

BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
May 22, 2024

The Bismarck Planning & Zoning Commission met on May 22, 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, Robert Field, Cole Johnson, Daniel Lukens (via Zoom), Gabe Schell, Mike Schmitz (via Zoom), Mike Schwartz, Sheldon Sivak, Trent Wangen, and Paul Zent.

Commissioner Larson was absent.

Staff members present were Brady Blaskowski – Building Official, Janelle Combs – City Attorney, Ben Ehreth – Community Development Director, 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 April 24, 2024, meeting.

MOTION: Commissioner Zent made a motion to approve the minutes of the April 24, 2024, meeting, as presented. Commissioner Johnson seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Schell, Schmitz, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion.

CONSIDERATION

- 2. MISTY WATERS, LOTS 30-36 AND 38-39, BLOCK 1
PLANNED UNIT DEVELOPMENT AMENDMENT**
- 3. PART OF NORTHERN SKY ADDITION AND
ALL OF NORTHERN SKY SECOND ADDITION FIRST REPLAT
ZONING MAP AMENDMENT**
- 4. EAST CENTURY AVENUE AND 52ND STREET
MAJOR STREET PLAN AMENDMENT**

Commissioner Bitner raised concerns about pending legal matters on the property in Misty Waters. City Attorney Combs stated the city is required to act on an application as the legal matters do not involve the city. At this time, HOA litigation is not a reason to delay this project.

MOTION: Commissioner Schmitz made a motion to approve consent agenda items 2, 3 and 4, calling for public hearings as recommended by staff. Commissioner Zent seconded the motion, and it was approved with Commissioners Johnson, Schell, Schmitz, Schwartz, and Zent voting in favor of the motion. Commissioners Bitner, Field, Sivak, and Wangen voted against the motion.

**CONTINUED PUBLIC HEARING
MAJOR SUBDIVISION FINAL PLAT / ZONING MAP AMENDMENT
FETTIG SUBDIVISION**

Chair Schwartz called for the continued public hearing on the zoning map amendment and major subdivision final plat for Fettig Subdivision. The property is located east of Bismarck, between 52nd Street SE and 66th Street SE, along the south side of East Main Avenue / County Highway 10 (a replat of all of Highway Subdivision and Part of the NE¼ of Section 6, T138N-R79W/Apple Creek Township).

Ms. Wollmuth explained that since the April 24, 2024, meeting of the Planning and Zoning Commission, staff have created a development agreement that would require a signed annexation petition for the entire subdivision be submitted to the City and that the City will hold said petition until no less than twenty (20) years after the date of the agreement or at such time when City sanitary sewer services are within 500 feet and available for use with required rights-of-way or easements to access the utility/sewer whichever is sooner, at which point the petition may be submitted to the Board of City Commissioners for final action and consideration for annexation, following standard procedures in place at the time.

The signed annexation petition would be required prior to recording the proposed plat and finalization of the zoning map amendment.

The owner and their consulting engineer have agreed to the provisions outlined in the development agreement.

Ms. Wollmuth provided an overview of the requests and stated that, staff recommends review of the development agreement and the above findings and taking action on the request.

Commissioner Schell asked why the Development Agreement is allowable for this situation. Ms. Combs explained that after research of the exclusions in state law, and based on the proximity of the proposed plat to city limits, staff was able to draft a legal Development Agreement.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson Hagen & Co. explained that the applicant is satisfied with the Development Agreement and asked the commissioners to recommend approval to the City Commission.

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

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to approve the zoning map amendment and major subdivision final plat for Fettig Subdivision with the condition that a signed annexation petition is submitted prior to recording the proposed plat and that a Development Agreement is approved by the City Commission prior to recording the proposed plat, . Commissioner Zent seconded the motion and it was approved with Commissioners Bitner, Field, Johnson, Lukens, Schmitz, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion. Commissioner Schell voted against the motion and explained that he feels there are components to the development agreement that remain unaddressed.

**PUBLIC HEARING – MAJOR SUBDIVISION PLAT / ZONING MAP AMENDMENT
CENTRAL OUTPOST SUBDIVISION**

Chair Schwartz called for the public hearing on the zoning map amendment and major subdivision final plat titled Central Outpost Subdivision. The property is located northeast of Bismarck, east of 80th Street NE and on the north side of 43rd Avenue NE (E ½ of E ½ of SW ¼ of Section 16, T139N-R79W).

