Bismarck

Community Development Department

BISMARCK PLANNING AND ZONING COMMISSION MEETING AGENDA

May 26, 2021

Tom Baker Meeting Room | 5:00 p.m. | City-County Office Building

The City of Bismarck is encouraging citizens to provide their comments for public hearing items on the Planning & Zoning Commission agenda via email to planning@bismarcknd.gov. The comments will be sent to the Planning and Zoning Commissioners prior to the meeting and included in the minutes of the meeting. To ensure that comments are compiled and forwarded to the Planning and Zoning Commissioners with enough time to review all comments, please submit your comments no later than 8am the day of the meeting. Comments received after 8am the day of the meeting will not be included for consideration by the Planning and Zoning Commission. Comments should also include which agenda item number your comment references and your name (anonymous comments will not be forwarded to the Planning & Zoning Commissioners or included in the minutes of the meeting). If you would like to appear via video or audio link for a 3-5-minute comment on a public hearing item, please provide your e-mail address and contact information to planning@bismarcknd.gov at least one business day before the meeting.

As always, live meeting coverage is available on Government Access Channels 2 & 602HD, Radio Access 102.5 FM Radio, or stream FreeTV.org and RadioAccess.org.

Item No. Page No.

INTRODUCTION OF NEW COMMISSIONER

1. Introduction of New Planning and Zoning Commissioner Cole Johnson

MINUTES

2. Consider approval of the minutes of the April 28, 2021 meeting of the Bismarck Planning & Zoning Commission

CONSENT AGENDA

CONSIDERATION

The following items are requests for a public hearing.

3. **Floodplain Regulations** (JW)
Zoning Ordinance Text Amendment | ZOTA2020-003 1

Staff recommendation: schedule a hearing ☐ *schedule a hearing* ☐ *continue* ☐ *table* ☐ *deny*

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4. Fairview Cemetery Addition (DN) 26

- Zoning Change (A and MA to P, RT and MA) | ZC2021-007

  Staff recommendation: schedule a hearing ☐ *schedule a hearing* ☐ *continue* ☐ *table* ☐ *deny*

- Preliminary Plat | PPLT2021-004

  Staff recommendation: tentative approval ☐ *tentative approval* ☐ *continue* ☐ *table* ☐ *deny*

5. Boden Addition (DN) 34

- Zoning Change (A and R5 to R5 and Conditional RT) | ZC2021-008

  Staff recommendation: schedule a hearing ☐ *schedule a hearing* ☐ *continue* ☐ *table* ☐ *deny*

- Preliminary Plat | PPLT2021-005

  Staff recommendation: tentative approval ☐ *tentative approval* ☐ *continue* ☐ *table* ☐ *deny*

REGULAR AGENDA
FINAL CONSIDERATION

The following item is a request for final action and forwarding to the City Commission.

6. Lots 4-14, Block 2, Lot 1, Block 3 and Lots 1-9 and Lots 23-29, Block 4, Boulder Ridge Seventh Addition First Replat (WH)
Annexation | ANNX2021-005 44

Staff recommendation: approve ☐ *approve* ☐ *continue* ☐ *table* ☐ *deny*

REGULAR AGENDA
PUBLIC HEARINGS

The following items are requests for final action and forwarding to the City Commission.

7. RBK Ventures Second Subdivision (JW) 50

Hay Creek Township

- Zoning Change (A to Conditional MA) | ZC2021-006

  Staff recommendation: approve ☐ *approve* ☐ *continue* ☐ *table* ☐ *deny*

- Final Plat | FPLT2021-004

  Staff recommendation: approve ☐ *approve* ☐ *continue* ☐ *table* ☐ *deny*

8. Lots 2-4, Block 1, Northridge Estates Commercial Park (WH)
Zoning Change (CA to PUD) | ZC2021-005 65

Hay Creek Township

Staff recommendation: approve ☐ *approve* ☐ *continue* ☐ *table* ☐ *deny*

Item No. Page No.

9. Lot 4D of Lot 4, Block 1, Meadowlark Commercial Sixth Addition (JW)
Special Use Permit (Auto Laundry/Car Wash) | SUP2021-004 87

Staff recommendation: approve ☐ *approve* ☐ *continue* ☐ *table* ☐ *deny*

10. Keeping of Chickens (WH)
Zoning Ordinance Text Amendment | ZOTA2021-002 96

Staff recommendation: approve ☐ *approve* ☐ *continue* ☐ *table* ☐ *deny*

OTHER BUSINESS

11. Other

ADJOURNMENT

12. Adjourn. The next regular meeting date is scheduled for **June 23, 2021.**

Enclosures: Meeting Minutes of April 28, 2021
Building Permit Activity Month to Date Report for April 2021
Building Permit Activity Year to Date Report for April 2021

BISMARCK PLANNING AND ZONING COMMISSION
PUBLIC HEARING PROCEDURE AND PROTOCOL

All public hearings before the Bismarck Planning and Zoning Commission will follow the same basic format. This outline has been prepared to help you understand the procedure and protocol.

