

**BISMARCK PLANNING & ZONING COMMISSION**  
**MEETING MINUTES**  
**July 22, 2020**

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The Bismarck Planning & Zoning Commission met on July 22, 2020, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Due to ongoing public health concerns related to COVID-19, many of the Planning and Zoning Commissioners and staff participated in the meeting remotely via Zoom. Chair Schwartz presided and was present in the Tom Baker Meeting Room.

Commissioners present were Steve Bakken, Brian Eiseman, Paul Levchak, Kevin Martin, Gabe Schell, John Van Dyke, Trent Wangen and Mike Schwartz.

Commissioners Brian Bitner, Vernon Laning and Wendy Van Duyne were absent.

Staff members present were Ben Ehreth – Community Development Director, Kim Lee – Planning Manager, Will Hutchings – Planner, Daniel Nairn – Planner, Jenny Wollmuth – Planner, Hilary Balzum – Community Development Administrative Assistant and Janelle Combs – City Attorney.

**MINUTES**

Chair Schwartz called for consideration of the minutes of the June 24, 2020 meeting.

**MOTION:** Commissioner Bakken made a motion to approve the minutes of the June 24, 2020 meeting.

Commissioner Levchak stated there was an error in the consent agenda vote as it says the vote was unanimous for approval and it in fact was not as both Commissioner Levchak and Van Dyke voted in opposition. Staff indicated the correction would be made prior to publication of the minutes.

**MOTION:** Commissioner Bakken withdrew his original motion and made a motion to approve the minutes of the June 24, 2020 meeting, with the indicated correction. Commissioner Levchak seconded the motion and it was unanimously approved with Commissioners Bakken, Eiseman, Levchak, Martin, Schell, Wangen and Schwartz voting in favor of the motion.

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**CONSIDERATION**

- A. LOTS 1-16, BLOCK 1, STONERIDGE ADDITION FIRST REPLAT – ZONING CHANGE**
- B. LOT 1, BLOCK 1, PAT’S ACRES AND AUDITOR’S LOTS A, B AND C OF THE NE1/4 OF THE NE1/4 OF SECTION 14, T139N-R80W/HAY CREEK TOWNSHIP – ZONING CHANGE**

Chair Schwartz called for consideration of the following consent agenda items:

- A. Lots 1-16, Block 1, Stoneridge Addition First Replat – Zoning Change
- B. Lot 1, Block 1, Pat’s Acres and Auditor’s Lots A, B and C of the NE1/4 of the NE1/4 of Section 14, T139N-R80W/Hay Creek Township – Zoning Change

No items were pulled from the consent agenda for discussion.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Bakken made a motion to approve consent agenda items A and B, calling for a public hearing on the items as recommended by staff. Commissioner Wangen seconded the motion and it was unanimously approved with Commissioners Bakken, Eiseman, Levchak, Martin, Schell, Wangen and Schwartz voting in favor of the motion.

**CONTINUED PUBLIC HEARING – ZONING CHANGE  
PARTS OF S½ OF SECTION 19 & THE N½ OF SECTION 30, T139N-R80W/HAY  
CREEK TOWNSHIP & CITY LANDS**

Chairman Schwartz called for the continued public hearing on a zoning change from the A – Agricultural, R5 – Residential, R10 – Residential, RM30 – Residential and RT - Residential zoning districts to the P – Public zoning district for parts of the S½ of Section 19 and the N½ of Section 30, T139N-R80W/Hay Creek Township and City Lands. The property is located in northwest Bismarck, north of Burnt Boat Drive and between Clairmont Road and Tyler Parkway.

Mr. Nairn gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.

7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Nairn said based on these findings, staff recommends approval of the zoning change from the A – Agricultural, R5 – Residential, R10 – Residential, RM30 – Residential and RT – Residential zoning districts to the P – Public zoning district for parts of the S½ of Section 19 and the S½ of Section 30, T139N-R80W/Hay Creek Township and City Lands.

