe Schell, Mike Schmitz, and Mike Schwartz.

Commissioners Robert Field, Sheldon Sivak, Trent Wangen, and Paul Zent were absent.

Staff members present were Ben Ehreth – Community Development Director, 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 September 25, 2024, and October 23, 2024 meetings.

MOTION: Commissioner Lukens made a motion to approve the minutes of the September 25, 2024, and October 23, 2024 meetings, as presented. Commissioner Johnson seconded the motion, and it was unanimously approved with Commissioners Bitner, Johnson, Larson, Lukens, Schell, Schmitz, and Schwartz voting in favor of the motion.

CONSIDERATION

- 2A. CIESLAKS SUBDIVISION
PRELIMINARY PLAT, ZONING MAP AMENDMENT,
FUTURE LAND USE PLAN AMENDMENT**
- 2B. BOULDER RIDGE FIRST ADDITION, PART OF LOT 27, BLOCK 1
ZONING MAP AMENDMENT**
- 2C. NORTHERN PACIFIC ADDITION, PART OF LOT 3, BLOCK 4
ZONING MAP AMENDMENT**
- 2D. PARADISE POINT SUBDIVISION
PRELIMINARY PLAT
ZONING MAP AMENDMENT**
- 2F. SOUTH MEADOWS SECOND ADDITION AND BURLEIGH AVENUE ADDITION
ZONING MAP AMENDMENT
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, 2C, 2D, and 2F

calling for public hearings as recommended by staff. Commissioner Bitner seconded the motion, and it was unanimously approved with Commissioners Bitner, Johnson, Larson, Lukens, Schell, Schmitz, and Schwartz voting in favor of the motion.

**2E. STEINS FOURTH ADDITION, PART OF BLOCK 25,
AND HAY CREEK PARK ADDITION, PART OF B1
ZONING MAP AMENDMENT**

Mr. Nairn explained to the Commission that staff typically receives signed applications for a zoning map amendment, however, in this case, two signatures were not provided for the zoning map amendment. Mr. Nairn said the Planning and Zoning Commission has the ability to initiate the zoning map amendment.

Commissioner Bitner asked if the property owners who did not sign the application owned more land than the others. Mr. Nairn explained that all of the lots are similar in size and the property owners who did not sign account for two of the twenty lots.

Chair Schwartz asked if the missing signatures are due to no response or if the two property owners are against the zoning map amendment. Mr. Nairn explained that correspondence was sent to all of the property owners and staff have not been contacted by the two that did not sign the application.

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

**PUBLIC HEARING – WASHINGTON SQUARE ADDITION LOTS 1 & 3, BLOCK 1
ZONING MAP TEXT AMENDMENT**

Chair Schwartz called for the public hearing on the zoning map amendment from the RT – Residential zoning district to the Conditional CG – Commercial zoning district for Lots 1 and 3, Block 1, Washington Square Addition. The property is located in north-central Bismarck, north of Interstate 94, and west of State Street, in the southwest quadrant of the intersection of North Washington Street and Ash Coulee Drive.

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 map 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 map amendment from the RT – Residential zoning district to the Conditional CG – Commercial zoning district for Lots 1 and 3, Block 1, Washington Square Addition, as presented.

Chair Schwartz opened the public hearing.

Landon Niemiller with Swenson Hagen & Co said landscaping would also be included to blend with the surrounding areas.

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 Larson made a motion to approve the zoning map amendment from the RT – Residential zoning district to the Conditional CG – Commercial zoning district for Lots 1 and 3, Block 1, Washington Square Addition. Commissioner Bitner seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Larson, Lukens, Schell, Schmitz, and Schwartz voting in favor of the motion.

PUBLIC HEARING – KILBER NORTH ADDITION FIRST REPLAT, LOTS 1-2, BLOCK 1 ZONING MAP AMENDMENT

Chair Schwartz called for the public hearing on the zoning map amendment from the Conditional CA – Commercial zoning district to the CA – Commercial zoning district for Lots 1 and 2, Block 1, Kilber North Addition First Replat. The property is located in north Bismarck, between North Washington Street and Normandy Street, along the south side of 43rd 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 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 zoning map amendment from Conditional CA – Commercial zoning district to the CA – Commercial zoning district for Lots 1 and 2, Block 1, Kilber North Addition First Replat, as presented.

Commissioner Schmitz recused himself from this agenda item.

Commissioner Schell asked what conditions are on the current zoning. Mr. Johnson said drive-throughs are not allowed in the current zoning but with this zoning map amendment, a drive-through would be allowed but only for a bank. A second condition limited the size of individual tenant spaces for certain retail and service uses to 2,500 square feet but did not specifically exclude the kinds of retail and service uses typically allowed in a CA – Commercial zoning district.

