

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
February 26, 2025**

The Bismarck Planning & Zoning Commission met on February 26, 2025, 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. Dakota Media Access was present to record the meeting and archive on freetv.org for public viewing. Chair Schwartz presided and was present in the Tom Baker Meeting Room.

Commissioners present were Brian Bitner (via Zoom), Robert Field, Cole Johnson, Amber Larson (via Zoom), Daniel Lukens (via Zoom), Gabe Schell, Mike Schwartz, Sheldon Sivak, Trent Wangen, and Paul Zent.

Commissioner Schmitz was absent.

Staff members present were 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 January 22, 2025 meeting.

MOTION: Commissioner Wangen made a motion to approve the minutes of the January 22, 2025 meeting, as presented. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Field, Johnson, Larson, Lukens, Schell, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion. Commissioner Bitner arrived late.

CONSIDERATION

- 2A. MISTY WATERS, MISTY WATERS FIRST REPLAT, AND MISTY WATERS SECOND REPLAT
ZONING MAP AMENDMENT**
- 2B. WILLIAM'S SURVEY, BLOCK 82, PART OF LOTS 9-12
ZONING MAP AMENDMENT**
- 2C. SONNET HEIGHTS SUBDIVISION FIRST REPLAT, BLOCK 5, LOT 1 1
ZONING MAP AMENDMENT**
- 2D. BODEN ADDITION, BLOCK 1, LOTS 1-23 AND 25-34
ZONING MAP AMENDMENT
FUTURE LAND USE PLAN AMENDMENT**
- 2E. ANIMAL SERVICES AND BOARDING
ZONING ORDINANCE TEXT AMENDMENT**
- 2F. MISSOURI VALLEY COMPLEX, BLOCK 1, LOTS 1, 3-19
ZONING MAP AMENDMENT**

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

PUBLIC HEARING – KILBER NORTH ADDITION FIRST REPLAT ZONING MAP AMENDMENT

Chair Schwartz called for the public hearing on the zoning map amendment from the RT – Residential zoning district to the CA – Commercial zoning district on Lot 3, 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 the RT – Residential zoning district to the CA – Commercial zoning district on Lot 3, Block 1, Kilber North Addition First Replat.

Commissioner Schell questioned whether the access point to the property is on 43rd Avenue or Boulder Ridge Road. Mr. Johnson explained that the access point is on Boulder Ridge Road.

Chair Schwartz opened the public hearing.

Daniel Keith, the property owner, explained he has no intention to change the current building or business on the property and that the request is simply for congruency with the property immediately adjacent to the west.

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

MOTION: Based on staff's recommendation, Commissioner Zent made a motion to approve the zoning map amendment from the RT – Residential zoning district to the CA – Commercial zoning district on Lot 3, Block 1, Kilber North Addition First Replat. Commissioner Wangen seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – BARBIE'S NEIGHBORHOOD SUBDIVISION ZONING MAP AMENDMENT FUTURE LAND USE PLAN AMENDMENT

Chair Schwartz called for the public hearing on the zoning map amendment from the CG – Commercial zoning district to the Conditional MA – Industrial zoning district and approval of a

Future Land Use Plan amendment from the Parks and Open Space (PKOS) designation to the Industrial Flex (IF) designation on Lot E of Lot 1, Block 1, Barbie's Neighborhood Subdivision. The property is located in east Bismarck, east of N Bismarck Expressway, in the southeast quadrant of the intersection of E Main Avenue and 52nd Street NE.

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 and future land use plan 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 CG – Commercial zoning district to the Conditional MA – Industrial zoning district and approval of a Future Land Use Plan amendment from the Parks and Open Space (PKOS) designation to the Industrial Flex (IF) designation on Lot E of Lot 1, Block 1, Barbie's Neighborhood Subdivision with the following conditions:

1. A floodplain development permit is applied for and approved in conjunction with this request.
2. A landscape plan is submitted and approved, and the landscaping is planted or a surety requirement is executed prior to recordation of this zoning map amendment.

Commissioner Field asked if the land was already built up. Ms. Oster said some grading has occurred but not enough to be out of the floodplain and a six-foot berm is an ordinance requirement.

Chair Schwartz asked what uses will be allowed if this request is approved. Ms. Oster explained that with the conditions, the uses will be limited and the applicant intends to use the property for storage of landscape materials and equipment and an accessory building only.

Chair Schwartz opened the public hearing.

