

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
August 27, 2025**

The Bismarck Planning & Zoning Commission met on August 27, 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, Daniel Lukens, Gabe Schell, Mike Schmitz, Mike Schwartz, Sheldon Sivak, and Paul Zent.

Commissioner Wangen was absent.

Staff members present were Brady Blaskowski – Building Official, 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 July 23, 2025 meeting.

MOTION: Commissioner Zent made a motion to approve the minutes of the July 23, 2025 meeting, as presented. Commissioner Lukens seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

CONSIDERATION

**2A. OLIVE TREE SECOND SUBDIVISION
PRELIMINARY PLAT**

**2B. SILVER RANCH THIRD ADDITION THIRD REPLAT
MINOR SUBDIVISION FINAL PLAT AND ZONING MAP AMENDMENT**

**2C. SHORT TERM RENTALS
ZONING ORDINANCE TEXT AMENDMENT**

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

FINAL CONSIDERATION – ELK RIDGE FOURTH ADDITION ANNEXATION

Chair Schwartz called for final consideration of the annexation of all of Elk Ridge Fourth Addition. The property is located northwest of Bismarck, between North Washington Street and River Road, west of Tyler Parkway and north of Frisco Way (Part of the SW¼ of Section 18, T139N-R80W/Hay Creek Township).

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 annexation would not adversely impact public health, safety, and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the annexation of all of Elk Ridge Fourth Addition.

MOTION: Based on the findings contained in the staff report, Commissioner Johnson made a motion to approve the annexation of Elk Ridge Fourth Addition. Commissioner Zent seconded the motion, and the motion was approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

FINAL CONSIDERATION – PART OF E CENTURY AVE AND 52ND ST NE ANNEXATION

Chair Schwartz called for final consideration on an annexation of the portion of the dedicated East Century Avenue right-of-way adjacent to Lot 24, Block 7, and Lot 1, Block 8, Sattler's Sunrise Sixth Addition, as well as the dedicated rights-of-way of East Century Avenue and 52nd Street NE as described on the right-of-way plat recorded as Document #974737. The property is located east of Bismarck, north of Interstate-94, south of Gold Drive, along future extensions of East Century Avenue and 52nd 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 annexation would not adversely impact public health, safety, and general welfare.

Mr. Johnson said, based on the findings contained in the staff report, staff recommends approval of the annexation of the portion of the dedicated East Century Avenue right-of-way adjacent to Lot 24, Block 7, and Lot 1, Block 8, Sattler's Sunrise Sixth Addition, as well as the dedicated rights-of-way of East Century Avenue and 52nd Street NE as described on the right-of-way plat recorded as Document #974737.

MOTION: Based on the findings contained in the staff report, Commissioner Schmitz made a motion to approve the annexation of the portion of the dedicated East Century Avenue right-of-way adjacent to Lot 24, Block 7, and Lot 1, Block 8, Sattler's Sunrise Sixth Addition, as well as the dedicated rights-of-way of East Century Avenue and 52nd Street NE. Commissioner Johnson seconded the motion, and the motion was unanimously approved with Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

PUBLIC HEARING – NORTHERN PACIFIC ADDITION, BLOCK 10, LOTS 1- 4 FUTURE LAND USE PLAN AMENDMENT AND ZONING MAP AMENDMENT

Chair Schwartz called for the public hearing on a zoning map amendment from the RM30 – Residential zoning district to the DF – Downtown Fringe zoning district, as well as a Future Land Use Plan (FLUP) amendment from the Urban Neighborhood (UN) designation to the Downtown (DT) designation on Lots 1-4, Block 10, Northern Pacific Addition. The property is located in central Bismarck, on the west side of North 3rd Street, between East Avenue B and East Avenue C.

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 and future land use plan amendment would not adversely impact public health, safety, and general welfare.

Mr. Johnson said, based on the findings, staff recommends approval of the zoning map amendment from the RM30 – Residential zoning district to the DF – Downtown Fringe zoning district, as well as a Future Land Use Plan (FLUP) amendment from the Urban Neighborhood (UN) designation to the Downtown (DT) designation on Lots 1-4, Block 10, Northern Pacific Addition.

