

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

The Bismarck Planning & Zoning Commission met on March 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 Robert Field, Daniel Lukens, Gabe Schell, Mike Schmitz (via Zoom), Mike Schwartz, Trent Wangen, and Paul Zent.

Commissioners Bitner, Johnson, Larson, and Sivak were absent.

Staff members present were 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 February 26, 2025 meeting.

MOTION: Commissioner Wangen made a motion to approve the minutes of the February 26, 2025 meeting, as presented. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Field, Lukens, Schell, Schwartz, Wangen, and Zent voting in favor of the motion. Commissioner Schmitz was unable to vote as his microphone was not functioning.

CONSIDERATION

**2A. NORTHSTAR COMMERCIAL PARK THIRD SUBDIVISION
ZONING MAP AMENDMENT**

**2B. SOUTHLAND SECOND ADDITION, BLOCK 7, LOTS 1-7
ZONING MAP AMENDMENT**

**2C. SILVER RANCH FIFTH ADDITION
ZONING MAP AMENDMENT**

Commissioner Zent requested additional information on item 2A.

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

Ms. Wollmuth provided an overview of the staff request for a zoning map amendment to add temporary fireworks sales as an administrative special use to the existing Conditional MA –

Industrial zoning district for Blocks 1, 2, and 3, Northstar Commercial Park Third Subdivision, noting that the Planning and Zoning Commission would be initiating this request.

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

Chair Schwartz asked for the order of the building plans. Ms. Oster explained that per the applicant's narrative, the church and sports facility/worship center would be built first.

Chair Schwartz opened the public hearing.

Landon Niemiller – Swenson Hagen & Co. confirmed that the applicant's intention is to build the church and sports facility first. They have met with county staff, including rural fire department staff, and all are comfortable with the use of the access point on the west side of the property at this phase of the project.

Commissioner Schell asked if the conditions included in staff's recommendation work with the plans. Mr. Niemiller indicated that they are comfortable with the conditions.

Chair Schwartz stated he has concerns with the shared approach and whether it will work in the future, and if a deal has been made with the landowner. Mr. Niemiller explained that there is limited access on 80th Street NE and further south is county property.

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

MOTION: Based on staff's recommendation, Commissioner Wangen made a motion to approve 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 Zent seconded the motion, and the motion was unanimously approved with Commissioners Field, Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – MUNICIPAL SEVENTH SUBDIVISION MAJOR SUBDIVISION FINAL PLAT

Chair Schwartz called for the public hearing on the major subdivision final plat for Municipal Seventh 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 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 approval of the major subdivision final plat for Municipal Seventh Subdivision.

Chair Schwartz opened the public hearing.

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

Chair Schwartz told staff that he has seen earthwork being performed on the property. Mr. Nairn explained that site preparation and grading has begun but building permits have not yet been issued to begin construction of the facility. A site plan review will be required after the recordation of the plat. He noted that this is standard practice for development of land that is being platted.

MOTION: Based on the findings contained in the staff report, Commissioner Zent made a motion to approve the major subdivision final plat for Municipal Seventh Subdivision. Commissioner Wangen seconded the motion, and the motion was unanimously approved with Commissioners Field, Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – SOUTH MEADOWS SUBDIVISION, BLOCK 1, LOT 2 ZONING MAP AMENDMENT FUTURE LAND USE PLAN AMENDMENT MINOR SUBDIVISION FINAL PLAT

Chair Schwartz called for the public hearing on a Future Land Use Plan amendment from the Urban Neighborhood (UN) designation to Neighborhood Mixed Use (NMU) designation, a zoning map amendment from the RR – Residential and R10 – Residential zoning districts to the Conditional RM20 – Residential zoning district, and a minor plat titled South Meadows

Third Addition. The property is located in southwest Bismarck, west of South Washington Street, in the southeast quadrant of the intersection of West Burleigh Avenue and Meridian 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, Future Land Use Plan amendment, and minor subdivision final plat 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 a Future Land Use Plan amendment from the Urban Neighborhood (UN) designation to Neighborhood Mixed Use (NMU) designation, a zoning map amendment from the RR – Residential and R10 – Residential zoning districts to the Conditional RM20 – Residential zoning district, and a minor plat titled South Meadows Third Addition.