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

Mr. Nairn said, based on the findings, staff recommends approval of the zoning map amendment from the A – Agricultural zoning district to the PUD – Planned Unit Development zoning district and major subdivision final plat for Central Outpost Subdivision, as presented.

Commissioner Schell asked if the improvements to 43rd Avenue and 80th Street were only in the proximity of the plat or if it continued to the west. Mr. Nairn stated that the Burleigh County Commission still needs to approve the rights-of-way and any improvements farther west is the responsibility of the county. Commissioner Bitner stated that the county is responsible for the road where the pavement ends. Casey Einrem, Burleigh County Highway Department, stated that the applicant would be required to pave 43rd Avenue from where the existing asphalt ends and that they have submitted a waiver for paving the roads on the east and north side of the plat at this time.

Chair Schwartz opened the public hearing.

Matt Weeks, Land Surveyor, offered to answer any questions. Commissioner Schell mentioned the site plan includes the lower third of the area and asked if there were any uses for the remainder of the property. Mr. Weeks stated there are no plans for the northern portion of the plat at this time.

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

MOTION: Commissioner Bitner made a motion to approve the zoning map amendment and major subdivision final plat titled Central Outpost Subdivision. Commissioner Wangen seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schell, Schmitz, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion.

**PUBLIC HEARING – MAJOR SUBDIVISION PLAT / ZONING MAP AMENDMENT
WEST REGION MEDICAL SECOND ADDITION**

Chair Schwartz called for the public hearing on the zoning map amendment from the CG – Commercial and RT – Residential zoning districts to the CG – Commercial zoning district and major subdivision final plat for West Region Medical Second Addition. The project area is located in north-central Bismarck, north of East Century Avenue between State Street and North 19th Street, along the south side of East Calgary Avenue (being a replat of all of West Region Medical Addition).

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 future land use plan 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 RT – Residential and CG – Commercial zoning districts to the CG – Commercial zoning district and major subdivision final plat for West Region Medical Second Addition, as presented.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson Hagen & Co., was available to answer any questions.

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

MOTION: Based on the findings contained in the staff report, Commissioner Wangen made a motion to approve the zoning map amendment and major subdivision final plat for West Region Medical Second Addition. Commissioner Sivak seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schell, Schmitz, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT BROOKFIELD ESTATES, LOTS 10-11, BLOCK 5

Chair Schwartz called for the public hearing on a special use permit to allow a filling station on Lots 10-11, Block 5, Brookfield Estates.

Ms. Wollmuth provided an overview of the request, noting that the property is zoned CG – Commercial and has been for the entire time it has been within the City's extraterritorial area. She 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. Wollmuth said, based on the findings, staff recommends approval of the special use permit to allow a filling station on Lots 10-11, Block 5, Brookfield Estates, as presented with the following conditions:

1. A traffic impact study be completed prior to administrative approval of the formal site plan and all improvements required as a result of the traffic impact study be installed in conjunction with site development.
2. Belaire Drive be paved by the applicant from the western property boundary of Lot 10 east to 80th Street NE in conjunction with site development.
3. Approval of a lot modification request to combine Lot 10 and Lot 11 into one parcel.
4. Additional landscaping and lighting standards to mitigate off-site impacts of the filling station must be included and approved during the formal site plan review process.

Commissioner Schell asked who would be responsible for the traffic impact study. Casey Einrem, Burleigh County Highway Department, explained the County Commission could agree to cost sharing via a separate development agreement, but noted that it would be a Burleigh County Commission decision..

Chair Schwartz asked about the zoning of the surrounding lots. Ms. Wollmuth explained that the surrounding lots are zoned RR – Rural Residential and that Lots 10 and 11 were zoned commercial by the Burleigh County Commission when the subdivision was platted. Ms. Wollmuth also indicated that this area became part of the City's extraterritorial jurisdiction or ETA in 1982. . Commissioner Bitner recused himself from the vote on this item because he has personal interest in the item, noting that he has recently purchased property from the developer.

Chair Schwartz asked about the public comments received by staff. Ms. Wollmuth explained that approximately a dozen comments have been received, asking the commission to deny this item.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson Hagen & Co, explained that the applicant is trying to provide a service to the area along with providing a landscaping buffer.

Commissioner Schell asked what the allowed uses for this property have been in the past.