Commissioner Larson asked if the approval of the request would cause any existing properties to be nonconforming. Mr. Johnson explained that all of the buildings will be conforming with the approved changes.

Chair Schwartz asked why staff is requesting these amendments. Mr. Johnson stated staff recommended this course of action after a development inquiry from one of the property owners that would not be permitted in the existing RM30 – Residential zoning district but would be permitted in the DF – Downtown Fringe zoning district. This specific request was initiated by staff to maintain consistency with how previous zoning map amendment requests to a downtown zoning district were handled. While this project was specific example started due to an inquiry from a single property owner, the proposed change would allow more flexibility for all affected owners while not placing further regulatory encumbrances on any property owner.

Chair Schwartz opened the public hearing.

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

MOTION: Commissioner Larson made a motion to approve the zoning map amendment from the RM30 – Residential zoning district to the DF – Downtown Fringe zoning district, as well as a Future Land Use Plan (FLUP) amendment from the Urban Neighborhood (UN) designation to the Downtown (DT) designation on Lots 1-4, Block 10, Northern Pacific Addition. Commissioner Johnson seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

**PUBLIC HEARING – SOUTH MEADOWS ADDITION THIRD REPLAT
BLOCK 1, LOTS 1-10
FUTURE LAND USE PLAN AMENDMENT AND ZONING MAP AMENDMENT**

Chair Schwartz called for the public hearing on a zoning map amendment from the R10 – Residential zoning district to the RM20 – Residential zoning district and a Future Land Use Plan amendment from the Urban Neighborhood designation to the Neighborhood Mixed Use designation on Lots 1-10, Block 1, South Meadows Addition Third Replat. The property is located in southwest Bismarck, south of West Burleigh Avenue, in the southwest quadrant of the intersection of South Washington Street 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 and Future Land Use Plan amendment would not adversely impact 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 R10 – Residential zoning district to the RM20 – Residential zoning district and a Future Land Use Plan amendment from the Urban Neighborhood designation to the Neighborhood Mixed Use designation on Lots 1-10, Block 1, South Meadows Addition Third Replat with the condition that the associated lot modification is approved prior to recordation of the zoning map amendment.

Commissioner Schell asked for the zoning history of the property. Ms. Oster replied in 1976 the property went from County Agriculture to City Agriculture, then in 2014 it changed to RM15 - Residential and in 2017 changed to the current zoning of R10 - Residential. Commissioner Schell then asked for the number of units being requested by the applicant. Ms. Oster said the applicant's consultant would better answer that question, then explained that the requested RM zoning would allow between 3 – 30 units per acre; R10 is calculated by gross acres and RM is calculated by net acres.

Chair Schwartz asked for an explanation on the Future Land Use Plan designation of NMU and how that correlates with the request. Mr. Oster said the NMU designation allows for over four units, while the UN designation only allows 1-4 family units.

Chair Schwartz opened the public hearing.

Landon Niemiller – Swenson Hagen & Co. said the property was platted in 2014 and zoned RM15 - Residential to allow for multi-family homes. He said affordable housing is an issue in the City of Bismarck and this zoning map amendment would address that issue. He explained the applicant will not be developing the property but intends to sell the property. He said there are limitations to the size of a potential building with landscape buffers and setback requirements. He said, based on the Future Land Use Plan, the city would like to see different types of housing blended in similar areas.

Commissioner Field asked what the adjacent property owners' expectations for this property were when they purchased their properties. Mr. Niemiller stated that he does not have information on the neighbors' expectations.

Commissioner Schell asked why the current owner wants to increase the zoning. Mr. Niemiller stated the property owner would like to provide options to future potential buyers of the property.