Commissioner Levchak said there was a comment submitted regarding the back yards adjacent to this property and how it abuts private property. He then asked how the property would be accessed.

Mr. Nairn said the property would need to be subdivided prior to development, as well as annexed, and the access points would be shown at that phase of the approval process.

Dr. Leroy Brend, 2515 Domino Drive, said this would create access to public recreational land adjacent to his private property. He said he owns a home in Spearfish, SD and has had issues there with the public hiking on trails and people abusing private property. He said he is concerned about how people will be kept off of private property and he recently saw plans for a junior golf course in this location. He added that he does not want the added noise, and that there needs to be safeguards in place for the adjacent owners. He then asked if there has been an environmental study conducted as he assumes this area is classified as a wetland and there are stringent qualifications to changing that kind of property. Dr. Brend then said if it is to be a park then there needs to be a way to keep people away from private property and he has gone so far as to seek legal action for his similar situation on his Spearfish property.

Commissioner Schell said there has been a preliminary study conducted for cultural resources and wetlands and further studies would be required with the subdivision process in the future. He added that those studies are required when any disturbance like this takes place.

Dr. Brend said he did see a surveyor on the property from Ducks Unlimited, but he is not sure anything else has been done or who determines what exactly would be permitted.

Additional written comments in opposition and support of this request are attached as Exhibits A-E.

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

**MOTION:** Commissioner Bakken made a motion to approve the request for a zoning change from the A – Agricultural, R5 – Residential, R10 Residential, RT – Residential and RM30 – Residential zoning districts to the P – Public zoning

district on parts of Sections 19 & 30, T139N-R80W/Hay Creek Township & City Lands. Commissioner Eiseman seconded the motion and the motion was unanimously approved with Commissioners Bakken, Eiseman, Martin, Levchak, Schell, Van Dyke, Wangen and Schwartz voting in favor of the motion.

**FINAL CONSIDERATION – PARTIAL ANNEXATION  
PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT  
NORTHERN SKY SECOND ADDITION**

Chair Schwartz called for the public hearing on the final plat; the zoning change from the RT – Residential and CA – Commercial zoning districts to the RT – Residential and CA – Commercial zoning districts; and final consideration of the annexation of Northern Sky Drive and the north half of Ash Coulee Drive adjacent to Northern Sky Second Addition. The proposed plat is three lots in three blocks on 23.4 acres and is located in northwest Bismarck, along the west side of North Washington Street and the north side of Ash Coulee Drive (a replat of Lot 2, Block 2, Northern Sky Addition and part of Lot 3, Block 1, Replat of Millennium Addition and part of Lot C-3 of the SE¼ of Section 17, T139N-R80W/Hay Creek Township).

Mr. Hutchings gave an overview of the request, including the following findings related to land use for the annexation:

1. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed.
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Mr. Hutchings then gave the findings related to land use for the zoning change:

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.

3. The City of Bismarck and/or other agencies may be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The proposed zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Hutchings then gave the findings related to land use for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP).
5. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
6. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
7. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development.

8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.

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9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
10. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Hutchings said based on the above findings, staff recommends approval of the zoning change from the RT – Residential and CA – Commercial zoning districts to the RT – Residential and CA – Commercial zoning districts, the final plat of Northern Sky Second Addition and the annexation of Northern Sky Drive and the north half of Ash Coulee Drive adjacent to Northern Sky Second Addition.

Chair Schwartz opened the public hearing.

Lon Romsaas, Swenson, Hagen & Co., said the motivation for this development is that the school district needs better access to Horizon Middle School, which also makes a convenient access from Durango Drive to Ash Coulee Drive, and they are hoping for a right-of-way dedication to help eliminate traffic on school property. He said it might also generate some purchase interest in the property. He added that the main purpose is to move traffic away from the school and North Washington Street.

Commissioner Levchak asked if the owner is committed to the construction of the road.