1. The Chair of the Planning and Zoning Commission will introduce the item on the agenda and ask staff to present the staff report.

2. The Planner assigned to the file will present the staff report on the item. The presentation will be an overview of the written staff report included in the agenda packet, which is posted on the City's website by the end of the day on the Friday before the meeting.

3. The members of the Planning and Zoning Commission may ask staff questions about the request itself or staff's recommendation, but they will not discuss the request prior to obtaining input from the public.

4. The Chair of the Planning and Zoning Commission will then open the public hearing on the request and ask if anyone would like to speak to the Commission.

5. The applicant or his or her designated agent is usually given the courtesy of speaking first to outline the proposal and/or clarify any information presented by staff. The applicant may speak at this time or wait until others have spoken.

6. The public hearing is then opened to the public to voice their support, opposition or to ask questions about the proposal. Please write your name and address on the sign-in sheet, step up to the podium, speak clearly, state both your first and last names and your address, then your comments. Speaking over the microphone rather than directly into it will provide the best audio quality. Also, please avoid tapping or banging the podium, as the microphone amplifies the sound. Your comments as well as any materials distributed to the Planning and Zoning Commissioners at this time will be made part of the public record. If you would prefer to provide written materials to staff at the beginning of the meeting, we will distribute the materials to the Commission for you.

7. Please be respectful of the Planning and Zoning Commissioners, staff and others speaking on the request. Personal attacks against the applicant or others, clapping/cheering or booing speakers is not acceptable. Staff and the applicant will only respond to questions from the Planning and Zoning Commissioners, not questions directly from those speaking at the public hearing.

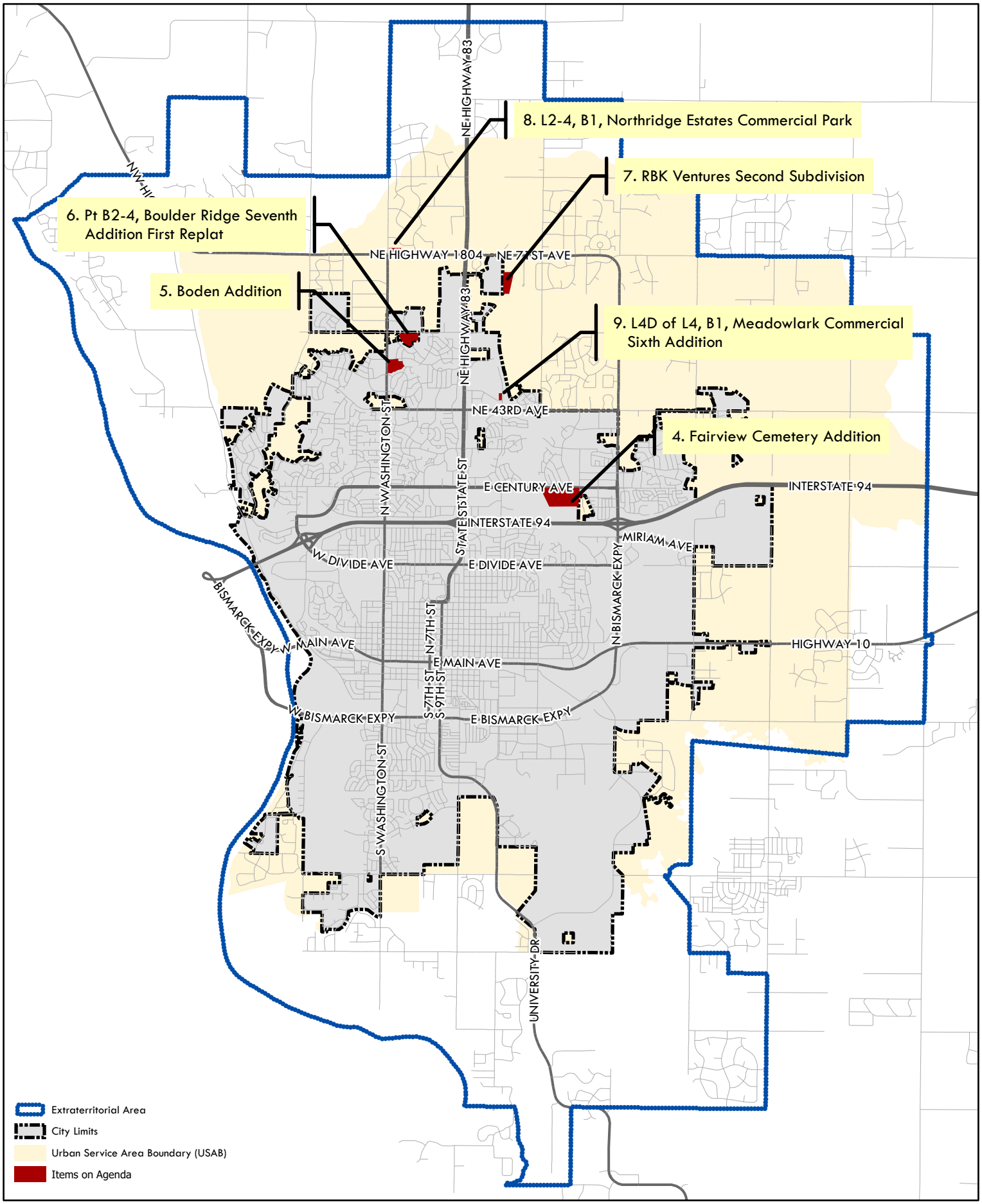
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions of those speaking, but may also listen and deliberate after the hearing is closed.