Commissioner Schell asked if the site plan associated with this zoning map amendment request conforms with the conditions of the proposed zoning ordinance. Ms. Oster said, based on the site exhibits provided by the applicant, it does conform.

Commissioner Zent asked if the building would be one level or multiple. Ms. Oster replied that the plans reflect a multi-level building.

Chair Schwartz opened the public hearing.

Landon Niemiller – Swenson Hagen & Co. explained that the building will be a multi-family property with ground level parking underneath the building. (Exhibit A)

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

MOTION: Based on the findings contained in the staff report, Commissioner Wangen made a motion to approve the Future Land Use Plan (FLUP) amendment from the Urban Neighborhood (UN) designation to the Neighborhood Mixed Use (NMU) designation, a zoning map amendment from the RR – Residential and R10 – Residential zoning districts to the Conditional RM20 – Residential zoning district, and a minor plat titled South Meadows Third Addition. Commissioner Zent seconded the motion, and the motion was unanimously approved with Field, Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – WILLIAM’S SURVEY, BLOCK 82, PARTS OF LOTS 9-12 ZONING MAP AMENDMENT

Chair Schwartz called for the public hearing on a zoning map amendment from the RM30 - Residential zoning district to the CG – Commercial zoning district on the South 16 feet of Lot 9 and the West 106 feet of Lots 10-12, Block 82, William’s Survey. The property is located in central Bismarck, north of East Main Avenue in the northeast quadrant of the intersection of North 12th Street and East Broadway 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 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 RM30 – Residential zoning district to the CG – Commercial zoning district on the South 16 feet of Lot 9 and the West 106 feet of Lots 10-12, Block 82, William's Survey.

Chair Schwartz opened the public hearing.

Travis Zenker, the applicant, explained he intends to open a barber shop at the location. He offered to answer any questions the commission may have and stated he has a letter of intention to purchase the property contingent on the acceptance of this zoning request.

Lee Lunde, from Viking Builders, offered a proposal for the property of multifamily homes for people who volunteer at St. Alexius CHI Hospital and said he believes the property should remain in the RM30 – Residential zoning district.

Commissioner Schell asked Mr. Lunde if he has a Purchase Agreement for the property or a letter of intention to purchase. Mr. Lunde replied that he has neither of those documents.

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

Commissioner Field asked why the zoning would change prior to the property being purchased. Commissioner Schell explained that it is common practice to purchase a property based on a letter of intent including a change in zoning and reminded the commission that the public hearing is on this item only, not the use of the property.

Mr. Zenker explained that a Purchase Agreement is drafted and will be executed once the zoning map amendment is completed.

Mr. Nairn stated that the current property owner, St. Alexius Medical Center, did sign the application for the zoning map amendment.

MOTION: Based on the findings contained in the staff report, Commissioner Schell made a motion to approve the zoning map amendment from the RM30 - Residential zoning district to the CG – Commercial zoning district on the South 16 feet of Lot 9 and the West 106 feet of Lots 10-12, Block 82, William's Survey. Commissioner Wangen seconded the motion, and the motion was unanimously approved with Field, Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – SONNET HEIGHTS SUBDIVISION FIRST REPLAT, BLOCK 5, LOT 1 ZONING MAP AMENDMENT

Chair Schwartz called for the public hearing on a zoning map amendment from the RM30 – Residential zoning district to the R10 – Residential zoning district on Lot 1, Block 5, Sonnet Heights Subdivision First Replat. The property is located in north central Bismarck, east of

North Washington Street and north of East LaSalle Drive, in the westerly quadrant of the intersection of Normandy Street and Calvert 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 proposed zoning map amendment would not adversely impact the public health, safety, and general welfare.

Ms. Oster said, based on the findings, staff recommends approval of the zoning map amendment from the RM30 – Residential zoning district to the R10 – Residential zoning district on Lot 1, Block 5, Sonnet Heights Subdivision First Replat.

Chair Schwartz opened the public hearing.

Landon Niemiller – Swenson Hagen & Co. offered to answer any questions the commissioners may have.