Adjacent property owners, Kendall Kautz, Adam Seifert, Heather Krumm, Mark Roningen, Brent Geiss, Marissa Weiland, Katie Dockter, Nicolette Jacob, Carlyle Scott, Madison Bosch, Robert Keehn, Travis Doll, Holly Murphy, Mark Thueson and Kinzey Harrison came forward to speak against the request, noting concerns with overcrowding the schools in the district, diminished property values, traffic dangers, noise, infrastructure issues, and increased crime in the area if the request is approved. A realtor, Robin Gates, also spoke in opposition to the proposed zoning, stating concerns of reduced property values.

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

MOTION: Based on the findings contained in the staff report, Commissioner Field made a motion to deny the zoning map amendment from the R10 – Residential zoning district to the RM20 – Residential zoning district and a Future Land Use Plan amendment from the Urban Neighborhood designation to the Neighborhood Mixed Use designation on Lots 1-10, Block 1, South Meadows Addition Third Replat. Commissioner Larson seconded the motion.

Commissioner Schell stated that, with requests such as this, it is easier to make a decision when plans are presented with the request and he understands the neighbors' concerns without this information.

Mr. Ehreth recommended the Commissioners reference a Finding of Fact in the staff report to justify a denial.

Commissioner Larson agrees with the need for affordable housing but does not believe this area is appropriate as it is on the edge of city limits.

Commissioner Johnson said he disagrees with the Finding of Fact regarding the request being compatible with adjacent land uses and zoning.

Commissioner Zent said he disagrees with the RM20 zoning and feels the property should remain R10 because the school district is already overcrowded as is.

Commissioner Schmitz explained that the property may not be the edge of city limits for long and the city needs to focus on expanding affordable housing. He said currently apartment vacancies are very low.

Commissioner Schell would support an RM15 with knowledge of the type of project being constructed.

Chair Schwartz stated property owners have reasonable expectations for the zoning in their neighborhoods when purchasing homes.

Commissioner Field suggested tiny homes.

MOTION: The motion to deny was approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schwartz, Sivak, and Zent voting in favor of the motion. Commissioner Schmitz voted against the motion.

**PUBLIC HEARING – LUNDE ADDITION
MAJOR SUBDIVISION FINAL PLAT**

Chair Schwartz called for the public hearing on a major subdivision final plat titled Lunde Addition. The property is located central Bismarck, in the southeast quadrant of the intersection of East Bowen Avenue and South 18th Street.

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 approval of the major subdivision final plat titled Lunde Addition.

Chair Schwartz opened the public hearing.

Landon Niemiller – Swenson Hagen & Co. explained that this parcel was never platted and the property owner intends to build a twin home. In order to get the necessary building permits, the property must be platted.

Sharon Balkowitsch, a nearby property owner, has owned her home since 1978 and was told by the applicant that she has to plat and came forward to ask the commission if that is true. Mr. Johnson explained that there is no requirement to plat and no immediate downside to not platting her property, but she may have issues obtaining a building permit in the future for new improvements.

Commissioner Bitner said years ago a zoning ordinance was approved to address the requirement to plat.

There being no further 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 major subdivision final plat titled Lunde Addition. Commissioner Johnson seconded the motion, and the motion was approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

**PUBLIC HEARING – BOULDER RIDGE COMMERCIAL ADDITION
MAJOR SUBDIVISION FINAL PLAT AND ZONING MAP AMENDMENT**

Chair Schwartz called for the public hearing on a zoning map amendment from CA – Commercial and CG – Commercial zoning districts to the CG – Commercial zoning district for Lot 1, Block 1, Boulder Ridge Commercial Addition and a major subdivision final plat titled Boulder Ridge Commercial Addition. The property is located in northwest Bismarck, in the northeast quadrant of the intersection of North Washington Street and 43rd Avenue Northeast.

Ms. Oster provided an overview of the request and noted that a revised plat was submitted after the agenda packet was released. Ms. Oster distributed and showed the revised plat during the meeting 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 major subdivision final plat would not adversely impact 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 and major subdivision final plat titled Boulder Ridge Commercial Addition.

Commissioner Schell asked for the reason why the boundary between lots 2 and 3 were changed. Ms. Oster said the consultant would answer this question.