Chair Schwartz opened the public hearing.

Dan Keith, the property owner, explained that in the past, the Conditional CA seemed to be appropriate. However, after construction of the 17,000 square foot building, it was found that some tenants required additional space than the 2,500 square feet allowed in the ordinance. The requested zoning map amendment would allow greater flexibility for different configurations of tenant spaces within the existing building, but it would not allow new retail or service uses that were not already permitted in the current zoning.

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

MOTION: Commissioner Johnson made a motion to approve the zoning map amendment from the Conditional CA – Commercial zoning district to the CA – Commercial zoning district for Lots 1 and 2, Block 1, Kilber North Addition First Replat. Commissioner Lukens seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Larson, Lukens, Schell, Schmitz, and Schwartz voting in favor of the motion.

PUBLIC HEARING – HUCHLER PARK SUBDIVISION, LOT 1, BLOCK 1 ZONING MAP AMENDMENT

Chair Schwartz called for the public hearing on the zoning map amendment from the A – Agricultural zoning district to the RR – Residential zoning district for Lot 1, Block 1, Huchler Park Subdivision. The property is located northwest of Bismarck, west of River Road in the southeast quadrant of the intersection of Sandy River Drive and Fernwood Drive.

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 A – Agricultural zoning district to the RR – Residential zoning district for Lot 1, Block 1, Huchler Park Subdivision.

Commissioner Schell asked what triggered the request for a zoning map amendment. Ms. Wollmuth explained that the property owner requested a rural residential lot split, which then brought this to staff's attention.

Chair Schwartz opened the public hearing.

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

MOTION: Commissioner Schmitz made a motion to approve the zoning map amendment from the A – Agricultural zoning district to the RR – Residential zoning district for Lot 1 Block 1, Huchler Park Subdivision. Commissioner Lukens seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Larson, Lukens, Schell, Schmitz, and Schwartz voting in favor of the motion.

REALIGNMENT OF FUTURE ROCKY ROAD MAJOR STREET PLAN AMENDMENT

Chair Schwartz called for the public hearing on the Major Street Plan Amendment in parts of Hay Creek Township (Section 12, T139N-R80W) and Gibbs Township (Section 7, T139N-R79W) to shift a proposed alignment of a future collector roadway to the north. The project area is located northeast of Bismarck, between 57th Avenue NE and 71st Avenue NE, and between Endicott Drive 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 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 in the area of Section 12, T139N-R80W, Hay Creek Township and Section 7, T139N-R79W, Gibbs Township, as presented.

Commissioner Lukens asked if the proposed route changed from the previous meeting. Mr. Johnson explained that it has not changed, rather the intentions were better explained to landowners.

Commissioner Johnson asked if staff had conversations with the landowners that had concerns at the last meeting. Mr. Johnson explained that staff does not keep personal contact information, but staff did send out notification to all property owners and spoke with, or provided additional information to, three landowners since the previous meeting.

Chair Schwartz opened the public hearing.

Karen Bonnet, a neighbor of current Rocky Road, said that the owner tried to build a business in that area but was denied. Ms. Bonnet stated she feels he was treated unfairly and asked if this major street plan amendment had any information on that property. Mr. Johnson explained that city staff reviewed the land conditions and determined moving the road south or north was not in the best interest of the properties.

Ms. Bonnet then asked if the commission would be forcing this road or if the landowner approved. Commissioner Schell explained that there is no intention to build the road in the near future, and typically a property owner would initiate development to build the road. Ms. Bonnet asked if the property owner would be compensated. Commissioner Schell explained that if owners chose to subdivide the land, the property owners would have authority over future plans.

Jim Bonnet asked what happens to the old Rocky Road. Mr. Johnson explained that the proposed realignment of a future extension of Rocky Road west of the existing roadway, would only relate to the currently unconstructed roadway. If the planned road was built, for which there is no estimated timeframe as of this meeting, the road would be shifted to the north. Commissioner Schell explained that the existing road would not change, nor the approaches.

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

Commissioner Johnson said he wishes the property owner that was present at the September meeting was present to share whether he supported this project. Commissioner Johnson then expressed concern about not having support of property owners.

Commissioners Bitner agreed with Commissioner Johnson's concerns and indicated he is not comfortable with the project for this reason.

The landowner that was mentioned, John Schaffner, came forward to explain he had met with City Planning and County Highway Department staff and he fully understands the process and is in support of the project.