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

MOTION: Commissioner Wangen made a motion to approve the zoning map amendment from the RM30 – Residential zoning district to the R10 – Residential zoning district on Lot 1, Block 5, Sonnet Heights Subdivision First Replat. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Field, Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – MISSOURI VALLEY COMPLEX, BLOCK 1, LOTS 1 & 3-19 ZONING MAP AMENDMENT

Chair Schwartz called for the public hearing on the zoning map amendment from a Planned Unit Development (PUD) to the P – Public zoning district on Lots 1 & 3-19, Block 1, Missouri Valley Complex. The property is located in east Bismarck, between East Main Avenue and Apple Creek Road, and between East Bismarck Expressway and Midwest Drive. Lot 3 is owned by the State of North Dakota and Lot 6 is owned by the City of Bismarck for a sanitary sewer lift station. Burleigh County owns the remaining lots.

Commissioner Wangen notified the commission that he is an employee of Burleigh County which is a property owner but has no financial interest in the request. No commissioners had an issue with Commissioner Wangen's participation in the public hearing.

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 a Planned Unit Development (PUD) to the P – Public zoning district on Lots 1 & 3-19, Block 1, Missouri Valley Complex.

Commissioner Schell asked for Burleigh County's intentions for this property. Mr. Johnson said that the representative for the applicant was present to explain.

Chair Schwartz opened the public hearing.

Landon Niemiller – Swenson Hagen & Co. explained that the existing PUD contains unnecessary constraints to the property. The applicant has no intention to sell and they intend to replat the property soon.

County Commissioner Wayne Munsen explained the intention is only to develop the property to be used by county residents.

There being no 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 approve the zoning map amendment from a Planned Unit Development (PUD) to the P – Public zoning district on Lots 1 & 3-19, Block 1, Missouri Valley Complex. Commissioner Lukens seconded the motion, and the motion was unanimously approved with Commissioners Field, Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – BODEN ADDITION, BLOCK 1, LOTS 1-23 & 25-34 ZONING MAP AMENDMENT

Chair Schwartz called for the public hearing on the zoning map amendment from R10 – Residential to Conditional RT – Residential on Lots 25-34, Block 1, Boden Addition and revisions to the conditions of this entire conditional district, including Lots 1-23, Block 1, Boden Addition. The request also includes an amendment of a portion of this area in the Future Land Use Plan from Urban Neighborhood (UN) to Neighborhood Mixed Use (NMU). The property is located in north Bismarck, on the east side of North Washington Street and the south side of East Lasalle Drive.

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 map amendment and Future Land Use Plan 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 map amendment from R10 – Residential to Conditional RT – Residential on Lots 25-34, Block 1, Boden Addition, a Future Land Use Plan from Urban Neighborhood (UN) to Neighborhood Mixed Use (NMU), and revisions to the conditions of this entire conditional district, including Lots 1-23, Block 1, Boden Addition.

Commissioner Schell asked whether the 10 existing lots would require lot combinations. Mr. Nairn responded that lot combinations would be required if that is desired by the owner, and some have already occurred.

Chair Schwartz asked if buffer requirements would be in place to separate this property from the neighboring properties. Mr. Nairn answered that landscape buffers are required on the east side of Lots 25-34.

Chair Schwartz opened the public hearing.

Cam Knutson, the applicant and property owner, stated he believes in supporting small businesses in Bismarck. He explained that the mortgage interest rates the past few years have negatively impacted his residential building business, and his request is based on the current market. He said the landscape requirement does not change with this proposal.

Commissioner Schell asked if the intention is to keep the area to the east single-family in the future. Mr. Knutson replied that the single-family area will not be changing.

Commissioner Zent asked for the origin of the name Boden. Mr. Knutson explained that Boden is the word for shelter in Scandinavian languages.

Chair Schwartz expressed concerns with increased traffic with the addition of businesses to the area. Mr. Knutson said there will be no more traffic than already exists at school drop off and pick up times.

Jack Knutson, the developer of Boulder Ridge, explained that this area was meant to remain in single-family zoning and this was part of the covenant rules. He feels that Boden is inappropriately zoned and should not be changed. He stated he doesn't believe a daycare should be located on a 24-foot private street and that traffic has already increased. Chair Schwartz asked Mr. Knutson if he is part of the HOA, to which he replied he is representing the neighborhood.