Chair Schwartz opened the public hearing.

Landon Niemiller – Swenson Hagen & Co. explained that the zoning map amendment request is to correct the zoning for the small landscaping buffer lots omitted from the previous rezoning, and keep the higher intensity commercial zoning away from the twin homes already in place. The potential buyer requested the change to the lot boundary simply due to the orientation of the building plan.

Commissioner Zent asked if any apartment buildings are planned for the property. Mr. Niemiller stated that although apartment buildings are allowed in the requested zoning, he is not aware of any intent to build them.

Marvin Lepp asked if a traffic impact study has been conducted. Mr. Niemiller replied that the access points on the proposed plat are right in and right out and will not have cross traffic on Washington Street.

Don Clement, the property owner, said apartments will not be built and the access points as requested are the only option for the property.

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

Commissioner Schell provided clarification that the access point on North Washington Street is a right in/right out and the access point onto 43rd Avenue is a three-quarter access.

Commissioner Lukens asked how the revised lot lines will be documented in the online agenda. Ms. Oster stated that staff is able to change the online agenda to reflect the changes, if approved.

Commissioner Zent said he drives in this area every day and the traffic gets congested during school drop off and pick up times but otherwise is not bad.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to approve zoning map amendment from CA – Commercial and CG – Commercial zoning districts to the CG – Commercial zoning district for Lot 1, Block 1, Boulder Ridge Commercial Addition and the revised major subdivision final plat titled Boulder Ridge Commercial Addition. Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

**PUBLIC HEARING – WILLIAM BLACKSTONE ADDITION
MAJOR SUBDIVISION FINAL PLAT, ZONING MAP AMENDMENT, and ANNEXATION**

Chair Schwartz called for the public hearing on a zoning map amendment from the A – Agriculture zoning district to the RM30 – Residential, R10 – Residential, R5 – Residential and P – Public zoning districts, major subdivision final plat titled William Blackstone Addition, and annexation of all of the proposed plat and all of Tyler Parkway from 57th Avenue NW to the northern boundary of the plat. The property is located northwest of Bismarck, west of North Washington Street and north of 57th Avenue NW, along the west side of Tyler Parkway (Part of the SE¼ of Section 7, T139N-R80W/ Hay Creek Township).

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

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the annexation, zoning map amendment and major subdivision final plat titled William Blackstone Addition, with the following conditions:

1. Temporary turnaround easements at the termini of Hoberg Drive, Berning Lane, and James Wright Avenue are provided prior to recording the final plat.
2. Separate dedicated right-of-way or a separate easement to the City of Bismarck for all municipal services from 57th Avenue NW to the southern boundary of plat is required prior to plat recordation.
3. A development agreement outlining the installation and maintenance responsibilities, timeframes and triggers for removal of the temporary intersection and road, and restoration of Lot 12 to a buildable lot be submitted prior to plat recordation.

Chair Schwartz opened the public hearing.

Nic Cullen – Houston Engineering said the applicant understands comments provided by city and county staff.

Bob Martin, attorney for the applicant, stated he was also present to answer questions.

Commissioner Bitner said the County Engineer provided a letter with concerns and he was not aware of the City responses to those concerns. Mr. Ehreth stated that the responses are contained in the agenda packet that was provided to the commissioners.

Chad Moldenhauer, owner of a neighboring property, spoke against the request based on concerns with access points, traffic and the requested RM30 - Residential zoning. He disagrees with the offset intersections.

Mike Moreau, an adjacent property owner, said he did not think this land would be developed so quickly after purchasing his home. He does not think the requests follow the Together 2045 plan. He is concerned with traffic and disagrees with the requested RM30 - Residential zoning.

Bob Martin addressed the concerns expressed including the access points to the subdivision from Tyler Parkway which have been reviewed and accepted by city and county staff since 2023. He said the intent is to close the proposed temporary access, which is Lot 12, Block 9,

of the proposed plat once 57th Avenue NW is constructed and adjacent property along the north side of 57th Avenue NW is developed. He explained that city staff requested the higher density zoning, and the applicant is willing to reduce the RM30 – Residential zoning on Lot 1, Block 2 of the proposed plat to a lower density zoning district.