9. After everyone in the audience wishing to speak has given his or her comments, the Chair will close the public hearing portion for the agenda item. No additional comments from the public are allowed after the hearing has been closed. At this point, the Chair will ask staff if they have any additional information or final comments.

10. The Planning and Zoning Commissioners will then discuss the proposal. They may ask staff or the applicant additional questions or for clarification of items stated during the public hearing. At the conclusion of the discussion, the Commission will make its recommendation or decision.

General Location Map

Bismarck Planning & Zoning Commission Meeting - May 26, 2021



This map is for reference purpose only and is not intended as a survey or accurate representation of all map features.

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STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 3
May 26, 2021

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2021-003

Project Summary

Title:	Accessory Structures located in the Special Flood Hazard Area (SFHA)
Status:	Planning & Zoning Commission – Consideration
Project Contact:	Jenny Wollmuth, AICP, CFM, Senior Planer
Sections Amended:	Section 14-04-19 (FP – Floodplain District)
Request:	Adopt revisions to construction and elevation requirements for accessory structures located within the Special Flood Hazard Area (SHFA)

Staff Analysis

The Community Development Department – Planning Division is initiating a zoning ordinance text amendment to revise the construction and elevation requirements for accessory structures located within the Special Flood Hazard Area (SFHA) or 100-year floodplain outlined in Section 14-04-19 of the City of Bismarck Zoning Ordinance.

Accessory structures are buildings located on the same property as a principal building or house and the use is incidental to the use of the principal structure. These structures are used for parking or storage, represent a minimal investment by owners, and have a low damage potential during a flooding event.

Background Information

The Bismarck City Commission, at their meeting of December 8, 2021, directed Planning staff to review and propose changes to ordinance requirements for accessory structures located within the SFHA.

A stakeholder group comprised of industry professionals and staff was formed in January 2021. This group reviewed FEMA and State guidelines, and peer community requirements for accessory structures located within the SFHA. Proposed changes to the existing elevation and construction requirements outlined in the draft ordinance are a result of their review.

Changes to Existing Requirements

The proposed changes would allow for accessory structures less than 600 square feet in area to be constructed below the Base Flood Elevation (BFE) according to floodproofing techniques approved by FEMA. Proposed changes would also allow accessory structures greater than 600 square feet in area to be constructed one foot above the BFE. In order for these changes to be successful, definitions for accessory structure, agriculture structure, floodproofing(wet), non-conversion agreement and principal structure were added to the draft ordinance.

National Floodplain Insurance Program

The City of Bismarck and its Extra Territorial Area (ETA) is a participating community in the National Floodplain Insurance Program (NFIP). Participation in the NFIP is a State requirement for communities in North Dakota. Communities that participate in the NFIP must adopt a local floodplain ordinance that meets or exceeds FEMA and State requirements. Any modifications made to the City's floodplain ordinance, including construction and elevation requirements for accessory structures, must be reviewed by the State Floodplain Insurance Plan

(continued)

Coordinator and FEMA Floodplain Specialists for compliance with State and Federal Requirements. The proposed changes outlined in the draft ordinance have been reviewed by both State and FEMA.

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning ordinance text amendment for Section 14-04-19 of the City Code of Ordinances, as presented in the draft ordinance attached to the staff report.