Roger Harris, the Vice President of the HOA, stated his disagreement with the initial approval and said HOA members do not want businesses in their neighborhood. Chair Schwartz asked how close Mr. Harris' property is to the proposed property and Mr. Harris responded his house is to the south of the project. He then stated traffic has increased.

Dawn Ulmer, an adjacent property owner, said she can see the businesses, parking lot and lights from her backyard. She asked the commission to table this item to allow time for a traffic impact study and groundwater study. She said she and her neighbors wish they had not purchased their properties. She then said there is available commercial property directly across the street from the proposed project.

Commissioner Schell explained to Ms. Ulmer that pedestrian studies were performed prior to Liberty Elementary school being built and that traffic volumes are reviewed at the platting stage. He said certain types of businesses create lower traffic volumes and those with a higher traffic volumes are not allowed. Stormwater is also a major part of the platting process. He then explained that changes in zoning districts occur frequently, and the city has the approval process in place to determine the public's best interest.

Todd Ulmer, a neighboring property owner, said Normandy Street is incomplete and believes its completion would alleviate the traffic and then said traffic is especially heavy at school drop off time.

Shaun Algren, a business owner with intentions to purchase a property from Cam Knutson, made a statement that he feels the property is a good addition to the neighborhood and is an ideal location for small businesses. He said the buildings do not carry a typical commercial appearance. He stated all schools are busy during drop off and pick up times and it should not affect the decision on the request.

Commissioner Field asked how many employees Mr. Algren has. Mr. Algren replied that he employs 14 individuals.

Parker Pladson, from EPIC homes, said Cam Knutson has been transparent throughout the process by asking for community feedback. He said Mr. Knutson had nothing to do with Boulder Ridge or the roadways there. He stated the buildings have a residential appearance and all have off-street parking.

Chair Schwartz asked Mr. Pladson how many employees he has, to which the reply was five employees.

There being no further questions or comments, Chair Schwartz closed the public hearing. Mr. Nairn added more details about the landscape buffer. It must be 20 feet wide with a specific amount of deciduous trees, conifer trees, and shrubs. The plant material is reduced if a 6-foot screen is installed.

Commissioner Wangen asked for the previous zoning map amendment information, prior to the initial Boden Addition zoning map amendment. Mr. Nairn said it previously was zoned both R5 – Residential and A – Agricultural.

Chair Schwartz stated that he understands reasonable expectations of zoning, however if one does not own a neighboring property, one has no control over the zoning. He said growth requires change and understands that businesses need to spread to other areas of the city.

Commissioner Field said the residential property owners have a reasonable expectation of the requested property to remain residential.

Commissioner Zent said traffic is constantly increasing and said he has never witnessed a business reduce the value of a home.

Commissioner Wangen said the previous, original project for Boden was a challenge just as this one is. He said the community is growing and no one can predict what will become of a property that is zoned for agriculture.

Commissioner Lukens stated he is considering all sides of this project.

Commissioner Schmitz stated the request falls in line with Together 2045, Bismarck's comprehensive plan that includes a strong desire to allow small businesses to thrive. He said the applicant's plans show a much better appearance than other commercial buildings and is satisfied with the landscape buffers in the plans and he believes the current use is appropriate for the area.

Commissioner Schell reminded the commission to consider each item on the agenda as a new, individual issue. Traffic is caused by both homes and businesses.

MOTION: Based on the findings contained in the staff report, Commissioner Schmitz made a motion to approve the zoning map amendment from R10 – Residential to Conditional RT – Residential on Lots 25-34, Block 1, Boden Addition and revisions to the conditions of this entire conditional district, including Lots 1-23, Block 1, Boden Addition and an amendment of a portion of this area in the Future Land Use Plan from Urban Neighborhood (UN) to Neighborhood Mixed Use (NMU). Commissioner Wangen seconded the motion, and the motion was

approved with Commissioners Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion. Commissioner Field voted against the motion.

PUBLIC HEARING – HUCHLER PARK SUBDIVISION, BLOCK 1, LOT 1 RURAL RESIDENTIAL LOT SPLIT

Chair Schwartz called for the public hearing on a rural residential lot split 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 proposed rural residential lot split would not adversely impact the public health, safety, and general welfare.