Richard Sander, Gibbs Township chairman, questioned why an access road will go through Lot 11, noted on the plat as public use. Mr. Niemiller returned to explain that there is no explanation or definition of the public use noted on the plat and the lot has been under private ownership since the property was platted.

Corey Dutchuk, a neighbor of the proposed project, stated that he does not support the project and he was told, upon the purchase of his property, the public use area would eventually be a park.

Darren Schneider, another neighbor, stated he is against the proposed use. He is concerned with traffic, snow removal, and potential flooding.

Chuck Bosch, resident of Brookfield Estates, stated they have an HOA and he has received several calls in opposition to this proposal. He noted that their subdivision covenants identify this lot and a lot in the western portion of the plat as public use. Mr. Bosch opposes the special use permit due to concerns with traffic and flooding issues.

Commissioner Schell asked about the second public use area. Mr. Bosch stated the owner of the area had vacated it and it has been combined with his property.

Commissioner Zent asked for expiration date on the covenants. Mr. Bosch stated that they would continue unless property owners vote them out.

Commissioner Field asked who is paying the property taxes and stated whoever owns the property should be able to do what they wish with it.

Mackenzie Dutchuk stated the maps staff used are inaccurate. She noted homes in the area are under construction and not shown on the maps. She is against the proposed filling station due to increased traffic, potential crimes, and potential danger to children.

Dwight Eckert questioned whether the traffic impact study could change the plan for this filling station. Commissioner Bitner explained the traffic impact study decides the best plan for the roadways around the property to make the flows of traffic safer. Casey Einrem explained that the traffic impact study will determine things like turn lanes, traffic lights, roundabouts, etc. After the options are chosen, a development agreement would be created and approved by the Burleigh County Commission to determine if the County or developer will be financially responsible for the costs of the roadway improvements. Mr. Einrem then explained the timing of traffic impact studies.

Kirby Evanger spoke against the project due to fumes from gasoline, traffic, safety, noise and light pollution, future harm to groundwater, and market value of homes. He also doesn't believe a gas station is needed at this location. Commissioner Field asked Mr. Evanger to provide an alternative use for this location. Mr. Evanger said he would like to see anything other than a gas station.

Jean and Kelly Schafer explained that they disagree with the construction of a gas station because it is surrounded by residential properties. They believe it will decrease property values. They have a well and are concerned with the environmental impact of a leak. Commissioner Field explained that he spent his career repairing tanks and they don't leak frequently.

Don Charvat is concerned with hazardous chemicals being adjacent to a residential neighborhood along with the mess that a gas station will cause.

Bill Ortman is concerned with light pollution from the traffic. He said the area floods frequently and a gas station will cause flooding to increase in his yard. He is strongly opposed to the project.

Chris Paul is opposed to the project because of noise and light pollution, along with safety concerns for his children. He is concerned with environmental and health safety issues.

Mr. Niemiller stated that 80th Street NE and US Highway 10 are both arterial roadways and are meant to handle heavy traffic. He explained that the special use permit is only the first step of the process. Commissioner Johnson asked if any discussions with rural fire had taken place regarding this project. Mr. Niemiller confirmed discussions with rural fire, and they will be involved for the remainder of the project, including site plan review and approval. He also noted that stormwater will be reviewed by both City and County staff during the site plan review process.

Tiffany Peterson explained that the difference in increased traffic from a gas station is that it will be stopping in their back yards. She is opposed due to safety concerns.

Kelly Schafer had a discussion with Commissioner Bitner about heavy truck traffic on Highway 10.

Tyson Austin spoke in favor of the project because the property is zoned for commercial uses, therefore the owner of the property should be allowed to use it as it is zoned.

Corey and Mackenzie Dutchuk returned to show photos of flooding in their neighborhood and explained how the gas station will make it worse if constructed. Mr. Niemiller explained that a stormwater management plan will be developed per City and County requirements.

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

Ms. Wollmuth explained that the paving requirement noted in the conditions for approval is only in front of Lots 10 and 11 from the western portion of Lot 10 to 80th Street. West of Lot 10 would not need to be paved.

Commissioner Johnson questioned the reason a special use permit is required. Mr. Nairn explained the criteria in the ordinance regarding a filling station, all of which are listed in the staff report. Ms. Wollmuth reiterated that staff's recommendation is to approve with the listed conditions.