Commissioner Johnson asked why it has taken so long to get through the review process. Mr. Martin explained that they have been working with the Army Corp of Engineers to approve a permit for the proposed wetland mitigation.

Suzanne Oliver, an adjacent property owner, spoke against the requests because of concerns with increased traffic. She also would like this property to remain vacant but would accept houses only if the access point to the proposed subdivision is from 57th Avenue NW and she is not in favor of apartments.

Gary Petersen, another adjacent property owner, spoke in opposition to the requests, as they are written. He disagrees with the access points, traffic and the high-density zoning.

Jane Schumacher, an adjacent property owner, opposed the requests based on her concerns with traffic dangers and reduced property values from an apartment building in the area.

Darryl Dobogai, an adjacent property owner, spoke in opposition to the requests based on reduced property values if an apartment building is constructed. He stated he is fine with the project if the density is reduced.

Rosalyn Weber asked what the mitigation requirements are from the Army Corp of Engineers. Mr. Cullen said the impact to wetlands is 0.4 acres after build-out of the embankment for the retention ponds and they are mitigating this through credit purchases from Ducks Unlimited at a 2:1 ratio.

Mr. Cullen stated the applicant is open to reducing the speed limit, noting they had performed a site distance study at Tyler Parkway and 57th Avenue NW relating to access points and they are at the minimum site distance for a 55-mph road. The applicant is also willing to reduce the zoning to RT – Residential which is the same zoning district of the property to the east.

Commissioner Johnson asked why they did not line up their roads with the roads across the street. Mr. Cullen said topography, drainage, and the development across the street was still under construction when development plans began. Commissioner Johnson asked if they can change the plan to move the roads to line up with the existing roads. Mr. Cullen said doing so would put them back to the beginning of the process and set them back over a year.

Commissioner Bitner requested Burleigh County staff approach the Board to share their concerns. Casey Einrem, from the Burleigh County Engineering Department, said the County currently maintains the speed limit and street maintenance for Tyler Parkway, but if the annexation is approved, the City will control the speed limit. He said there are concerns that the intersections do not line up. Mr. Einrem said the County Engineering Department is not against the requested development and the access points can be changed in the future.

Commissioner Zent said a right turn on 57th Avenue going north would be helpful. Mr. Einrem said contingencies can be added to the approval.

Commissioner Schell asked if the county's questions had been answered by the city and the applicant. Mr. Einrem said offset intersections are a concern, even if the offset are private driveways such as those along the west side of Tyler Parkway in Heritage Ridge Addition. Chair Schwartz asked how long a traffic study takes. Mr. Einrem said 4-6 weeks.

Commissioner Johnson asked if decisions such as the requirement of a traffic impact study, are made at the preliminary plat stage of the development process. He said it seems very late in the process to be requesting one now, two years later. Mr. Einrem said that the County does make requests early in the process but once the City confirms they will be annexing, it is no longer their concern.

Mr. Martin said the concerns with traffic and the reduction in zoning density can be part of the development agreement. He said they will gate the temporary access point to ensure it isn't used except for emergency response.

Mr. Moldenhauer said public safety with traffic issues is the main concern. He said matching the zoning across the street is still too dense.

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

Ms. Wollmuth explained that the plat is located within an Urban Neighborhood Use in the city's Future Land Use Plan which is defined as a mixed density residential use. She confirmed that staff did request a higher density zoning but explained that either a RM15 or RM10 – Residential zoning district would be more appropriate as the RT - Residential would allow for the higher density buildings as well as business uses. Mr. Martin said they are fully willing to follow Ms. Wollmuth's suggestion.

Commissioner Bitner said he does not see a need to deny the request but prefers to give the applicant a chance to address the public's concerns.