Attachments

1. Draft zoning ordinance amendment

Staff report prepared by: Jenny Wollmuth, AICP, CFM, Senior Planner
701-355-1845 | jwollmuth@bismarcknd.gov

CITY OF BISMARCK
Ordinance No. XXXX

First Reading	_____
Second Reading	_____
Final Passage and Adoption	_____
Publication Date	_____

AN ORDINANCE TO AMEND SECTION 14-04-19 OF THE BISMARCK CODE OF ORDINANCES RELATING TO THE FP FLOODPLAIN DISTRICT.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, BURLEIGH COUNTYNORTH DAKOTA:

Section 1. Amendment. Section 14-04-19 of the City of Bismarck Code of Ordinances relating to accessory structures located within the FP – Floodplain district is hereby amended and re-enacted to read as follows:

14-04-19. FP Floodplain District. In any FP floodplain district, the following regulations shall apply:

1. Statement of purpose. It is the purpose of this section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

a. To protect human life and health;

b. To minimize expenditure of public money for costly flood control projects;

c. To minimize the need for rescue and relief efforts associated with flooding, generally undertaken at the expense of the general public;

d. To minimize prolonged business interruptions;

e. To minimize damage to public facilities and utilities located in special flood hazard areas such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges;

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f. To help maintain a stable tax base by providing for the use and development of special flood hazard areas so as to minimize future flood blight areas;

g. To ensure that potential buyers are notified that property is located in a special flood hazard area;

h. To ensure that those who occupy the special flood hazard areas assume responsibility for their actions; and

i. To provide an increased level of protection in anticipation of future increases in the base flood elevation (BFE).

2. Methods of reducing flood losses. In order to accomplish its purposes, this section includes methods and provisions for:

a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood water elevations or flow velocities;

b. Requiring that uses vulnerable to flooding, including attendant utilities and facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or convey flood waters;

d. Controlling filling, grading, dredging, and other development which may increase flood damage; and

e. Preventing or regulating the construction of flood barriers or obstructions which will unnaturally divert flood waters or which may increase flood hazards in other areas.

3. Definitions. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application.

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” Accessory Structure” for floodplain management purposes means structures that are on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure. Accessory structures are a single-story structure that may only be used for parking or storage, represent a minimal investment by owners, and have low damage potential. Structures that include the following uses are not considered accessory structures for floodplain management purposes: habitable spaces, bathrooms, toilet rooms, laundry facilities, and entertainment and recreational spaces including but not limited to workshops and game rooms.

“Agricultural Structure” for floodplain management purposes means structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this section or a request for a variance.

"Attendant utilities and equipment" means utilities, electrical, plumbing, heating, ventilation, and air conditioning equipment, as well as facilities and services associated with new construction.

"Base flood or 100-year flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

"Base flood elevation (BFE)" means the height of the base flood or 100-year flood, usually in feet above mean sea level, as designated on a FEMA published digital flood insurance rate map (DFIRM) or as determined by the storm water management plan prepared for the area in which the property is located.

"Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

"Best available data (BAD)" means water elevation information from any source used to estimate or determine the base flood elevation (i.e., high water mark).

"Conveyance or hydraulic conveyance" means a geometric characteristic of a river or watercourse at a given location that determines the flow-carrying capacity at that location.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the special flood hazard area.

"Fill" means materials such as soil, gravel, or crushed stone that is placed in an area and increases the ground elevation, whether or not that was the intention.

"Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood insurance rate map (FIRM) or digital flood insurance rate map (DFIRM)" means the official map issued by the Federal Emergency Management Agency (FEMA) where special flood hazard areas are designated as Zone A, AE, AO, AH, A1-A30 or A-99.

"Flood insurance study (FIS)" means the official report provided by the Federal Emergency Management Agency (FEMA) that includes flood profiles, the flood insurance rate map (FIRM), and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to partial or complete inundation by water from any source.

"Floodplain Administrator" means the person designated by the Director of Community Development to administer and enforce the City's floodplain regulations.

"Floodproofing (dry)" means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight to two (2) feet above the base flood elevation with walls that are substantially impermeable to the passage of water.

"Floodproofing (wet)" means the use of flood damage resistant materials and construction techniques to minimize

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flood damage to structures by intentionally allowing floodwater to enter and exit automatically (without human intervention) to minimize unequal pressure of water on walls (hydrostatic load or pressure). Wet floodproofing also requires structures to be anchored to resist flooding, have mechanical and utility equipment elevated or protected, and have flood openings installed in walls.

"Floodway or regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"Letter of map amendment (LOMA)" means an official amendment to the currently effective flood insurance rate map (FIRM) which establishes that a property is not located in a special flood hazard area. A letter of map amendment (LOMA) is issued by FEMA.

"Letter of map revision (LOMR)" means an official amendment to the currently effective flood insurance rate map (FIRM) which is issued by FEMA and changes flood zones, delineations and elevations. A letter of map revision based on fill (LOMR(f)) is a LOMR issued by FEMA based on the placement of fill.

"Lowest floor" means the lowest floor of a structure including the basement and/or crawl space.

"Manufactured home" means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle, but does include a mobile home.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this section.

"Non-residential" means any building or structure or portion thereof that is not classified as residential.