MOTION: Commissioner Larson made a motion to approve the major street plan amendment for the realignment of future Rocky Road. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Larson, Lukens, Schell, Schmitz, and Schwartz voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT – CHILD CARE CENTER
WACHTERS ADDITION, PART OF BLOCK 6**

Chair Schwartz called for the public hearing on the special use permit for a child care center on part of Lot 3, All of Lot 4, and part of Lot 5, Block 6, Wachter's Addition. The property is located in south-central Bismarck, between South 7th Street and South 8th Street, south of East Bowen Avenue.

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 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 for a child care center on part of Lot 3, All Lot 4, and part of Lot 5, Block 6, Wachter's Addition.

Chair Schwartz opened the public hearing.

Luke Seidling, Director of the Physical Plant at the University of Mary, explained that their intention is to contribute to the community by providing much needed child care.

Commissioner Schell asked if the entire space would be used for child care or if there was something else that would be shared. Mr. Seidling said the whole space would be used for child care.

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

Commissioner Larson expressed concerns with the child care facility being adjacent to a high-traffic roadway. Mr. Seidling returned to explain that safety is a top priority, with the planned entrance out of the traffic area and fences will be constructed.

MOTION: Commissioner Bitner made a motion to approve the special use permit for a child care center on part of Lot 3, all of Lot 4, and part of Lot 5, Block 6, Wachter's Addition. Commissioner Johnson seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Larson, Lukens, Schell, Schmitz, and Schwartz voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT – DRIVE THROUGH
KAVANEY COMMERCIAL PARK REPLAT, AUDITOR'S LOT 8, BLOCK 1**

Chair Schwartz called for the public hearing on the special use permit for a drive-through ATM on Kavaney Commercial Park Replat, Auditor's Lot 8, Less Lots A, B, and C, and less that part taken for Lots 1 and 4, Block 1, Kavaney Commercial Park Second Replat. The

property is located in north, central Bismarck, west of State Street, on the north side of Gateway Avenue.

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 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 for a for a drive-through ATM on Kavaney Commercial Park Replat, Auditor's Lot 8, Less Lots A, B, and C, and less that part taken for Lots 1 and 4, Block 1, Kavaney Commercial Park Second Replat.

Chair Schwartz opened the public hearing.

Kate Chapman with Wells Fargo explained the plan and stated that no impact to traffic is expected. Joey Aucoin, the applicant, had no additional comments.

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

MOTION: Commissioner Schmitz made a motion to approve the special use permit for a for a drive-through ATM on Kavaney Commercial Park Replat, Auditor's Lot 8, Less Lots A, B, and C, and less that part taken for Lots 1 and 4, Block 1, Kavaney Commercial Park Second Replat. Commissioner Lukens seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Larson, Lukens, Schell, Schmitz, and Schwartz voting in favor of the motion.

PUBLIC HEARING PUBLIC NOTICE SIGNS

Chair Schwartz called for the public hearing on the Community Development Department's request for approval of a zoning ordinance text amendment to incorporate placement of public notice signs into procedures for projects requiring a public hearing.

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

Mr. Nairn said, based on the findings contained in the staff report, staff recommends approval of the zoning ordinance text amendment to incorporate placement of public notice signs into procedures for projects requiring a public hearing.

Commissioner Schmitz stated concerns with the size of the signs. He believes it should be larger to make it more viewable to the public. Mr. Nairn stated that the size of the signs is undetermined and that multiple sizes may be needed for different contexts.

Commissioner Bitner asked what the cost to the applicants will be. Mr. Nairn explained that this request was discussed with various consultants and the Bismarck-Mandan Homebuilders Association HBA. He then said the city's budget was approximately \$1,000 per year and permit fees would not be affected.

Commissioner Johnson asked for guidance on sign placement. Mr. Nairn explained that guidelines would be developed for placement, including such things as remaining on private property adjacent to a roadway and not obscuring line of sight for vehicles.

Chair Schwartz asked for the problem this request would be solving. Mr. Nairn said that staff receive complaints from residents that don't receive notification of public hearings and feel it's best to be more transparent. Commissioner Schmitz agreed with the request.

Commissioner Johnson asked the method to put the signs up. He feels it should be simple.

Commissioner Schwartz asked what type of feedback staff received from the stakeholders. Mr. Nairn said that consultants raised the issue of needing a utility locate and potentially drawing unwanted attention to a property, but that staff believe these issues would be manageable.

Chair Schwartz opened the public hearing.

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

MOTION: Commissioner Schmitz made a motion to approve the zoning ordinance text amendment to incorporate placement of public notice signs into procedures for projects requiring a public hearing. Commissioner Johnson seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Larson, Lukens, Schell, Schmitz, and Schwartz voting in favor of the motion.

OTHER BUSINESS

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 6:33 p.m. to meet again on December 18, 2024.

Respectfully submitted,



Sarah Fricke
Recording Secretary



Mike Schwartz
Chair