Ms. Wollmuth said, based on the findings, staff recommends approval of the rural residential lot split for Lot 1, Block 1, Huchler Park Subdivision.

Chair Schwartz opened the public hearing.

Landon Niemiller – Swenson Hagen & Co. offered to answer any questions the commissioners may have.

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

MOTION: Commissioner Zent made a motion to approve the rural residential lot split for Lot 1, Block 1, Huchler Park Subdivision. Commissioner Lukens seconded the motion, and it was unanimously approved with Commissioners Field, Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – MISTY WATERS ZONING MAP AMENDMENT

Chair Schwartz called for the public hearing on the zoning map amendment from the existing PUD – Planned Unit Development to a new PUD – Planned Unit Development for Misty Waters, Misty Waters First Replat, and Misty Waters Second Replat. The property is located northwest of Bismarck, west of River Road along the west north-south portion of Burnt Creek Loop.

Ms. Wollmuth provided an overview of the request and explained that the original PUD for Misty Waters was adopted in June 2005 and it identified the rear yard setback as 30 feet for all lots except those adjacent to the Missouri River. She noted that the PUD was amended in August 2006 to alter the setback to an elevation of 1640.3 feet as delineated by the contour line described in a Letter of Map Revision (LOMR), which was approved by the Federal Emergency Management Agency (FEMA) in 2005 and that a recent North Dakota Supreme Court ruling determined this LOMR was to function as the setback from the bay. She stated that some structures within Misty Waters encroach on this line.

Ms. Wollmuth also stated that the PUD was amended in August 2024 at the request of the owners of Lots 30-36 and 38-39, Block 1, Misty Waters to identify the interior edge of the platted 20-foot drainage easement as the rear yard setback for these lots and that soon after,

the City Commission at their August 13, 2024, meeting, directed Community Development staff to create a new PUD for the entire Misty Waters Development that would establish a consistent rear yard setback for all residential properties adjacent to the bay. She noted that a stakeholder group including residents of Misty Waters, a representative of the Misty Waters Homeowners Association, local consulting engineers, and City and County staff was formed in the fall of 2024 and met three times between October and December to identify setback options and to debate the merits of each. She said it was the consensus of the stakeholder group that the rear yard setback be identical to the interior edge of the platted 20-foot drainage easement for all residential properties adjacent to the bay.

She went on to explain that tying the setback to the drainage easement is problematic as easements can be vacated through the plat modification process and that the City Commission at their January 28, 2025, meeting vacated a portion of the 20-foot drainage easement for a property within Misty Waters, at the request of a property owner. To solve this problem, the group determined that a surveyor's affidavit identifying the building setback be recorded with the Burleigh County Recorder and the recording date and document number be specifically referenced in the PUD ordinance. She further explained that that Toman Engineering, the firm that platted Misty Waters, has prepared the surveyor's affidavit that includes bearings and distances of the interior edge of the drainage easement so the building setback could be located in the field when necessary. Once recorded, the line depicted on the surveyor's affidavit would be available to current and prospective property owners, surveyors, engineers, builders, and City staff.

Ms. Wollmuth noted that some residential lots do not have access to the bay and that the rear yard setback for these lots will continue to be 30 feet, as required in the original PUD for the development. The rear yard setback for properties adjacent to the Missouri River will also stay the same. The minimum rear yard setback is 100 feet, measured from the ordinary high water mark of the Missouri River. She indicated that Lot 3, Block 1, Misty Waters is adjacent to the bay, but this lot does not include the platted drainage easement. The rear yard setback for this lot is proposed to be 50 feet. This setback is similar to the setback of the lots to the north along Tranquil Circle. She also stated that yards adjacent to the channel connecting the bay to the Missouri River are considered side yards and are not subject to the rear yard setback requirements.

Ms. Wollmuth went on to say that that the proposed PUD has been reconfigured to the standard outline used for PUDs and that the most substantive change to the PUD is to establish a new rear yard setback line (building line) for properties adjacent to the bay. Additional changes include removing reference to conformance to submitted documents, lot modifications and to the specific number of single, two-family or multifamily lots within the development. She also clarified that changes were not made for the properties in Misty Waters Second Replat, specifically the storage unit development.