Commissioner Schell said the city tries to limit the number of access points and the Engineering Department analyzed potential traffic needs during the platting process. The City Engineering Department is comfortable with the proposed access points, and he agrees with the offer to gate the temporary access on Lot 12, Block 9.

Commissioner Johnson asked for an explanation of the plans for sewage. Commissioner Schell explained that the sewer shed drains away from the city proper. The initial request was to add to the North Washington Street sewer shed, but this would exceed the capacity at some point, so the solution was to drain to the Tyler Coulee area.

MOTION: To give the applicant additional time to address the concerns provided during the public hearing, Commissioner Schmitz made a motion to continue the public hearing on the zoning map amendment from the A – Agriculture zoning district to the RM30 – Residential, R10 – Residential, R5 – Residential and P – Public zoning districts, major subdivision final plat titled William Blackstone Addition, and annexation of all of the proposed plat and all of Tyler Parkway from 57th Avenue NW to the northern boundary of the plat. Commissioner Bitner seconded the motion.

Commissioner Schell asked what the expectations are for the continuation. Commissioner Schmitz said his concern was the zoning and the closing of the secondary access points. Commissioner Bitner said the applicant should be lining up the roadways as well.

Commissioner Schell explained that the city is concerned with roads lining up when the roads are continuous, but the roads along the east side of Tyler Parkway function as driveways and are only going to the multifamily development they serve, so the City is less concerned that they are not aligned because vehicles will not generally be crossing at the locations.

Chair Schwartz asked Ms. Wollmuth if the change in zoning could be handled with a condition. Ms. Wollmuth said that the proposed zoning of RM30 – Residential for Lot 1, Block 2 could be lowered, and a condition of the revised zoning could be added to limit building heights. She stated the required temporary turnaround easements would be a condition of approval of the plat, as indicated in the staff report. Commissioner Schell stated that he is comfortable with the concerns with traffic especially if the secondary access point will be gated and the annexation approval will allow the city to reduce the speed limit.

MOTION: The motion was approved with Commissioners Bitner, Field, Johnson, Lukens, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion. Commissioners Larson and Schell voted against the motion.

PUBLIC HEARING – HIGHTOP ACRES THIRD SUBDIVISION, BLOCK 1, LOT 7 SPECIAL USE PERMIT – OVERSIZED ACCESSORY BUILDING

Chair Schwartz called for the public hearing on a special use permit to increase the allowable area of accessory structures to 3,200 square feet on Lot 7, Block 1, Hightop Acres Third Subdivision. The property is located northeast of Bismarck, east of 26th Street Northeast and north of 71st Avenue Northeast, on the west side of Moonstone Lane.

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 public health, safety, and general welfare.

Ms. Oster said, based on the findings, staff recommends approval of the special use permit to increase the allowable area of accessory buildings to 3,200 square feet Lot 7, Block 1, Hightop Acres Third Subdivision.

Chair Schwartz opened the public hearing.

Rebecca Meuchel, the property owner, stated that she intends to build a 40 x 80 shop with 16-foot sidewalls.

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

MOTION: Commissioner Zent made a motion to approve the special use permit to increase the allowable area of accessory buildings to 3,200 square feet. Commissioner Bitner seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

**PUBLIC HEARING – SILVER RANCH FOURTH ADDITION, BLOCK 1, LOT 3
SPECIAL USE PERMIT – ELECTRONIC MESSAGING CENTER**

Chair Schwartz called for the public hearing on a special use permit for an electronic message center (EMC) sign in a residential zoning district on Lot 3, Block 1, Silver Ranch Fourth Addition. The property is located in northeast Bismarck, east of 52nd Street NE, along the north side of Noble 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 special use would not adversely impact public health, safety, and general welfare.

Mr. Johnson said, based on the findings, staff recommends approval of the special use permit for an electronic message center (EMC) sign in a residential zoning district on Lot 3, Block 1, Silver Ranch Fourth Addition.

Chair Schwartz opened the public hearing.

Shannon Schlinger, the applicant, said the sign will look similar to other schools in the city and will generally show acknowledgements and announcements.