MOTION: Commissioner Wangen made a motion to approve the special use permit to allow a filling station on Lots 10-11, Block 5, Brookfield Estates with the conditions:

1. A traffic impact study be completed prior to administrative approval of the formal site plan and all improvements required as a result of the traffic impact study be installed in conjunction with site development.
2. Belaire Drive be paved by the applicant from the western property boundary of Lot 10 east to 80th Street NE in conjunction with site development.
3. Approval of a lot modification request to combine Lot 10 and Lot 11 into one parcel.
4. Additional landscaping and lighting standards to mitigate off-site impacts of the filling station must be included and approved during the formal site plan review process.
5. The special use permit is put into use by May 22, 2026
6. All other terms and conditions of the zoning ordinance are met.

Commissioner Sivak seconded the motion, and it was approved with Commissioners Field, Johnson, Lukens, Schmitz, Sivak, and Wangen voting in favor of the motion. Commissioner Schell, Schwartz, and Zent voted against the motion. Commissioner Bitner recused himself from the public hearing.

Commissioner Schmitz left the meeting.

**PUBLIC HEARING – SPECIAL USE PERMIT
SONNET HEIGHTS SUBDIVISION FIFTH REPLAT, LOTS 1-2, BLOCK 1**

Chair Schwartz called for the public hearing on a special use permit to allow a drive-through on Lots 1-2, Block 1, Sonnet Heights Subdivision Fifth Replat. The property is located in north Bismarck, west of State Street/US Highway 83 and north of 43rd Avenue NW on the west side of Ottawa 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 a special use permit to allow a drive-through for a coffee shop on Lots 1-2, Block 1, Sonnet Heights Subdivision Fifth Replat.

Commissioner Schell asked about the parking stalls on the exhibit. Ms. Oster explained that the west side parking spaces would be used primarily by the employees of the retail center.

Commissioner Zent asked if the building already exists. Ms. Oster explained that it does, and this application is solely to add a drive-through to the building.

Chair Schwartz opened the public hearing.

Dale Gossett, the applicant, explained that the parking on the west side is exclusively for staff parking. The business has existed for a few years but wants to now add a drive-through.

Commissioner Zent asked how many employees would be present at the same time. Mr. Gosset stated he thinks it will be four or five employees.

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

MOTION: Commissioner Schell made a motion to approve the special use permit to allow a drive-through for a coffee shop on Lots 1-2, Block 1, Sonnet Heights Subdivision Fifth Replat. Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schell, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion.

CONTINUED PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT AGRICULTURE ZONING DISTRICT

Chair Schwartz called for the continued public hearing on a zoning ordinance text amendment to revise Sections 14-02-03, 14-03-06, 14-03-08, and 14-04-17 of the City Code of Ordinances to allow agriculture recreation uses and private riding arenas in the A – Agriculture zoning district based on certain criteria.

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

Ms. Wollmuth reminded the commission that during the April 24, 2024, public hearing on this request, representatives of Apple Creek Farms, the Tourism Division of the Department of commerce, and several citizens spoke during the public hearing. She noted that concerns were raised by some that the proposed ordinance limited opportunities for agriculture recreation in particular that certain events, such as pumpkin patches, corn mazes and u-pick produce should not be restricted to the major agriculture recreation uses.

Ms. Wollmuth stated that after the April 24, 2024, public hearing and at the direction of the Planning and Zoning Commission, Planning staff, a representative of Apple Creek Farms,

and representatives of the Tourism Division met on May 3, 2024, to modify the ordinance to address concerns made during the public hearing.

During this meeting it was decided to revise the definitions of both major agriculture recreation and minor agriculture recreation to provide additional agriculture recreation opportunities.

Ms. Wollmuth stated that as proposed Minor agriculture recreation includes uses that are smaller in scale and intensity with a limit of no more than 75 people on site at any one time. This limit was decided during the meeting with Apple Creek Farms and the Tourism Division of the Commerce Department.

Minor agriculture recreation uses would be permitted by right for properties located in the A – Agriculture zoning district that are entirely outside of the Urban Service Area Boundary (USAB) and include 35 or more acres. The urban service area boundary is an official line, established by the City Commission within the City's zoning and subdivision jurisdiction that distinguishes between future urban and rural areas. City growth and municipal infrastructure expansions within this area could be expected within 10-15 years. Areas outside this boundary are not expected to see urban growth for a number of years.