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"Non-conversion agreement" means an agreement signed by applicants and property owners, affirming that the owners agree not to convert or modify in any manner that is inconsistent with approved permit (and variance conditions, when applicable).

"Pre-FIRM Building" means a building for which construction or substantial improvement occurred on or before December 31, 1974 or before the effective date of an initial Flood Insurance Rate Map (FIRM).

"Principal structure" for floodplain management purposes means a structure that is not an accessory structure. All principal structures must be constructed in accordance with the requirements applicable to residential construction or nonresidential construction as determined by the use of the structure.

"Post-FIRM Building" means a building for which construction or substantial improvement occurred after December 31, 1974 or on or after the effective date of an initial Flood Insurance Rate Map (FIRM), whichever is later.

"Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

"Recreational vehicle" means a vehicle which is built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projection; designated to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal uses. Recreational vehicles include, but are not limited to, travel trailers, trailers on wheels, park-model trailers and other similar vehicles.

"Residential" means:

a. Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;

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b. Residential structures, including but not limited to one and two-family dwellings, multifamily dwellings, group dwellings, bed and breakfast facilities, hotels and motels; and

c. Institutional facilities where people are cared for or live on a 24-hour basis in a supervised environment, including but not limited to board and care facilities, assisted living facilities, nursing homes, group homes, congregate care facilities, hospitals, medical centers, jails and detention centers.

"Special flood hazard area (SFHA)" means an area of land that would be inundated by a flood having a one percent (1%) chance of being equaled or exceeded in any given year (100-year flood).

"Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms.

"Storage tank" means any closed vessel used to store gases or liquids.

"Storm water management plan" means a document prepared in accordance with the provisions of Title 14.1 of the City Code of Ordinances to evaluate surface water runoff and flood risks within a development, plat or watershed; to document special flood hazard areas; and to determine the systems required to convey or control flood flows within and through the area.

"Structure" means a walled and roofed building, including manufactured homes and gas or liquid above-ground storage tanks.

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"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed fifty percent (50%) of the market value as assessed of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value as assessed of the structure either: before the improvement or repair is started; or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this section which permits construction in a manner that would otherwise be prohibited by this section.

4. General provisions.

a. Jurisdiction. This section shall apply to all special flood hazard areas within the jurisdiction of the City of Bismarck, including all lands within the corporate limits of the City of Bismarck and the extraterritorial jurisdiction as provided for in Section 40-47-01.1 of the North Dakota Century Code, including areas specifically included in the jurisdiction of the City of Bismarck through agreement as approved by the Board of City Commissioners.

b. Basis for establishing the special flood hazard areas. The special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report titled "The Flood Insurance Study for Burleigh County, North Dakota and Incorporated Areas", dated August 4, 2014, with an accompanying flood insurance rate map (FIRM), and as

subsequently updated by any Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR) and/or Letter of Map Revision Based on Fill (LOMR(f)) issued by the Federal Emergency Management Agency (FEMA), is hereby adopted by reference and declared to be a part of this section. The Flood Insurance Study (FIS) is on file in the office of the Floodplain Administrator. Special flood hazard areas may also be designated in a storm water management plan prepared for a development, plat or watershed.

c. Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations, unless a valid building permit was in place prior to July 27, 2010, except as provided for in subsection 6(b)(5) (additions to existing structures).

d. Greater restrictions. This section is not intended to repeal, remedy, or impair any existing easements, covenants, or deed restrictions. However, where this section and another section of the City Code of Ordinances, an easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

e. Interpretation. In the interpretation and application of this section, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the City of Bismarck; and

3. Deemed neither to limit nor repeal any other powers granted to the City under the North Dakota Century Code or the Home Rule Charter for the City of Bismarck.

f. Warning and disclaimer of liability. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the special flood hazard areas or uses permitted within such areas

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will be free from flooding or flood damages. This section shall not create liability on the part of the City of Bismarck, any officer or employee thereof, or the Federal Emergency Management Agency (FEMA) for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

g. Letter of Map Revision (LOMR). Development on any parcel for which a Letter of Map Revision (LOMR) has been issued shall comply with all of the requirements and recommendations as contained therein. Development on any parcel for which a LOMR has been issued shall be constructed in accordance with the provisions of FEMA Technical Bulletin 10-01.

h. Non-conforming Status. Any structure constructed with the lowest floor elevated as required by the regulations in effect at the time of construction shall be considered a non-conforming structure for the purposes of this section, provided the lowest floor of said structure is elevated on fill and/or a permanent foundation to at least one (1) foot above the base flood elevation.