The applicant, Thomas Vetter, stated that historically nothing had been done on the property. He said he has filled in one half acre based on a permit he received from the Corp of Engineers. He then said there is two to three feet of fill dirt there and because the approach is already there, traffic will not increase significantly. He pointed out that the property to the south changed to the RR – Residential zoning district many years ago.

Chair Schwartz asked Mr. Vetter if there will be a problem building the required landscape berm. Mr. Vetter responded that he is aware of the requirements, and it is possible to stay in compliance.

Commissioner Schell asked if there were any plans to stop the migration of loose materials, such as dirt to avoid negative impacts on rural neighbors. Mr. Vetter said in addition to the berm, there will be a six-foot containment wall on the south to retain products.

Tavis Stout, a homeowner to the south of the property, stated dirt has been blowing onto his property for the past 18 months and he is opposed to this project due to concerns with allergies and potential damage to the wetlands.

Commissioner Schell asked Mr. Stout if he had anything in mind to stop the dust. Mr. Stout said a berm will not stop dust from blowing.

Jan Wangler, another neighbor, said she is opposed as well. She voiced concerns with enforcement of the landscaping and berm requirements in Midwest Motors Business Park as well as noise and light pollution, and weeds. She said the property just across the street to the west of this property has a berm that is not maintained and the windows and siding of her house are sandblasted.

Chair Schwartz asked how far Ms. Wangler's property is from 52nd Avenue. Ms. Wangler replied that she can see over the berm and it is full of overgrown weeds and trees. Commissioner Schwartz asked what her main concern is with the current request. Ms. Wangler replied that her biggest concern is the environmental impact to the existing wetlands.

Donavon Voeller, a neighbor, said he was told years ago that the future land use would not change. He has concerns with blowing dirt and does not believe a six-foot berm will help. He said storage of loose materials should not be allowed.

Jayne Archambault, a homeowner to the south of the property, said Mr. Vetter has been respectful with the fill dirt he has brought in. She noted that she has spent roughly \$100,000 improving her property and does not want those improvements to be ruined by this request.

Charlene Denning a neighbor to the southeast of the project, said the wind continues to blow dirt in and a berm will not help.

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

Commissioner Field stated he would like to abstain from the vote on this item because he understands the neighbors' concerns and also Mr. Vetter's request. Commissioner Bitner said that at County Commission meetings, one may only abstain due to a personal or financial interest.

Commissioners Bitner explained personal experiences with dust issues and expressed understanding of the neighbors' concerns.

Commissioner Johnson also understands neighbors' concerns with dust.

Commissioner Schell explained that a use within the existing commercial zoning would require a large investment as there is water but no sanitary sewer on this property.

Chair Schwartz said his concerns lie in the environmental damage.

MOTION: Based on the findings contained in the staff report and public comments, Commissioner Bitner made a motion to deny the zoning map amendment from the CG – Commercial zoning district to the Conditional MA – Industrial zoning district and a Future Land Use Plan amendment from the Parks and Open Space (PKOS) designation to the Industrial Flex (IF) designation on Lot E of Lot 1, Block 1, Barbie's Neighborhood Subdivision. Commissioner Johnson seconded the motion, and the motion was unanimously approved with

Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion.

**PUBLIC HEARING – GEORGE SUBDIVISION, BLOCK 1, LOT 2
ZONING MAP AMENDMENT
FUTURE LAND USE PLAN AMENDMENT**

Chair Schwartz called for the public hearing on a zoning map amendment from the A – Agricultural zoning district to the PUD – Planned Unit Development zoning district and a Future Land Use Plan amendment from the Urban Reserve Mid-Term (URA) designation to the Community Mixed Use (CMU) designation on Lot 2, Block 1, George Subdivision. The property is located Northeast of Bismarck, north of 43rd Avenue NE and on the east side of 80th Street NE

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 and future land use plan 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 continuation of the public hearing for the zoning map amendment from the A – Agricultural zoning district to the PUD – Planned Unit Development zoning district and a Future Land Use Plan amendment from the Urban Reserve Mid-Term (URA) designation to the Community Mixed Use (CMU) designation on Lot 2, Block 1, George Subdivision, to discuss potential uses with the applicant.

Commissioner Bitner asked whether a septic system is in place. Ms. Oster replied that a drain field will be on site.

Commissioner Schell asked if construction of George Drive would be required. Ms. Oster said construction of the road is not necessary at this time but would be looked at with future phases of development.

Commissioner Sivak asked for the zoning of the property to the north of this site. Ms. Oster said the property was formerly used for livestock sales and is currently zoned Agricultural.