Mr. Romsaas said the owner would have a certain number of years to conduct that construction and said the pandemic has somewhat affected their plans. He said they do the plat first, which would dedicate Northern Sky Road and Wilkinson Way, but the owner only intends to improve Northern Sky Road first.

Commissioner Levchak asked if the City Engineer has weighed in on these improvements.

Commissioner Bakken said old habits die hard and asked if the thought process is to dedicate the school road to a private drive in order to help reshape the traffic pattern.

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Mr. Romsaas said the intent is to divert traffic away from the area and it could maybe be signed as a private drive, but that has not been a very effective practice in the past.

Commissioner Bakken asked if it would change to a private drive to change the traffic pattern.

Commissioner Schell said it can be signed, but it cannot be controlled. He said the hope is that people would use a new route.

Commissioner Bakken asked if it would then be a public right-of-way. Mr. Romsaas said it is private because it is on school property, but it is not currently signed that way.

Commissioner Bakken said the problem could possibly be remedied if it was signed.

Chair Schwartz closed the public hearing.

Commissioner Schell said the roadway was started with the understanding that a future plat would come eventually, so there are stub outs in place there already.

**MOTION:** Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval the zoning change from the RT – Residential and CA – Commercial zoning districts zoning district to the RT – Residential and CA – Commercial zoning districts, final plat of Northern Sky Second Addition and the annexation of Northern Sky Drive and the north half of Ash Coulee Drive adjacent to Northern Sky Second Addition. Commissioner Martin seconded the motion and the motion was unanimously approved with Commissioners Bakken, Eiseman, Levchak, Martin, Schell, Schwartz, Van Dyke and Wangen voting in favor of the motion.

*(Secretary's Note: After the Planning and Zoning Commission meeting, the applicant's request for the partial annexation was withdrawn prior to the requests being forwarded to the City Commission for final action).*

**PUBLIC HEARING – ZONING CHANGE  
PARTS OF S½ OF SECTION 19 & THE N½ OF SECTION 30, T139N-R80W/HAY  
CREEK TOWNSHIP & CITY LANDS**

Chairman Schwartz called for the public hearing on a zoning change from the HM – Medical Facility and RM30 – Residential zoning districts to the HM – Medical Facility zoning district for Tract 500 of Blocks 27 & 38, and Lots 3, 4, the North 20 feet of Lot 5, and Lots 9 & 10, Block 38, Northern Pacific Second Addition. The property is located in central Bismarck, between East Rosser Avenue and East Avenue B, along the west side of North 8th Street.

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth said, based on the above findings, staff recommends approval of the zoning change from the HM – Medical Facility and RM30 – Residential zoning districts to the HM – Medical Facility zoning district for Tract 500 of Blocks 27 & 38, and Lots 3, 4, the North 20 feet of Lot 5, and Lots 9 & 10, Block 38, Northern Pacific Second Addition.

Chair Schwartz opened the public hearing.

Mr. Romsaas said he is available for questions on this request if need be.

Additional written comments in support of the request are attached as Exhibit F.

**MOTION:** Commissioner Bakken made a motion to recommend approval of the request for a zoning change from the HM – Medical Facility and RM30 – Residential zoning districts to the HM – Medical Facility zoning district for Tract 500 of Blocks 27 & 38, and Lots 3, 4, the North 20 feet of Lot 5, and Lots 9 & 10, Block 38, Northern Pacific Second Addition. Commissioner Levchak seconded the motion and the motion was unanimously approved with Commissioners Bakken, Eiseman, Levchak, Martin, Schell, Van Dyke, Wangen and Schwartz voting in favor of the motion.

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**PUBLIC HEARING - SPECIAL USE PERMIT  
LOT 4, BLOCK 2, PRAIRIE PINES FIRST SUBDIVISION (4019 CEDAR LANE)**

Chair Schwartz called for the public hearing on a special use permit to increase the total area of accessory buildings to 2,844 square feet by constructing a 2,400 square foot accessory building and a 96 square foot accessory building on Lot 4, Block 2, Prairie Pines First Subdivision. The property is located north of Bismarck, south of 97th Avenue NE and west of 41st Street NE, within the Cedar Place cul-de-sac (4019 Cedar Lane).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on these findings, staff recommends approval of the special use permit to increase the total area of accessory buildings to 2,844 square feet by constructing a 2,400 square foot accessory building and a 96 square foot accessory building on Lot 4, Block 2, Prairie Pines First Subdivision.

