

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
February 28, 2024**

The Bismarck Planning & Zoning Commission met on February 28, 2024, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. The meeting was held in person and via Zoom. Vice Chair Johnson presided and was present in the Tom Baker Meeting Room.

Commissioners present were Brian Bitner (via Zoom), Cole Johnson, Dan Lukens (via Zoom), Gabe Schell, Mike Schmitz, Wendy Van Duyne, Trent Wangen and Paul Zent.

Commissioners Robert Field and Mike Schwartz were absent.

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

MINUTES

Vice Chair Johnson called for consideration of the minutes of the January 24, 2024 meeting.

MOTION: Mayor Schmitz made a motion to approve the minutes of the January 24, 2024, meeting, as presented. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Bitner, Johnson, Lukens, Schell, Schmitz, Van Duyne, Wangen and Zent voting in favor of the motion.

CONSIDERATION

2. FETTIG SUBDIVISION

**MAJOR SUBDIVISION PRELIMINARY PLAT
ZONING MAP AMENDMENT**

**3. HAY CREEK TOWNSHIP, SECTIONS 7 AND 18, T139-R80, SECTION 12-13, T139-R81
MAJOR STREET PLAN AMENDMENT**

**4. AMENDMENTS TO AGRICULTURAL ZONING DISTRICT
ZONING MAP AMENDMENT**

MOTION: Based on the findings contained in the staff reports, Commissioner Van Duyne made a motion to approve consent agenda items 2, 3, and 4, calling for public hearings as recommended by staff. Commissioner Wangen seconded the motion and it was unanimously approved with Commissioners Bitner, Johnson, Lukens, Schell, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion.

**PUBLIC HEARING – PLANNED UNIT DEVELOPMENT AMENDMENT
MUNICIPAL FOURTH ADDITION FIRST REPLAT, LOTS 2 AND 3, BLOCK 1**

Vice Chair Johnson called for the public hearing on the Planned Unit Development Amendment (PUDA) for Lots 2 and 3, Block 1, Municipal Fourth Addition First Replat. The property is located in west-central Bismarck along the south side of Edwards Avenue, between Schafer Street and Canary Avenue.

Mr. Johnson provided an overview of the request and stated that, as a cumulative result of all findings contained in the staff report, City of Bismarck staff find that the PUDA 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 the continuation of the public hearing for the PUDA for Lots 2 and 3, Block 1, Municipal Fourth Addition First Replat. Staff registers concerns with the proposed design of the site and recommends continuation, unless the following issues are addressed:

1. Justification for how current standards for high-quality design with commercial grade materials are met by the proposed building.
2. Adjustments to the site layout displaying landscaping during the site plan approval process.
3. Consideration of a condition for a geotechnical study to be conducted prior to site plan approval.

Vice Chair Johnson opened the public hearing.

One of the applicants, Hannah Haynes, came forward to indicate to the commission that the amendment to the original PUD was simply adding allowance of an event venue. She explained the need for this type of venue in the Bismarck-Mandan area as well as the potential tax revenue for the city. She explained the design and layout of the building plans as well as the exterior. She noted that the event venue would also include non-profit events, food festivals, craft shows, etc.

A Bismarck resident and owner of a local corporate event planning company, Diedre Hillman, addressed the commission in support of the proposed PUD amendment. She agrees there is a lack of venues in the community and believes the proposed venue would help her business significantly along with benefitting the city's revenue and tourism.

David Witham introduced himself as the original PUD applicant and addressed the commission in opposition to the proposed amended PUD. He does not believe an amendment is appropriate for the changes requested as the new plans are not in line with the existing PUD. He feels the proposal should be a new PUD so that the Board of City Commissioners is able to decide whether or not the plans are appropriate for this location. He feels that his original design, for a climbing gym, was more appropriate due to its visibility from I-94.

Vice Chair Johnson mentioned the proposal appears to have a similar parking capacity to the previously approved PUD.

Commissioner Van Duyne reminded the commission that they have a responsibility to consider the long-term aesthetic of this unique area of the city.

Mr. Witham asked the commission whether they would like to achieve a holistic aesthetic in this area and told them the proposed site does not match the existing structures in the area.

Beth Demke, Executive Director of Gateway to Science, stated she agrees with Bismarck's need for additional event spaces. She brought up the challenges the Gateway to Science currently faces including parking, traffic and safety and stated she is concerned these challenges will worsen with the addition of an event space with limited parking.

Commissioner Schell mentioned that Gateway to Science holds multiple events simultaneously and there is not enough parking during these times. Commissioner Van Duyne asked Commissioner Schell what level of analysis was administered and whether improvements can be made at this time. Commissioner Schell responded that the Engineering Department set the No Parking signage and other potential options to address these challenges could include creating towing zones and widening roads. The Engineering department will be reviewing options.