She added that Major agriculture recreation includes uses that are larger in scale and intensity, include commercial event type uses and would be permitted via a special use permit based on certain criteria. Additional criteria for approval of a major agriculture recreation use include that attendance is limited to 250 people at any one time, maximum number of events is limited to 30 days per calendar year, mitigation of noise and light impacts to adjacent properties, additional setback requirements, and requirements to meet applicable life safety - building and fire codes.

Ms. Wollmuth added that the zoning ordinance describes the agriculture zoning district as a district in which the predominate use of land is for general agriculture uses. It further notes that the intent of the agriculture zoning district is to encourage the continued use of land for agriculture uses and to prohibit scattered commercial and industrial use of land. Agriculture recreation uses would not limit or restrict agriculture production or farming on properties.

Ms. Wollmuth went on to explain that the zoning ordinance did not include a definition of agriculture and staff added the definitions. Agriculture is the science or practice of cultivating the soil, producing crop and raising livestock. She also explained that as proposed Private riding arenas would also be approved by special use for properties located in the A – Agriculture zoning district that are entirely outside of the Urban Service Area Boundary (USAB) and include 35 or more acres.

Criteria for approval include that the arena is ancillary to and in conjunction with a single-family dwelling and that there will be no sales, shows, competitions, training clinics, or similar events within or on the premise. Similar to the agriculture recreation major, without these criteria, the arena would be more commercial in nature and not appropriate for the agriculture zoning district.

Additional criteria include location, building size limitation of no larger than 22,000 square feet, setback requirements, and requirements to meet applicable life safety – building and fire codes. Additionally, the proposed ordinance also includes modifications to the lot or parcel

size and increase the area of accessory buildings approved by special use permit for properties located in the agriculture zoning district that are entirely outside of the Urban Service Area Boundary (USAB).

Accessory building size was increased from 7,500 square feet to 8,000 square feet for properties with at least 35 acres that are also located outside the USAB. The size or number of acres was reduced from 80 to 70 acres for properties zoned agriculture and located outside the USAB for a 15,000 square foot accessory building.

Ms. Wollmuth said, based on the findings, staff recommends approval of the zoning ordinance text amendment to revise Sections 14-02-03, 14-03-06, 14-03-08, and 14-04-17 of the City Code of Ordinances to allow agriculture recreation uses and private riding arenas in the A – Agriculture zoning district, as presented.

Commissioner Field asked for the reason for the acreage limitation for accessory buildings. Ms. Wollmuth explained the ordinance currently requires 80 acres and this amendment reduces it to 70 acres.

Ms. Wollmuth showed the urban service area map and explained the boundaries.

Commission Bitner made a statement that he does not feel the City should regulate in the extraterritorial area.

Commissioner Schell asked if a property within the urban service area wants a minor or major agriculture use if the amendment would apply. Ms. Wollmuth explained that the amendment only applies to properties outside of the urban service area..

Commissioner Johnson asked for the reason to not include those properties within the urban service area. Ms. Wollmuth explained that the urban service area exists for expected city growth.

Commissioner Wangen asked why riding arenas have to be private and if they could offer riding clinics or classes to the public. Ms. Wollmuth explained that as proposed the riding arenas would be for private use and that if a riding arena was for the public, it would become a commercial use, and the requirements change completely regarding fire and life safety and parking.

Commissioner Field stated he also believes the city should not regulate this area.

Chair Schwartz opened the public hearing.

ReNay Zundel, Apple Creek Farm spoke in support of the amendment. Commissioner Bitner asked her if she is comfortable with the amendment as it is currently written. Ms. Zundel stated her uses are all covered with this amendment as written. Commissioner Field asked if the number of days and number of people was enough for her businesses. Ms. Zundel repeated that she is satisfied with the amendment as written.

Ellen Duffy, Board Treasurer of the North Dakota Local Foods Development Alliance stated she is opposed to the amendment as written because she believes it excludes properties with less area. Commissioner Bitner asked for specific changes she wants to see. Ms. Duffy

stated she disagrees with the acreage of 35 acres and 75 people. She feels a smaller category would be beneficial.