5. Administration.

a. Establishment of a development permit. A development permit shall be obtained before construction or development begins within any special flood hazard area established in subsection 4(b) (basis for establishing the special flood hazard areas). Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level (NAVD88), of the lowest floor (including basements and/or crawl spaces) of all structures;

2. Elevation in relation to mean sea level (NAVD88) to which any structure has been floodproofed;

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3. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in subsection 6(b)(2) (nonresidential construction); and

4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

b. Establishment of a non-structural development permit. A non-structural development permit shall be obtained before any land disturbing activity begins within any special flood hazard area established in subsection 4(b)(basis for establishing the special flood hazard areas). Application for a non-structural development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; proposed elevations upon completion of the land disturbing activity; the type of fill being used, if fill is proposed; and a description of the extent to which any watercourse will be altered or relocated as a result of proposed land disturbing activity.

c. Administration by the Floodplain Administrator. The Floodplain Administrator, as defined herein, shall administer and implement this section by granting or denying development permit and non-structural development permit applications in accordance with its provisions.

d. Duties and Responsibilities of the Floodplain Administrator. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

1. Permit application review.

a. Review all development permit applications and non-structural development permit applications to determine that the permit requirements of this section have been satisfied.

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b. Review all development permit applications and non-structural development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

c. Review all development permit applications and non-structural development permit applications to determine if the proposed development or land disturbing activity is located in the floodway. If located in the floodway, assure that the encroachment provisions of this section are met.

2. Use of other base flood data. When base flood elevation data has not been provided in accordance with subsection 4(b) (basis for establishing the special flood hazard areas), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data available (known as best available data (BAD)) from a federal, state or other source, as criteria for requiring that new construction, substantial improvements, or other development in the floodplain are administered in accordance with subsection 6(b) (specific standards).

3. Information to be obtained and maintained.

a. Obtain and record the actual elevation (in relation to mean sea level in NAVD88) of the lowest floor (including basement and/or crawl space) of all new or substantially improved structures, and whether or not the structure contains a basement and/or crawl space.

b. For all new or substantially improved floodproofed structures:

i. Obtain and record the actual elevation (in relation to mean sea level in NAVD88) to which the structure has been floodproofed; and

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ii. Maintain the floodproofing certifications required in subsection 5(a)(3).

c. Maintain for public inspection all records pertaining to the provisions of this section.

4. Alteration of watercourses. The Floodplain Administrator shall:

a. Notify nearby communities, water resource districts, and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished; and

c. Notify the appropriate water resource district prior to removal or placement of fill within two hundred (200) feet of the ordinary high water mark of a body of water during normal flow or stage.

5. Interpretation of flood insurance rate map (FIRM) or digital flood insurance rate map (DFIRM) boundaries. Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection 7 (variance procedure). The Floodplain Administrator may require information be submitted by a registered land surveyor.

6. Provisions for flood hazard reduction.

a. General standards. In all special flood hazard areas the following standards are required:

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1. Anchoring.

a. All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

2. Construction materials and methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and

c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Such facilities shall be located in areas that have been elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation for residential structures and manufactured homes.

3. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

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b. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters; and

c. All new and replacement on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

d. Base flood elevation data shall be provided for all subdivision proposals and other proposed developments. Elevation data must be provided in NAVD88 for areas with a flood insurance rate map (FIRM) or other base flood elevation data in that datum.

b. Specific standards. In all special flood hazard areas where base flood elevation data have been provided as set forth in subsection 4(b) (basis for establishing the special flood hazard areas) or subsection 5(d)(2) (use of other base flood data), the following provisions are required:

1. Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement and/or crawl space, elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation.

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2. Nonresidential construction. Construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement and/or crawl space, elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed to at least two (2) feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator as set forth in subsection 5(d)(3) (information to be obtained and maintained).

3. Manufactured homes.

a. Manufactured homes shall be anchored in accordance with subsection 6(a)(1) (anchoring).

b. All manufactured homes or those to be substantially improved shall be on a permanent foundation, have the lowest floor of the manufactured home elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation, and be securely anchored to an adequately anchored foundation system.

4. Attached garages, decks and landings providing primary access.

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a. Garages attached to any residential structure, non-residential structure or manufactured home shall be subject to the same construction requirements as the residential structure, non-residential structure or manufactured home to which it is attached.

b. Decks and landings providing access to the primary entrance of a residential structure, non-residential structure or manufactured home shall be subject to the same construction requirements as the residential structure, non-residential structure or manufactured home to which it provides access.