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

Commissioner Bitner stated it is strange that the sign is being installed before construction of the school.

MOTION: Commissioner Bitner made a motion to approve the special use permit (SUP) for an electronic message center (EMC) sign in a residential zoning district on Lot 3, Block 1, Silver Ranch Fourth Addition. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, Sivak, and Zent voting in favor of the motion.

**PUBLIC HEARING – KEEPING OF CHICKENS WITHIN CITY LIMITS
ZONING ORDINANCE TEXT AMENDMENT**

Chair Schwartz called for the public hearing on a zoning ordinance text amendment to allow chickens to be kept within City limits and to eliminate setback requirements for coops within residential properties in the extraterritorial area.

Ms. Wollmuth said that the Bismarck City Commission, at its meeting of February 25, 2025, directed staff to pursue the zoning ordinance text amendment. Staff formed a stakeholder group including representatives from the public, Bismarck City Commission, Dakota Zoo, NDSU/Burleigh County Extension, and City staff from the Police Department, Public Health Department, and the City Attorney's office. The group met four times between April and July to review requirements from peer communities and educational products from NDSU Extension – Burleigh County.

The group focused on drafting an ordinance to provide City residents within residential zoning districts an opportunity to keep chickens with clear and enforceable requirements.

Ms. Wollmuth explained that the proposed changes included the following: Definitions for chicken, chicken coop, and chicken run; A statement of intent clarifying that chickens must be kept at an individual or household scale promoting the health, safety, and general welfare of the citizens of the city and that commercial production is not permitted in residential districts; Notification that the city will not be responsible to secure chickens at large or be liable for damage to any property or injury to any chicken; and permit requirements, permit revocation and appeals processes.

Ms. Wollmuth noted that the stakeholder group and staff noted a 1-time permit (no annual renewal) should be required for those who wish to keep chickens. A minimal fee was recommended to cover administrative costs. Permits would include contact information and a signed statement that the applicant will at all times keep chickens confined in a coop and run and will not allow chickens to run at large. NDSU/Burleigh County Extension provide several publications and training opportunities relating to the keeping of chickens for residents. Residents obtaining a permit for the keeping of chickens will be encouraged to review these publications and participate in training opportunities.

Ms. Wollmuth stated that the proposed ordinance also includes standards, including fencing requirements, coop locations, and the number of hens permitted. She stated that the stakeholder group proposed that six hens should be permitted, that a coop or run must be screened from adjoining properties and rights-of-way by a solid privacy fence or wall at least six feet in height, and that a coop must meet accessory building setbacks. She also stated that the stakeholder group discussed other fowl such as quail and duck but ultimately decided that only chickens should be included in the proposed ordinance.

Ms. Wollmuth specifically noted that the stakeholder group agreed that the location requirements for coops within the city and ETA should be similar and decided that the requirement to locate a coop 150 feet from a neighboring residence or structure within the ETA should be removed from the ordinance.

Ms. Wollmuth explained that in an effort to increase public awareness and engagement for the proposed ordinance, an online survey was promoted through the City's website and social media accounts. The survey took place between March 21 and April 1, 2025. 655 responses were received. Survey results as to whether or not chickens should be allowed within City limits and if residents would keep chickens if allowed were split fairly evenly. Forty-four percent of respondents stated that chickens should not be allowed, and 56% said they should be allowed. Thirteen percent stated that, if allowed, they would not keep chickens, 48% stated they would, and 39% were undecided. Sixteen independently submitted public comments have also been received since the February 25 Bismarck City Commission meeting. Seven in favor, eight opposed, and one neither for nor against but expressing health concerns related to keeping chickens.

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

Ms. Wollmuth said, based on the findings, staff recommends approval of the zoning ordinance text amendment.

Commissioner Bitner questioned the elimination of setback requirements in the ETA. Ms. Wollmuth said current ordinance requirements for properties in the ETA include that coops must be located at least 150 feet from a neighboring residence or structure. Commissioner

Bitner replied with concerns of disease, mentioning his dogs have gotten sick from eating deceased Guinea hens from neighboring properties, and those illnesses could be transferable to humans.