Ms. Haynes approached to explain that her plans contained more than the required minimum parking spaces. She also mentioned she has contacted local hotels about possibly providing shuttle services. Commissioner Van Duyne asked Ms. Haynes if any other architectural styles had been considered. Ms. Haynes replied that they chose a Georgian design to differentiate from modern designs already being used.

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

Commissioner Van Duyne stated that the property is a key area of the city and while she does agree there is a need for an event venue, she feels the design should not conflict with the existing structures.

Mr. Johnson stated the language in the existing PUD refers to high quality design and commercial grade materials, but no specific materials are required in the PUD.

Commissioner Van Duyne believes the area needs more specific design standards.

Mayor Schmitz also agrees that an event space is needed but feels the concept and location of the proposed structure differs significantly from the formerly approved concept.

Commissioner Schell asked staff why they recommended continuation rather than adding conditions to an approval. Mr. Johnson explained staff needs an updated geotechnical study and landscape requirements as well as conditions added to the site plan.

Mr. Ehreth stated that staff has struggled with the design as no defined standards have been set for this area. The original PUD was crafted around a specific use and staff would like additional time to continue working with the applicant to bring a design to the commission that they could be comfortable approving. Vice Chair Johnson asked what would make city staff comfortable recommending approval. Mr. Ehreth explained that the property is privately owned and therefore staff may only react to proposals. The only possibility of issuing a request for proposals on this property is for the city to purchase this land back and there are no plans to do so at this time.

Commissioner Van Duyne asked staff to clarify their request. Mr. Ehreth explained the commission may approve the proposal now, but that staff is not comfortable with the current proposal. Mr. Nairn explained that staff is also requesting continuation to allow time for discussion of the design because this will be the final decision as PUD amendments do not go to the Board of City Commissioners.

MOTION: Based on the findings contained in the staff report, Commissioner Van Duyne made a motion to continue the public hearing on the Planned Unit Development Amendment (PUDA) for Lots 2 and 3, Block 1, Municipal Fourth Addition First Replat to provide staff additional time to work with the applicant on the design concept. Mayor Schmitz seconded the motion, and the motion was approved with Commissioners Johnson, Lukens, Schell, Schmitz, Van Duyne, and Wangen voting in favor of the motion. Commissioner Zent recused himself from this vote. Commissioner Bitner voted against the motion.

PUBLIC HEARING – ZONING MAP AMENDMENT CAPITAL ELECTRIC SECOND SUBDIVISION, LOT 2, BLOCK 1

Vice Chair Johnson called for the public hearing on a zoning map amendment from the A – Agricultural zoning district to the Conditional MA – Industrial zoning district for Lot 2, Block 1, Capital Electric Second Subdivision. The property is located northwest of Bismarck, north of 57th Avenue Northwest and west of North Washington Street, in the northwest quadrant of the intersection of Sonora Way and ND Highway 1804 Northwest.

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 A – Agricultural zoning district to the Conditional MA – Industrial zoning district for Lot 2, Block 1, Capital Electric Second Subdivision, as presented.

Vice Chair Johnson opened the public hearing.

The applicant, Jacob Barney, on behalf of Five Star Storage, addressed the commission to explain their intentions for the site. They plan to construct a self-storage facility including landscaping to blend with the surrounding areas. He stated there is a substation on the north side of the property and an existing WAPA easement limits uses of this site.

Mayor Schmitz stated he believes anything could be built to the south of the 125-foot WAPA easement, including a house, so he disagrees there are restrictions on this property.

Ron Knutson, via Zoom, stated he is concerned with the overall aesthetic of North Bismarck. He stated that he owns storage units in the area, and that these are not currently filled. He questioned whether a traffic study has been conducted and mentioned storage units could increase crime in the area.

Claudia Berg, a nearby resident, would have a direct view of the proposed storage units and opposes this proposal. She stated the Lewis and Clark Trail is in the area and she, therefore,

has concerns with the effect on tourism and long-term development as well as traffic concerns.

Commissioner Schell stated that while he shares the concern about traffic safety, the proposal does meet site distance standards. Commissioner Zent asked whether there would be a stop sign or a yield sign, to which Commissioner Schell responded that a stop sign is the standard.

Nic Cullen, with Houston Engineering, came forward to speak on behalf of the property owner stating this site will be Industrial Flex according to the Future Land Use Plan.

Mr. Barney then stated that self-storage facilities typically yield very low traffic while another use may cause more traffic. He also reminded the commission that they intend to include a landscape buffer to blend the units with the surrounding neighborhood. He stated the plans include motion sensor lights and no pole lights to disturb the neighborhood.

Vice Chair Johnson closed the public hearing.

Commissioner Wangen asked why this area is industrial in the Future Land Use Plan. Mr. Nairn responded by saying this area was designated during the comprehensive plan process because the site already has a substation as well as the WAPA easement and the broader area has a need for storage units.