Commissioner Larson asked about the access on the north side of the property. Ms. Oster replied that the access shared between these two lots in George Subdivision.

Commissioner Schell asked if there are any size limitations for a proposed building. Ms. Oster said there is a height restriction of 80 feet for a soccer complex and 50 feet for any other building and that size restrictions can be discussed with the applicant

Chair Schwartz asked if rural fire had been consulted regarding a secondary access point to the property. Ms. Oster said staff had discussions with both county highway and rural fire.

Chair Schwartz asked what the business to the north is currently. Mr. Ehreth said that is currently under investigation.

Chair Schwartz opened the public hearing.

Landon Niemiller – Swenson Hagen & Co explained that they are requesting to continue the public hearing to discuss the uses.

Chair Schwartz asked if another access was considered. Mr. Niemiller said there would be another access point off of the unbuilt George Drive in the future. Commissioner Bitner asked how it will work with the road not being built. Mr. Niemiller said the applicant is aware that with growth, this additional access point will be required to be built.

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

MOTION: Based on the findings contained in the staff report, Commissioner Zent made a motion to continue the public hearing for the zoning map amendment from the A – Agricultural zoning district to the PUD – Planned Unit Development zoning district and a Future Land Use Plan amendment from the Urban Reserve Mid-Term (URA) designation to the Community Mixed Use (CMU) designation on Lot 2, Block 1, George Subdivision. Commissioner Johnson seconded the motion, and the motion was unanimously approved with Bitner, Field, Johnson, Larson, Lukens, Schell, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – FUELLER FOUNTAIN SUBDIVISION MAJOR SUBDIVISION FINAL PLAT

Chair Schwartz called for the public hearing on a major subdivision final plat for Fueller Fountain Subdivision. The property is a one lot in one block subdivision located east of Bismarck along the south side of Apple Creek Road between Yegen Road and 66th Street SE.

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 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 conditional approval of the major subdivision final plat for Fueller Fountain Subdivision, with the condition being the vacation of the section line right-of-way by Burleigh County Commission.

Commissioner Field questioned the purpose of building a new lift station at this location. Commissioner Schell responded by explaining the city purchased this property to replace the existing lift station. The plan is to create it within the sewer shed and install a new gravity sewer line to the station to be pumped to the wastewater treatment plant.

Commissioner Zent asked why the rest of the section line to the south is not vacated. Commissioner Bitner asked why a vacation is necessary. Commissioner Schell replied that when the city plats a piece of land, they include vacations, whereas the county may not do the same.

Commissioner Zent asked if 52nd Street SE would need to be moved. Commissioner Schell said the driveway to the station will line up with the 52nd Street SE and Apple Creek Road.

Mr. Johnson reminded the Commission that they may change any conditions at this time.

Chair Schwartz opened the public hearing.

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

Commissioner Bitner stated he is not comfortable with the plat without addressing easements and suggested to table so he could discuss with the County Highway Department.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to continue the public hearing for major subdivision final plat for Fueller Fountain Subdivision. Commissioner Field seconded the motion, and the motion was unanimously approved with Bitner, Field, Johnson, Larson, Lukens, Schell, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT (OVERSIZED ACCESSORY BUILDING) PHEASANT VALLEY, BLOCK 1, LOT 6

Chair Schwartz called for the public hearing on a special use permit in order to increase the total size of accessory structures to 3,200 square feet on Lot 6, Block 1, Pheasant Valley Subdivision. The property is located east by northeast of Bismarck between Ringneck Road and Rooster Road, along the west side of Golden Crest Road.

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

Mr. Johnson said, based on the findings, staff recommends approval of the special use permit to increase the total size of accessory structures to 3,200 square feet on Lot 6, Block 1, Pheasant Valley Subdivision.

Chair Schwartz opened the public hearing.

Jammy Ryckman, the applicant, stated he intends to use the building simply for storage.

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

Commissioner Johnson suggested to staff that a special use permit should not be required for an oversized accessory building. Mr. Nairn said staff will consider this for the Land Development Code rewrite.

MOTION: Commissioner Wangen made a motion to approve the special use permit in order to increase the total size of accessory structures to 3,200 square feet on Lot 6, Block 1, Pheasant Valley Subdivision. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 6:39 p.m. to meet again on March 26, 2025.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Sarah Fricke', written over a horizontal line.

Sarah Fricke
Recording Secretary

A handwritten signature in blue ink, appearing to read 'Mike Schwartz', written over a horizontal line.

Mike Schwartz
Chair