Commissioner Levchak said the drawing shows a building and an existing shed and asked where the new building would be located.

Chair Schwartz opened the public hearing.

Kenneth Fricke, the applicant, said it would be off to the left side of the property where there is a small greenhouse next to a propane tank. He said there is also a roof over their hot tub which all counts toward the total square feet of accessory buildings.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Levchak made a motion to approve the special use permit to increase the total area of accessory buildings to 2,844 square feet by constructing a 2,400 square foot

accessory building and a 96 square foot accessory building on Lot 4, Block 2, Prairie Pines First Subdivision (4019 Cedar Lane). Commissioner Bakken seconded the motion and the motion was unanimously approved with Commissioners Bakken, Eiseman, Levchak, Martin, Schell, Van Dyke, Wangen and Schwartz voting in favor of the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT  
LOT 1, BLOCK 1, EUGENES FIRST ADDITION FIRST REPLAT**

Chair Schwartz called for the public hearing on a special use permit for a drive-through in conjunction with a financial institution on Lot 1, Block 1, Eugenes First Addition First Replat. The property is located in north-central Bismarck, north of East Divide Avenue and west of State Street, between North 11<sup>th</sup> and North 12<sup>th</sup> Street.

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on these findings, staff recommends approval of the special use permit for a drive-through in conjunction with a financial institution on Lot 1, Block 1, Eugenes First Addition First Replat.

Chair Schwartz opened the public hearing.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve the special use permit for a drive-through in conjunction with a financial institution on Lot 1, Block 1, Eugenes First Addition First Replat. Commissioner Levchak seconded the motion and the motion was unanimously approved with Commissioners Bakken, Eiseman, Levchak, Martin, Schell, Van Dyke, Wangen and Schwartz voting in favor of the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT  
LOTS 1 AND 2, BLOCK 5, NORTH STAR COMMERCIAL PARK THIRD  
SUBDIVISION**

Chair Schwartz called for the public hearing on a special use permit for a retail liquor sales facility for Lots 1 & 2, Block 5, Northstar Commercial Park Third Subdivision. The property is located north of Bismarck, east of US Highway 83 along the south side of Northstar Drive.

Mr. Hutchings gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The Hay Creek Township Board of Supervisors has recommended approval of the proposed special use.
4. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
5. Adequate public facilities and services are in place or would be provided at the time of development.
6. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
7. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
8. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice.

9. The proposed special use would not adversely affect the public health, safety and general welfare.

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Mr. Hutchings said, based on these findings, staff recommends approval of the special use permit for a retail liquor sales facility for Lots 1 & 2, Block 5, Northstar Commercial Park Third Subdivision, with the following condition:

1. The retail liquor sales facility must meet all applicable building, health and sanitation and fire codes prior to occupancy.

Commissioner Bakken said, given the previous traffic patterns, does this line up with traffic off the US Highway 83 corridor or will another access point be needed.

Commissioner Schell said, knowing the proposed use is similar to the previous use, he felt comfortable with the existing Northstar Drive access point, without any additional changes.

Commissioner Bakken asked if the applicant is aware of that.

Mr. Hutchings said all of the staff comments have been shared with the applicant.

Commissioner Levchak said since this location would be policed by the Burleigh County Sheriff's Department, has the request been shared with them.

Mr. Hutchings said Burleigh County and Rural Fire did provide comments and a liquor license for this business was also evaluated by the Burleigh County Commission at their June meeting, at which time the Burleigh County Sheriff would have provided comments.