~~c. Accessory buildings over one hundred twenty (120) square feet in area for residential structures, non-residential structures and manufactured homes shall be subject to the same construction requirements as the residential structure, non-residential structure or manufactured home to which it is accessory.~~

5. Accessory structures.

a. Accessory structures defined within this section that are not greater than 600 square feet in area may be constructed with the lowest floor below the base flood elevation in accordance with the following wet floodproofing requirements:

i. Must be anchored to resist floatation, collapse and lateral movement.

ii. Must have structural and non-structural components constructed of flood damage resistant material to an elevation of at least two feet above the base flood elevation. Flood damage materials must meet or exceed the requirements of the most recent version of FEMA Technical Bulletin 2;

iii. Must be provided with flood openings designed to equalize the hydrostatic

pressure of flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. Flood opening designs must meet or exceed the requirements of the most recent version of FEMA Technical Bulletin 1;

iv. Must have mechanical, electrical and utility equipment elevated at least two-feet above the base flood elevation or specifically designed to prevent water from entering or accumulating within the components during flooding in accordance with the most recent version of FEMA Technical Bulletin P-348; and,

v. Prior to the issuance of a building permit for the structure, the property owner must submit a signed non-conversion agreement to the City of Bismarck. The non-conversion agreement must be recorded with the Burleigh County Recorder.

b. Accessory structures defined within this section that are greater than 600 square feet in area may be constructed with the lowest floor one foot above the base flood elevation in accordance with the following requirements.

i. Must have mechanical, electrical and utility equipment elevated at least two-feet above the base flood elevation or specifically designed to prevent water from entering or accumulating within the components during flooding in accordance with the most recent version of FEMA Technical Bulletin P-348; and,

ii. Prior to the issuance of a building permit for the structure, the property owner must submit a signed non-conversion agreement to the City of Bismarck. The non-conversion agreement must be recorded with the Burleigh County Recorder.

d. Accessory structures that are not enclosed and do not have more than one ridged wall may be constructed at grade in accordance with the following requirements.

i. Must have structural and non-structural components constructed of flood damage resistant material to an elevation of at least two feet above the base flood elevation. Flood damage materials must meet or exceed the requirements of the most recent version of FEMA Technical Bulletin 2;

ii. Must have mechanical, electrical and utility equipment elevated at least two-feet above the base flood elevation or specifically designed to prevent water from entering or accumulating within the components during flooding in accordance with the most recent version of FEMA Technical Bulletin P-348; and,

iii. Prior to the issuance of a building permit for the structure, the property owner must submit a signed non-conversion agreement to the City of Bismarck. The non-conversion agreement must be recorded with the Burleigh County Recorder.

~~5~~6. Additions to existing structures.

a. Any addition to any existing residential structure, non-residential structure, manufactured home, garage, deck, landing or accessory ~~building~~ structure that is considered a post-FIRM building and is not deemed a substantial improvement may be constructed with the lowest floor at the same elevation as the existing structure, provided the lowest floor of the existing structure is elevated on fill and/or a permanent foundation to at least one (1) foot above the base flood elevation. Any addition to any existing residential structure, non-residential

structure, manufactured home, garage, deck, landing or accessory ~~building~~ structure that is considered a pre-FIRM building and is not deemed a substantial improvement may be constructed with the lowest floor at the same elevation as the existing structure.

c. Floodways. Floodways are designated areas located within the special flood hazard areas established in subsection 4(b) (basis for establishing the special flood hazard areas). Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If the preceding subsection is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsection 6 (provisions for flood hazard reduction).

~~7~~8. Variance procedure.

a. Board of Adjustment. The Board of Adjustment, as established in Chapter 14-06 of the City Code of Ordinances (Board of Adjustment), shall hear and decide appeals and requests for variances from the requirements of this section.

b. Appeals. An appeal may be filed by any person, firm, or corporation aggrieved, or by any governmental officer, department or board affected by any decision or determination made by the Floodplain Administrator in the enforcement or administration of this section, in accordance with the provisions of Sections 14-06-02 (Powers and Duties) and 14-06-03 (Appeal Procedures).

c. Variances. An application for a variance may be made by any person, firm, or corporation with a legal

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interest in the property for which the variance is being sought, in accordance with the provisions of Sections 14-06-02 (Powers and Duties) and 14-06-03 (Appeal Procedures).

d. In considering appeals and variance applications, and in addition to the requirements outlined in Section 14-06-02 (Powers and Duties), the Board of Adjustment shall consider all technical evaluations, all relevant factors, and the standards specified in this section, including:

1. The danger to life and property due to flooding or erosion damage;

2. The danger that materials may be swept onto other lands to the injury of others;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with the existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

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11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

e. Upon consideration of the factors in subsection (7)(d) and the purposes of this section, the Board of Adjustment may attach such conditions to the granting of a variance as it deems necessary to further the purpose of this section.

f. Conditions for variances.

1. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this subsection.

2. Variances shall not be issued within the identified floodplain if any increase in flood levels during the base flood discharge would result.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

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g. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation lower than two (2) feet above the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

h. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances granted to the Federal Emergency Management Agency (FEMA) upon request.

~~8~~9. Penalties for Violations. Penalties for violation of this section shall be in accordance with the provisions of Chapter 14-05 (Enforcement) of the City Code of Ordinances.

