

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
March 27, 2024**

The Bismarck Planning & Zoning Commission met on March 27, 2024, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. The meeting was held in person and via Zoom. Chair Schwartz presided and was present in the Tom Baker Meeting Room.

Commissioners present were Brian Bitner (via Zoom), Robert Field, Cole Johnson, Amber Larson, Dan Lukens, Gabe Schell, Mike Schmitz, Mike Schwartz, and Paul Zent.

Commissioner Trent Wangen was absent.

Staff members present were Brady Blaskowski – Building Official, Jannelle Combs – 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.

Chair Schwartz introduced and welcomed Amber Larson to the Planning and Zoning Commission.

MINUTES

Chair Schwartz called for consideration of the minutes of the February 28, 2024, meeting.

MOTION: Commissioner Schmitz made a motion to approve the minutes of the February 28, 2024, meeting, as presented. Commissioner Lukens seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, and Zent voting in favor of the motion.

CONSIDERATION

- 3. CENTRAL OUTPOST SUBDIVISION
MAJOR SUBDIVISION PRELIMINARY PLAT
ZONING MAP AMENDMENT**
- 4. WEST REGION MEDICAL SECOND ADDITION
MAJOR SUBDIVISION PRELIMINARY PLAT
ZONING MAP AMENDMENT**
- 5. REVISIONS TO (FP) FLOODPLAIN DISTRICT
ZONING ORDINANCE TEXT AMENDMENT**

MOTION: Based on the findings contained in the staff reports, Commissioner Schmitz made a motion to approve consent agenda items 3, 4, and 5, 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, and Zent voting in favor of the motion.

**PUBLIC HEARING – MAJOR STREET PLAN AMENDMENT
CONSIDERATION – FUTURE LAND USE PLAN AMENDMENT
HAY CREEK TOWNSHIP, SECTIONS 7 AND 18, T139-R80, SECTIONS 12-13, T139-R81**

Chair Schwartz called for the public hearing on the major street plan amendment and consideration of a future land use plan amendment for Sections 7 and 18, T139-R80, Sections 12-13, T139-R81, Hay Creek Township. The property is located northwest of Bismarck in Sections 7 and 18, T139N-R80W, and Sections 12 and 13, T139N-R81W, Hay Creek Township, West of Tyler Parkway between Frisco Way and State Highway 1804.

Mr. Johnson provided an overview of the requests and stated that, as a cumulative result of all findings contained in the staff report, City of Bismarck staff find that the major street plan amendment and future land use plan amendment would not adversely impact the public health, safety, and general welfare.

Mr. Johnson said, based on the findings contained in the staff report, staff recommends approval of the major street plan amendment and calling for public hearing for the future land use plan amendment, as presented.

Chair Schwartz opened the public hearing.

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

MOTION: Based on the findings contained in the staff report, Commissioner Johnson made a motion to approve the major street plan amendment and call for public hearing for a future land use plan amendment for Sections 7 and 18, T139-R80, Sections 12-13, T139-R81, Hay Creek Township. Commissioner Bitner seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, and Zent voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT (DRIVE-THROUGH)
JACKS FIRST ADDITION, LOT 3, BLOCK 1**

Chair Schwartz called for the public hearing on a special use permit to allow a drive-through car service for oil changes on Lot 3, Block 1, Jacks First Addition. The property is located in south-central Bismarck, south of East Arbor Avenue and east of University Drive, in the southwest quadrant of the intersection of Bismarck Expressway and South 11th Street.

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

Ms. Oster said, based on the findings, staff recommends approval of special use permit to allow a drive-through car service for oil changes on Lot 3, Block 1, Jacks First Addition, as presented.

Commissioner Field asked if pits were going to be constructed for this business. He stated he is concerned about flooding. Ms. Oster answered that, based on the site plan, there would be a lift system, rather than deep pits.

Chair Schwartz opened the public hearing.

Landon Niemiller from Swenson & Hagen came forward to represent the applicant and explain that the plans include shallow pits and that the plans would be going the site plan process to address any easements on the east and south sides of the property.

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

Commissioner Bitner then asked if elevation is considered during the permitting process. Commissioner Schell explained that this will go through the site plan process which will adhere to all current floodplain development standards.

MOTION: Commissioner Lukens made a motion to approve the special use permit to allow a drive-through car service for oil changes on Lot 3, Block 1, Jacks First Addition. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, and Zent voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT (ACCESSORY BUILDING) OLIVE TREE SUBDIVISION, LOT 2, BLOCK 1

Chair Schwartz called for the public hearing on a special use permit to increase the allowable size of accessory structures up to 2,400 square feet on Lot 2, Block 1, Olive Tree Subdivision. The property is located northwest of Bismarck, west of Burnt Creek Loop, on the north side of Olive Tree 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 proposed special use permit would not adversely impact the public health, safety, and general welfare.