Chair Schwartz opened the public hearing.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve the special use permit for a retail liquor sales facility for Lots 1 & 2, Block 5, Northstar Commercial Park Third Subdivision with the following condition: 1. The retail liquor sales facility must meet all applicable building, health and sanitation and fire codes prior to occupancy. Commissioner Wangen seconded the motion and the motion was unanimously approved with Commissioners Bakken, Eiseman, Levchak, Martin, Schell, Van Dyke, Wangen and Schwartz voting in favor of the motion.

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**PUBLIC HEARING - SPECIAL USE PERMIT  
LOT 4, BLOCK 6, PARK HILLS 1ST ADDITION**

Chair Schwartz called for the public hearing on a special use permit to construct an accessory dwelling unit in the rear of Lot 4, Block 6, Park Hills First Addition (945 Lake Avenue). The

property is located in west-central Bismarck, between Memorial Highway and West Main Avenue on the south side of Lake Avenue.

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Mr. Nairn gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The Hay Creek Township Board of Supervisors has recommended approval of the proposed special use.
4. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
5. Adequate public facilities and services are in place or would be provided at the time of development.
6. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
7. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
8. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice.
9. The proposed special use would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on these findings, staff recommends approval of the special use permit to construct an accessory dwelling unit in the rear of Lot 4, Block 6, Park Hills First Addition, with the following conditions:

1. All residential building code requirements are met for construction of the dwelling.
2. Municipal water and sewer services are provided with a connection to the primary residence on the lot.

Chair Schwartz opened the public hearing.

Commissioner Bakken asked if this would be an addition to the primary residence.

Mr. Nairn said it would be a separate building.

Jeffrey Lund, the applicant, added it is actually intended to be used as a training area to train for the Olympics, but would also include a residential use.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve the special use permit to construct an accessory dwelling unit in the rear of Lot 4, Block 6, Park Hills First Addition, with the following conditions: 1. All residential building code requirements are met for construction of the dwelling; and 2. Municipal water and sewer services are provided with a connection to the primary residence on the lot. Commissioner Levchak seconded the motion and the motion was unanimously approved with Commissioners Bakken, Eiseman, Levchak, Martin, Schell, Van Dyke, Wangen and Schwartz voting in favor of the motion.

## **OTHER BUSINESS**

### **AICP CODE OF ETHICS**

Ms. Lee provided an overview of the AICP Code of Ethics, explaining that the American Institute of Certified Planners (AICP) is the professional certification for Planners which requires certain education and experience to sit for the exam, passing the exam to become certified, and continuing education to maintain the certification. She said there are four sections of the Code of Ethics including principles, rules of conduct, advisory opinions and adjudications. She said violations of the rules of conduct can result in loss of certification and that the principles are aspirational and include an obligation to the public interest as well as responsibility to other professionals and colleagues. She said all of the planners in our office are all subject to the rules of conduct, such as providing accurate information and not being allowed to accept certain assignments. Ms. Lee said they cannot misrepresent their qualifications or use their position for an advantage. She said Ms. Wollmuth, Mr. Ehreth, Mr. Nairn and herself, as well as Commissioner Van Dyke, hold AICP certification, and hopefully Mr. Hutchings will soon. She said she will share copies of the document from her presentation after the meeting.

Chair Schwartz said the AICP is a high standard to be held and a rigorous process to go through. He thanked Ms. Lee for presenting.

Mr. Ehreth added that there is a high concentration of professionalism with the City Planning staff and that is a testament to the skill sets of the department.

## **NORTH DAKOTA PLANNING ASSOCIATION MEMBERSHIP**

Mr. Ehreth said membership dues for NDPA offer a group membership for up to 10 members to include a significant discount and the Planning Division does budget for things like this. He said if there is interest amongst the Commissioners in becoming a member to please

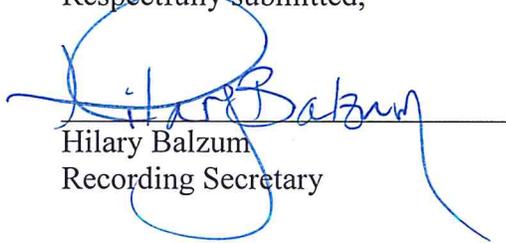
contact him and either individual or group memberships will be coordinated depending on the responses. He said the membership includes a NDPA newsletter, the Western Planner newsletter and also discounts on conference registrations.