Ms. Wollmuth 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.

Ms. Wollmuth said, based on the findings, staff recommends approval of the zoning map amendment from the existing PUD – Planned Unit Development to a new PUD – Planned Unit Development for Misty Waters, Misty Waters First Replat, and Misty Waters Second Replat.

Commissioner Schell asked if the new setback line was going to be monumented, if individual owners would need to hire surveyors, and if the change would cause any lots to be non-conforming. Ms. Wollmuth responded that as the ordinance is written, no violations would occur, she also indicated that monuments would not be placed on site and the surveyors and engineers would have access to the recorded affidavit for reference. Chair Schwartz asked how many lots the revised setback . Ms. Wollmuth replied that lots adjacent to the bay would be affected.

Chair Schwartz opened the public hearing.

Mike Gunsch stated there monuments for the setback line will not be placed on site.

Patrick Spillman, a Misty Waters resident, stated he is not in favor of the zoning map Amendment because it is not equitable as it increases buildable land for most but removes buildable land from several lots. He said the change does not change the buildable land on his property.

Commissioner Field stated the Board of City Commissioners will make the final decision on this item.

Chair Schwartz asked Mr. Spillman how he was notified. Mr. Spillman replied that he received thorough notification of the proposed zoning map Amendment and appreciated the access to information provided by city staff.

Teresa Reis, a Misty Waters resident, spoke in favor of the proposed zoning map amendment, stating she has benefited from previous decisions and would like to see the setback line finalized.

Amanda Mahlum, a Misty Waters resident, said her home is out of compliance and she is in favor of the proposal.

Jerry Ketterling, a Misty Waters resident, was not in favor of the proposed zoning map amendment as it causes him to lose buildable space on his property. He accused the city of trying to take his property just to increase its own property tax revenue.

Jason Sellers, a Misty Waters resident, spoke in favor of the proposal, and said the majority of the HOA voted in favor of this change. He said it helps more homeowners than hurts.

Chair Schwartz asked if a number of residents in favor of the zoning map amendment was available. Mr. Sellers replied that a petition was passed around and 60% are supportive of the proposal.

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

Commissioner Schmitz explained that the city will gain no revenue from the proposed request because it is not within the City's taxing jurisdiction. He further stated that the City Commission directed staff to write the new PUD in order to create a consistent setback and support the majority of residents of Misty Waters.

Commissioner Schell confirmed that the city would have no financial gains if the proposed zoning map amendment is approved.

Commissioner Zent asked if the proposal would cause a property tax increase or decrease to any of the affected properties. Commissioner Schmitz responded saying the school district and Burleigh County would be affected by any tax increases or decreases..

Commissioner Schell stated buildable area does not affect property value.

Commissioner Field asked why the area needs to be changed and cannot stay with the initial plan of residential zoning. Commissioner Schmitz responded that a court ruling changed the interpretation, so the change is necessary.

Chair Schwartz stated he is not comfortable changing the rules to bring non-compliance into compliance.

MOTION: Commissioner Schmitz made a motion to approve the zoning map amendment from the existing PUD – Planned Unit Development to a new PUD – Planned Unit Development for Misty Waters, Misty Waters First Replat, and Misty Waters Second Replat. Commissioner Schell seconded the motion. The motion failed with Commissioners Field, Lukens, Schwartz, and Wangen voting against the motion. Commissioners Schell, Schmitz and Zent voted in favor.

PUBLIC HEARING – NORTHWOOD ESTATES REPLAT, BLOCK 3, LOT 8 SPECIAL USE PERMIT

Chair Schwartz called for the public hearing on a special use permit to increase the allowable area of accessory buildings to 3,200 square feet on Lot 8, Block 3, Northwood Estates Replat. The property is located North of Bismarck, east of US Highway 83 between 97th Avenue NE and 110th Avenue NE, along the east side of Olive Lane (10581 Olive Lane).

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

Ms. Wollmuth said, based on the findings, staff recommends approval of special use permit to increase the allowable area of accessory buildings to 3,200 square feet on Lot 8, Block 3, Northwood Estates Replat.