MOTION: Commissioner Bitner made a motion to deny zoning map amendment from the A – Agricultural zoning district to the Conditional MA – Industrial zoning district for Lot 2, Block 1, Capital Electric Second Subdivision. Commissioner Schmitz seconded the motion, and it was denied with Commissioners Bitner, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion. Commissioners Johnson, Lukens, and Schell voted against the motion.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT AND ZONING MAP AMENDMENT MCKENZIE AND COFFINS SECOND ADDITION

Vice Chair Johnson called for the public hearing on a minor subdivision final plat titled McKenzie and Coffin's Second Addition and on a zoning map amendment from the R10 – Residential zoning district to a PUD – Planned Unit Development zoning district on Lots 2 and 3, Block 1, of McKenzie and Coffin's Second Addition. The proposed plat is three lots in one block with a total area of approximately 27,433 SF and is located in central Bismarck on the northwest corner of the intersection of East Avenue D and North 12th Street.

Mr. Johnson provided an overview of the request, presented a public comment that staff received prior to the hearing, and stated that as a cumulative result of all findings contained in the staff report, City of Bismarck staff find that the proposed minor subdivision final plat and zoning map amendment would not adversely impact the public health, safety, and general welfare.

Mr. Johnson said, based on the findings, staff recommends approval of the minor subdivision final plat and zoning map amendment for McKenzie and Coffins Second Addition, as presented.

Vice Chair Johnson opened the public hearing.

Landon Niemiller, with Swenson Hagen & Co., addressed the commission to explain the plans for this site. The intention is to construct two homes on two separate lots. Commissioner Schell asked if this would be a four-unit multi-family to keep it similar to the surrounding neighborhood. Mr. Niemiller explained that each home would have two separate residents, making this a four-unit building that appears as a twin home.

Commissioner Bitner asked if the existing home would be demolished and removed. Mr. Niemiller said that the current home would be removed, including the existing garages.

Michelle Arndt, a neighbor of the site, came forward to express concerns with traffic safety and parking caused four housing units.

Mr. Niemiller stated that the two upper units would have a garage and a driveway plus a driveway for the two lower units.

Mikaela Schlosser, the applicant with Remedy Housing Solutions, LLC, stated they intend for these units to be used by professionals, with short term leases, usually less than six months. Commissioner Van Duyne asked how many bedrooms were in each unit. Ms. Schlosser replied that the upper two units would contain three bedrooms, or two bedrooms and an office and the two lower units would each contain one bedroom.

Ms. Arndt came forward again to state she did not support the proposed four-unit structure.

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

MOTION: Based on the findings contained in the staff report, Commissioner Schmitz made a motion to recommend approval of the R10 – Residential zoning district to a PUD – Planned Unit Development zoning district on Lots 2 and 3, Block 1, of McKenzie and Coffin’s Second Addition. Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Lukens, Schell, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT (ACCESSORY BUILDING)
SHAMROCK ACRES THIRD SUBDIVISION, LOT 2, BLOCK 7**

Vice Chair Johnson called for the public hearing on the special use permit to increase the allowable size of accessory structures up to 3,200 square feet on Lot 2, Block 7, Shamrock Acres Third Subdivision. The property is located north of Bismarck, east of 26th Street Northeast and south of 97th Avenue Northeast, on the south side of Dublin Drive.

Ms. Oster provided an overview of the proposed special use permit and that the proposed special use permit would not adversely impact the public health, safety and general welfare.

Ms. Oster said, based on the findings contained in the staff report, staff recommends approval of the special use permit to increase the allowable size of accessory structures up to 3,200 square feet on Lot 2, Block 7, Shamrock Acres Third Subdivision.

Vice Chair Johnson opened the public hearing.

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

MOTION: Commissioner Bitner made a motion to approve the special use permit to increase the allowable size of accessory structures up to 3,200 square feet on Lot 2, Block 7, Shamrock Acres Third Subdivision. Commissioner Wangen seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Lukens, Schell, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion.

CONTINUED PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT HOME OCCUPATIONS

Mr. Nairn requested to delay the public hearing on the zoning ordinance text amendment regarding home occupations until the March 27, 2024, meeting. Staff requires additional input from stakeholders.

MOTION: Commissioner Schmitz made a motion to continue the public hearing on the zoning ordinance text amendment for home occupations as recommended by staff. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Bitner, Johnson, Lukens, Schell, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion.

OTHER BUSINESS

Vice Chair Johnson thanked Commissioner Wendy Van Duyne for her years of service.

Mr. Nairn provided the Commission with an update on the Land Development Code. A consultant has been selected to assist with this project and a contact is in development.

ADJOURNMENT

There being no further business, Vice Chair Johnson declared the Bismarck Planning & Zoning Commission adjourned at 7:15 p.m. to meet again on March 27, 2024.

Respectfully submitted,



Sarah Fricke
Recording Secretary



Cole Johnson
Vice Chair