Chair Schwartz asked if staff belongs to the NDPA. Mr. Ehreth said they do and that this membership would be specific to the Planning and Zoning Commissioners.

## ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 6:10 p.m. to meet again on August 26, 2020.

Respectfully submitted,



Hilary Balzum  
Recording Secretary



Mike Schwartz  
Chair

**From:** [Planning - General Mailbox](#)  
**To:** [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)  
**Subject:** FW: Rezoning/Clairmont Family Trust  
**Date:** Thursday, July 16, 2020 9:49:05 AM

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-----Original Message-----

From: Weezeklw [<mailto:>] ]  
Sent: Wednesday, July 15, 2020 9:13 PM  
To: Planning - General Mailbox <[planning@bismarcknd.gov](mailto:planning@bismarcknd.gov)>  
Subject: Rezoning/Clairmont Family Trust

Planning and Zoning Commission,

We received the notification about the proposed zoning change in the Clairmont Family Trust.

I am not in agreement that the current zoning for this property be changed to Public uses. In your notification it is not stipulated as to what specifically is proposed. Is it a general playground area? amphitheater? Walking trail? Bike trails?

My concern is that the noise would travel up an out of the valley and be carried and amplified into our neighborhood thereby changing our quiet neighborhood. Additionally, the proposed public area would drive off the wildlife/deer that make frequent visits to our neighborhood.

Again, I am not in agreement to the proposed changed.

Thank you.  
Kim Wonnemberg  
2719 Domino Drive

Sent from my iPhone

**From:** [Planning - General Mailbox](#)  
**To:** [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)  
**Subject:** FW: Clairmont Family Trust zoning change  
**Date:** Friday, July 17, 2020 8:49:11 AM

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-----Original Message-----

From: Albert Frank [<mailto:> ]  
Sent: Thursday, July 16, 2020 9:24 PM  
To: Planning - General Mailbox <[planning@bismarcknd.gov](mailto:planning@bismarcknd.gov)>  
Cc: Frank Al < >  
Subject: Clairmont Family Trust zoning change

I hope the committee approved the zoning change request. A very appropriate and beneficial use of that land-a benefit to all of Bismarck. We are adjacent property owners.

Al Frank  
1801 Santa Gertrudis Dr

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**From:** [Planning - General Mailbox](#)  
**To:** [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)  
**Subject:** FW: Clairmont Family Trust zoning change request  
**Date:** Tuesday, July 21, 2020 8:47:39 AM

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**From:** Fiona Gunderson [mailto: ]  
**Sent:** Monday, July 20, 2020 10:11 PM  
**To:** Planning - General Mailbox <planning@bismarcknd.gov>  
**Subject:** Clairmont Family Trust zoning change request

I would like to comment on this request being considered by the Bismarck Planning and Zoning Committee. I am a resident of Chisholm Trail and am very interested in keeping this piece of property as untouched as possible. If the re-zoning of it to P-Public would achieve this, then I am in favor of it. I would prefer to see it left as the beautiful, natural grassland it is. Many people currently use it for walking, biking, and enjoying the wildlife and vegetation it holds. My seven-year-old grandson is absolutely enchanted and delighted by it. To build on it or to add playgrounds or parking lots would be such a shame.

I hope the Commission will agree to change the zoning to P-Public, but also leave this beautiful piece of land untouched for the people of the Bismarck-Mandan community to enjoy.