Chair Schwartz opened the public hearing.

Justin Jones, the applicant, explained the existing building will be removed prior to construction of the new accessory building.

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

MOTION: Commissioner Wangen made a motion to approve the special use permit to increase the allowable area of accessory buildings to 3,200 square feet on Lot 8, Block 3, Northwood Estates Replat. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Field, Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – TREE TOP SECOND ADDITION, BLOCK 1, LOT 3 SPECIAL USE PERMIT

Chair Schwartz called for the public hearing on a special use permit for a drive-through in conjunction with a restaurant on Lot 3, Block 1, Tree Top Second Addition. The property is located in north Bismarck, on the west side of State Street and the south side of 57th Avenue 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 proposed special use would not adversely impact the public health, safety, and general welfare.

Ms. Oster said, based on the findings, staff recommends approval of a special use permit for a drive-through in conjunction with a restaurant on Lot 3, Block 1, Tree Top Second Addition.

Chair Schwartz opened the public hearing.

Landon Niemiller – Swenson Hagen & Co. said the drive-through will be accessed from a private road.

Andrew Hadlich, a neighboring property owner, brought in a list of signatures (exhibit B) of neighbors in opposition of the special use. He stated he believes a drive-through restaurant will have a negative impact on the neighborhood. His concerns are with light pollution, noise, traffic and the safety of children. He also voiced concerns with additional commercial businesses being added to the area.

Chair Schwartz asked Mr. Hadlich if he was aware of the zoning prior to purchasing his home. Mr. Hadlich said he was aware but is specifically against the drive-through.

Mr. Niemiller reminded the commissioners that the area is already zoned CG, which is heavy commercial, and the property in question is at the intersection of two arterial roadways.

Commissioner Zent asked if the restaurant will be a drive-through only or if seating will be available. Mr. Niemiller responded that there will be seating.

Chair Schwartz asked if any buffering is required. Ms. Oster responded that no landscape buffer would be required on this lot because it is not immediately adjacent to residences. When the adjacent lot to the west is developed, a landscaped buffer will be required on that lot.

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

MOTION: Commissioner Zent made a motion to approve the special use permit for a drive-through in conjunction with a restaurant on Lot 3, Block 1, Tree Top Second Addition. Commissioner Lukens seconded the motion, and it was unanimously approved with Commissioners Field, Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – ANIMAL SERVICES AND BOARDING ZONING ORDINANCE TEXT AMENDMENT

Chair Schwartz called for the public hearing on a zoning ordinance text amendment to revise and clarify certain sections of Title 14 of the City Code of Ordinances related to animal boarding and similar non-medical animal services.

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 ordinance text 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 ordinance text amendment to revise and clarify certain sections of Title 14 of the City Code of Ordinances related to animal boarding and similar non-medical animal services.

Commissioner Wangen asked if an existing horse arena will be allowed and Mr. Johnson said that if it is currently allowed, this zoning ordinance text amendment will not take the allowed use away.

Commissioner Zent asked if this is based on a new or current businesses. Mr. Johnson said this will not negatively impact existing businesses. If the use was permitted previously, it will remain permitted, the rules are not changing.

Commissioner Schell inquired if public zoning districts are included in the zoning ordinance text amendment. Mr. Johnson said if it was allowed previously, it would be allowed after approval of the amendment.

Chair Schwartz opened the public hearing.

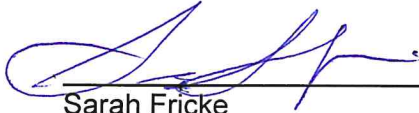
There being no further comments, Chair Schwartz closed the public hearing.

MOTION: Commissioner Zent made a motion to approve the zoning ordinance text amendment to revise and clarify certain sections of Title 14 of the City Code of Ordinances related to animal boarding and similar non-medical animal services. Commissioner Lukens seconded the motion, and it was unanimously approved with Commissioners Field, Lukens, Schell, Schmitz, Schwartz, 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 9:02 p.m. to meet again on April 23, 2025.

Respectfully submitted,



Sarah Fricke
Recording Secretary

Mike Schwartz
Chair