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

Commissioner Bitner voiced concern over excluding Ms. Duffy's business. Ms. Wollmuth explained that Ms. Duffy's business falls under the farming group and is therefore an allowed use in the A – Agriculture zoning district. Ms. Wollmuth then said event type uses, such as weddings, are the reason for the ordinance amendment. Commissioner Bitner asked if any complaints have been received to trigger this ordinance rewrite. Ms. Wollmuth stated staff had been fielding complaints about loud parties or events going late in the evening. Commissioner Bitner indicated he did not believe that to be true. Ms. Wollmuth said the property owners to the north of Apple Creek Farm made the complaint of the loud party. Commissioner Bitner asked if the complaint was filed anonymously. Ms. Wollmuth indicated that she does not have access to complaint information at the moment. Commissioner Bitner stated that he would like to see the complaint and went on to state that he lives across the street from this request and that the property owners to the north of Apple Creek Farm had a loud dog and loud wind chimes that he can hear from his property. Commissioner Field stated he could not hear any weddings at Apple Creek Farm from his home which is to the south.

Commissioner Bitner asked why an acreage limitation of 35 acres is included in the ordinance. Ms. Wollmuth explained the ordinance provides a level of expectations for both applicants and adjacent landowners. Commissioner Bitner asked Ms. Wollmuth if she felt comfortable making rules for people she does not represent. Community Development Director Ben Ehreth asked commissioners to please be respectful of staff as they work hard to balance between competing interests. Commissioner Bitner asked Mr. Ehreth what business he has regulating property outside of city limits. Mr. Ehreth explained that state law allows the City to have the ETA and set regulations.

Commissioner Sivak asked if he, in the urban service area, would be allowed to have a graduation party. Ms. Wollmuth explained that a graduation party for a family member would be allowed and not considered a commercial-type use.

MOTION: Commissioner Zent made a motion to approve the zoning ordinance text amendment to revise Sections 14-02-03, 14-03-06, 14-03-08, and 14-04-17 of the City Code of Ordinances to allow agriculture recreation uses and private riding arenas in the A – Agriculture zoning district. Commissioner Schell seconded the motion.

Commissioner Schell asked if there was a suggestion for a more appropriate acreage to include small farms. Commissioner Bitner suggested 2 acres and asked if there is a problem with that. Commissioner Schell explained that having a large event on 2 acres would more greatly affect adjacent property owners and therein lies the challenge staff has faced. Commissioner Field spoke about the Minnesota State Fair and how it handles parking. Commissioner Bitner suggested removing the acreage requirement for minor agriculture recreation uses and only including the number of people to limit. Commissioner Field asked for the acreage of the civic center. Commissioner Johnson explained that this ordinance is regarding A – Agriculture zoning district. Commissioner Wangen stated he supports lowering the acreage.

The motion failed with Commissioners Bitner, Field, Johnson, Lukens, Schell, Sivak, Wangen voting against the motion. Commissioners Schwartz and Zent voted in favor of the motion.

MOTION: Commissioner Bitner made a motion to approve the zoning ordinance text amendment with the revision to eliminate the acreage in the minor agriculture recreation use. . Commissioner Field seconded the motion, and it was unanimously approved with Commissioners Bitner, Field, Johnson, Lukens, Schell, Schwartz, Sivak, Wangen, and Zent voting in favor of the motion.

OTHER BUSINESS

Delay of Major Street Plan and Future Land Use Plan Amendments

Mr. Nairn explained that the Planning and Zoning Commission had recommended approval of a Major Street Plan Amendment and Future Land Use Plan amended northwest of Bismarck. After a landowner contacted staff, staff have decided to delay this item. Any changes would return to the Planning and Zoning Commission for another review.

Update on Home Occupation Zoning Ordinance Text Amendment.

Mr. Nairn explained that staff is working on the amendment in response to public comment received on the May 15, 2024, special meeting. Commissioner Bitner asked if notes and minutes were taken at the special meeting. He said the County has an Owl system to record meetings if Dakota Media Access is not available for a meeting, as they were not for the special meeting. Commissioner Bittner also indicated that the special meeting may have violated open records laws because the front door of the building was locked. Mr. Nairn explained that the meeting met all legal notice requirements for a public meeting, and that the front door becoming locked was a system error and that the door was propped open to let people in as soon as staff became aware of the locked door. Commissioner Johnson explained the need for this ordinance text amendment and stated he is encouraged by the changes made. He provided a series of suggestions to staff based on what he had heard at the meeting. Mr. Nairn thanked Mr. Johnson for the comments and said a new draft will be presented for a public hearing at the next regular meeting.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 9:00 p.m. to meet again on June 26, 2024.

Respectfully submitted,



Sarah Fricke
Recording Secretary



Mike Schwartz
Chair