Sincerely,  
Fiona Gunderson

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**From:** [Daniel Nairn](#)  
**To:** [Hilary Balzum](#)  
**Subject:** FW: Staff Report on Park Area  
**Date:** Wednesday, July 22, 2020 10:37:54 AM

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Daniel Nairn  
701-355-1854

**From:** Terri Wilder [mailto: ]  
**Sent:** Tuesday, July 21, 2020 3:40 PM  
**To:** Daniel Nairn <[dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)>  
**Subject:** Re: Staff Report on Park Area

Dear Daniel,

Thank you for the information you provided in our recent phone conversation. As I stated, our home residence will be adjacent to the area being donated and rezoned from the Clairmont Family trust. I have some concerns I would like to have on record for whoever acquires and develops this land. (The City of Bismarck, Ducks Unlimited, City Park District)

Our residence has been landscaped and designed to access the bottom portion of our yard (in the coulee). This staircase now, unfortunately, will provide access UP TO our yard, as it sits directly next to the land being donated. This provides a security and privacy issue for our family that we had not previously considered. It is our wish that a portion of the "project area" be removed from our segment of the donated land.

We purchased this specific property with our portion of the coulee in mind for a personal dog training area, as well as family area. As time goes on, and the park brings people in, we will be concerned with other pets creating issues, possible noise issues, garbage issues, and again the aspect of security. If we had been aware that this area would someday be public access, we would have most likely reconsidered the purchase. We had approached the owner several times over the years to inquire about purchasing adjacent lots, but our inquiries went unanswered by the property owner.

We appreciate you presenting this letter on our behalf, Daniel. Please feel free to contact us with any questions or if further explanation is needed.

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Thank you- Terri Wilder

On Tue, Jul 21, 2020 at 12:03 PM Daniel Nairn <[dnairn@bismarcknd.gov](mailto:dnairn@bismarcknd.gov)> wrote:

Terri,

Here is a link to the staff report on the park we discussed.

[https://www.bismarcknd.gov/AgendaCenter/ViewFile/Agenda/\\_07222020-713#page=19](https://www.bismarcknd.gov/AgendaCenter/ViewFile/Agenda/_07222020-713#page=19)

Feel free to send any comments to me and I will relay to the Planning and Zoning

Commission if I receive before the meeting tomorrow.

Best,

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**Daniel Nairn**, AICP  
Planner  
City of Bismarck  
Community Development  
221 N. 5th Street  
Bismarck, ND 58506  
701-355-1854

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**From:** [Planning - General Mailbox](#)  
**To:** [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)  
**Subject:** FW: 7/22 P+Z Commission Meeting - Indication of Support  
**Date:** Tuesday, July 21, 2020 8:48:26 AM

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**From:** Johnson,Cole [mailto: ]  
**Sent:** Monday, July 20, 2020 10:10 AM  
**To:** Planning - General Mailbox <planning@bismarcknd.gov>  
**Subject:** 7/22 P+Z Commission Meeting - Indication of Support

In regards to agenda item #6 (Bismarck Cancer Center Rezoning) on the 7/22 agenda, Sanford Health Bismarck is in support of this change. Sanford received the letter dated 7/10/20 informing us of the proposed change and has no concerns.

Please let me know if you have any further questions.

**Cole Johnson**

Senior Director, Planning and Construction  
Sanford Health Bismarck  
Office (701) 323-5780  
Mobile

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**From:** [Andrew Swenson](#)  
**To:** [Planning - General Mailbox](#)  
**Subject:** Zoning change to by Burnt Boat Drive between Clairmont and Tyler Parkway  
**Date:** Friday, June 26, 2020 12:41:36 PM

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Hello,

My name is Andrew Swenson. I live at 1919 Santa Gertrudis Dr, Bismarck and received a letter about a zoning change to the area mentioned above. Sorry we could not attend the meeting on Wednesday. My family is in favor of changing the zoning to allow for a park. It sounds like Ducks Unlimited is in the process of purchasing the land from the Clairmont Family Trust and we have donated to them to help them with this purchase. We would like the land to remain unchanged as much as possible and feel a park would be a great use of this land. Thank you.

Andrew Swenson  