Mr. Johnson said, based on the findings, staff recommends approval of the special use permit to increase the allowable size of accessory structures up to 2,400 square feet on Lot 2, Block 1, Olive Tree Subdivision, as presented.

Commissioner Fields asked if greenhouses always require a special use permit. Mr. Johnson explained that because the property is already at the limit for area of accessory structures, a special use permit is required in this case.

Commissioner Bitner asked about the costs of special use permits. Mr. Johnson stated that a temporary special use permit is \$150, and a standard special use permit, such as this one, is \$700.

Commissioner Larson questioned whether the plan to build the greenhouse 10 feet from the main house followed building codes and how the city enforced building codes. Mr. Johnson explained that the distance between structures is primarily regulated by building codes, with distances of less than 10 feet between structures likely requiring some type of fire protection. Investigations of possible zoning or building code violations is triggered by complaints from members of the public, at which time City staff would reach out to the property owner in question for further information.

Chair Schwartz opened the public hearing.

An adjacent property owner, James Martel, came forward with concerns about the use of the greenhouse. He has concerns about it becoming a business that includes additional traffic and parking issues in the neighborhood. He then stated he has no objections to a greenhouse but is concerned about the size. He then voiced concerns about the destination of the runoff because of the existing large accessory building and the planned greenhouse.

The applicant, Corey Hendricks, came forward to address concerns. He explained that the greenhouse will be 576 square feet and will include walkways between the vegetable plants that he intends to plant directly into the ground, not in pots. He will also store garden tools in the greenhouse. He stated he will not be running a business out of either of his accessory buildings. He simply wants to extend his growing season. He then addressed his neighbors' concerns with water runoff. He previously brought in fill dirt to raise the existing building and installed gutters and down spouts to collect precipitation. He also dug a 30-foot diameter pond to collect run off. The pond has a capacity of 14,000 to 16,000 gallons.

Commissioner Zent asked if there are plans to run electricity to the greenhouse. Mr. Hendricks explained that he intends to use extension cords for heating pads under starter plants.

Travis Jensen, another nearby property owner, lives two lots from the applicant's property, came forward to state that while he supports a greenhouse, he would like staff to relook at the topography of the area because the ditch does not run to the river.

Chair Schwartz asked how often the neighborhood saw water issues. Mr. Jensen answered that each year is different, depending on snow and rainfall.

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

Commissioner Schell explained that Olive Tree Subdivision was platted in the early 2000s and therefore predates the current stormwater review process.

Commissioner Bitner stated that he is not opposed to this special use permit but questioned what the City would do if the proposed accessory structure causes a water problem. Commissioner Schell answered that the neighbors may need to work together to find a solution if this were to occur in the future.

Commissioner Fields asked if the applicant has considered adding barrels to collect rainwater. Mr. Hendricks answered that he does have a few 250-gallon water containers and explained again that he has shaped his yard to collect rainwater in the pond he dug, away from his neighbors.

Commissioner Bitner then questioned the appearance of water containers and reminded the applicant to be considerate of neighbors. Mr. Hendricks stated he has plans to build boxes around the containers to match the buildings.

MOTION: Based on the findings contained in the staff report, Commissioner Schmitz made a motion to recommend approval of the special use permit to increase the allowable size of accessory structures up to 2,400 square feet on Lot 2, Block 1, Olive Tree Subdivision. Commissioner Johnson seconded the motion,

and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, 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 April 24, 2024, meeting. He explained that the stakeholder group has met a few times and still had issues to address.

MOTION: Commissioner Bitner 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, Field, Johnson, Larson, Lukens, Schell, Schmitz, Schwartz, and Zent voting in favor of the motion.

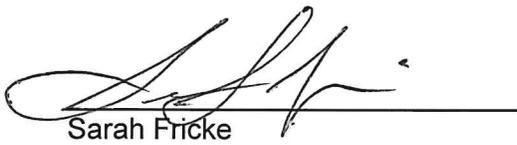
OTHER BUSINESS

Ms. Wollmuth provided an update on the draft ordinance regarding agri-tourism and private riding stables. Commissioner Field asked for the location of the riding stables. Ms. Wollmuth explained that private riding stables would be permitted on agriculturally zoned properties that are outside the Urban Service Area and at least 35 acres in size.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 7:13 p.m. to meet again on April 24, 2024.

Respectfully submitted,



Sarah Fricke
Recording Secretary



Mike Schwartz
Chair