Commissioner Field asked if chicken runs will be required to have a cover. Ms. Wollmuth replied that covers on the runs are not required as the ordinance is written. Commissioner Field stated that chickens are able to fly. Commissioner Bitner added that birds of prey will attack chickens without a cover.

Commissioner Johnson stated that the zoning ordinance text amendment of 2021 regarding chickens contained many more requirements than this current one. Ms. Wollmuth explained that when the zoning ordinance amendment was drafted in 2021, it included more regulations at the request of Animal Control and noted at the time there was a concern that chickens at large would be required to be held at the City's animal impound facility and that after review of ND Century Code requirements, the City Attorney confirmed that this would not be required. She reiterated that the stakeholder group focused on creating ordinance requirements that were clear and enforceable.

Commissioner Bitner asked if the stakeholders had considered the chickens waste or anything regarding cleanliness. Ms. Wollmuth said the stakeholder group trusted that people who want to own and raise chickens would take care of their chickens.

Commissioner Johnson mentioned predators were a concern in the 2021 version of the amendment. Ms. Wollmuth replied that the requirement of a cover can be added to the amendment if the Planning and Zoning Commission prefers.

Chair Schwartz opened the public hearing.

Marvin Lepp, a Bismarck resident, spoke in favor of the request, stating that the initial costs of chicken ownership are significant and anyone that wants to raise chickens will take care of them. Mr. Lepp said would prefer the ordinance not require a permit for chickens. Commissioner Field asked if he owned chickens currently. Mr. Lepp said he does not because he lives within city limits.

Commissioner Bitner expressed concerns with people not knowing how to raise chickens.

Rosalyn Weber, a stakeholder member, spoke in favor of the request, stating she agrees with the requirement of a cover on the chicken run. Regarding waste, Ms. Weber offered a comparison to dog or cat waste and added she agrees with the requirement of obtaining a permit to own chickens.

Commissioner Lukens agreed with the concerns with waste and added concerns with chickens becoming a nuisance to the public with the potential of damage to property.

Commissioner Schmitz added that if chickens get loose, animal control will not be responsible. They can also be harmful to the health of humans and wildlife.

Commissioner Sivak mentioned the fire risks with heating elements in the coops.

Commissioner Larson asked if staff has contacted the City of Mandan to compare its chicken ordinance. Ms. Wollmuth said Mandan permits 4 hens and includes setback rules. They issue approximately 10-12 permits per year and that the volume of complaints regarding chickens has been low.

Commissioner Schell reminded the Commission that they are able to approve this with amendments to add rules.

Commissioner Field said the only appropriate heating is an oil radiator.

Commissioner Johnson stated he is willing to approve in order to pass this along to City Commission to decide as they made the request.

Chair Schwartz thanked staff and the stakeholder group for their time and efforts.

Commissioner Zent said that the stores selling chickens and chicken products could advise buyers if a permit requirement was added.

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

Commissioner Johnson expressed concerns with this less restrictive amendment to the ordinance, and he preferred the 2021 version.

Bitner said again that the ordinance amendment does not protect chickens from health concerns and from predators.

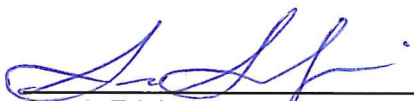
MOTION: Commissioner Field made a motion to approve the zoning ordinance text amendment to allow chickens to be kept within City limits and to eliminate setback requirements for coops within residential properties in the extraterritorial area. Commissioner Zent seconded the motion. The motion was denied with Commissioners Bitner, Larson, Lukens, Schmitz, Schwartz, and Sivak voted against the motion. Commissioners Field, Johnson, Schell, and Zent voted in favor of the motion..

OTHER BUSINESS

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 9:45 p.m. to meet again on September 24, 2025.

Respectfully submitted,



Sarah Fricke
Recording Secretary



Mike Schwartz
Chair