(Ord. 4137, 5-26-87; Ord. 4737, 11-14-95; Ord. 4948, 10-13-98; Ord. 5037, 03-14-00; Ord. 5259, 05-27-2003; Ord. 5423, 05-24-05; Ord. 5728, 05-26-09; Ord. 5779, 07-27-10 and 08-10-10; Ord. 5811, 03-22-11; Ord. 6028, 01-28-14; Ord. 6068; 06-24-14; Ord. 6173, 10-27-15)

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

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STAFF REPORT

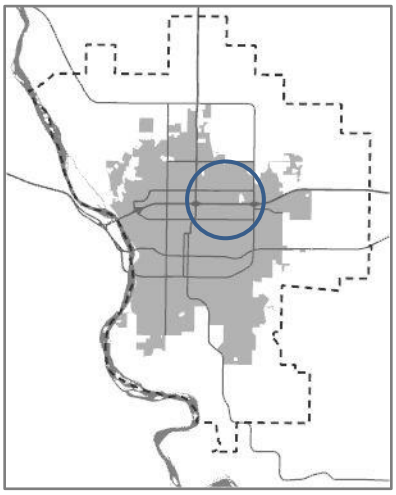
City of Bismarck
Community Development Department
Planning Division

Agenda Item # 4
May 26, 2021

Application for: Zoning Change *TRAKiT Project ID:* ZC2021-007
Major Subdivision Preliminary Plat PPLT2021-004

Project Summary

Title:	Fairview Cemetery Addition
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Fairview Cemetery, Owner City of Bismarck, Owner Vertin, Applicant
Project Contact:	Landon Niemiller, Swenson, Hagen & Co.
Location:	In northeast Bismarck, north of Interstate 94 and west of Centennial Road on the south side of East Century Avenue
Project Size:	73.3 Acres
Request:	Plat and rezone the cemetery parcel to allow construction of new related uses



Site Information

Existing Conditions		**Proposed Conditions**	
Number of Lots:	2 parcels	*Number of Lots:*	4 lots in 1 block
Land Use:	Cemetery	*Land Use:*	Cemetery, funeral home, and crematorium
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	*Designated GMP Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	A – Agricultural MA – Industrial	*Zoning:*	P – Public Use RT – Residential MA – Industrial
Uses Allowed:	A – Agriculture MA – Light industrial, general commercial, warehouses, manufacturing and shop condos	*Uses Allowed:*	P – Public Use RT – Offices and multi-family residential MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
Max Density Allowed:	A – 1 unit / 40 acres A – 1 unit / 40 acres	*Max Density Allowed:*	P – N/A RT – 30 units / acre MA – N/A

(continued)

Property History

Zoned:	*N/A*	*Platted:*	*N/A*	Annexed:	Pre-1980

Staff Analysis

Fairview Cemetery, Vertin, and the City of Bismarck are requesting approval of a zoning change from the A – Agricultural and MA – Industrial zoning districts to the P – Public, RT – Residential, and MA – Industrial zoning district and a major subdivision preliminary plat for Fairview Cemetery Addition.

Adjacent uses include a golf course to the west, single-family and multi-family residential to the north across East Century Avenue, industrial and rural residential to the east, and undeveloped land to the south.

The Fairview Cemetery was established in the 1880s, and the proposed plat would be the first for this land. The applicant proposes to develop a funeral home on the proposed Lot 2 and potentially a crematorium on the proposed Lot 3. Platting is required for such structural improvements. The existing cemetery use would continue on Lot 1.

The proposed plat includes an access easement through southeast corner that would connect Hamilton Drive to the undeveloped land to the south. This easement could eventually be used to provide access to this land in the future, which is controlled by a separate owner.

The plat also includes the vacant Lot 4, adjacent to Hamilton Street, owned by the City of Bismarck. There are no plans for immediate development of this lot, but the inclusion in this plat allows adjustments to the right-of-way to provide a more efficient route. Both the lot lines and access easement boundaries are likely to change prior to the final plat.

The plat includes area within the Special Flood Hazard Area (SFHA), including the floodway, through the southwest corner. There are also federally recognized wetlands. None of the floodplain or wetland areas would be disturbed or graded through the proposed development.

Required Findings of Fact (relating to land use)

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 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; and

   The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Preliminary Plat

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed

(continued)

preliminary plat is not an urban subdivision with residential zoning districts;

4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required;
5. A scoping sheet for a post-construction stormwater management permit (PCSMP) has been approved by the City Engineer;
6. 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.
7. 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;
8. The proposed subdivision is located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the A – Agricultural and MA – Industrial zoning districts to the P – Public, RT – Residential, and MA – Industrial zoning districts and tentative approval of the major subdivision preliminary plat for Fairview Cemetery Addition.

Attachments

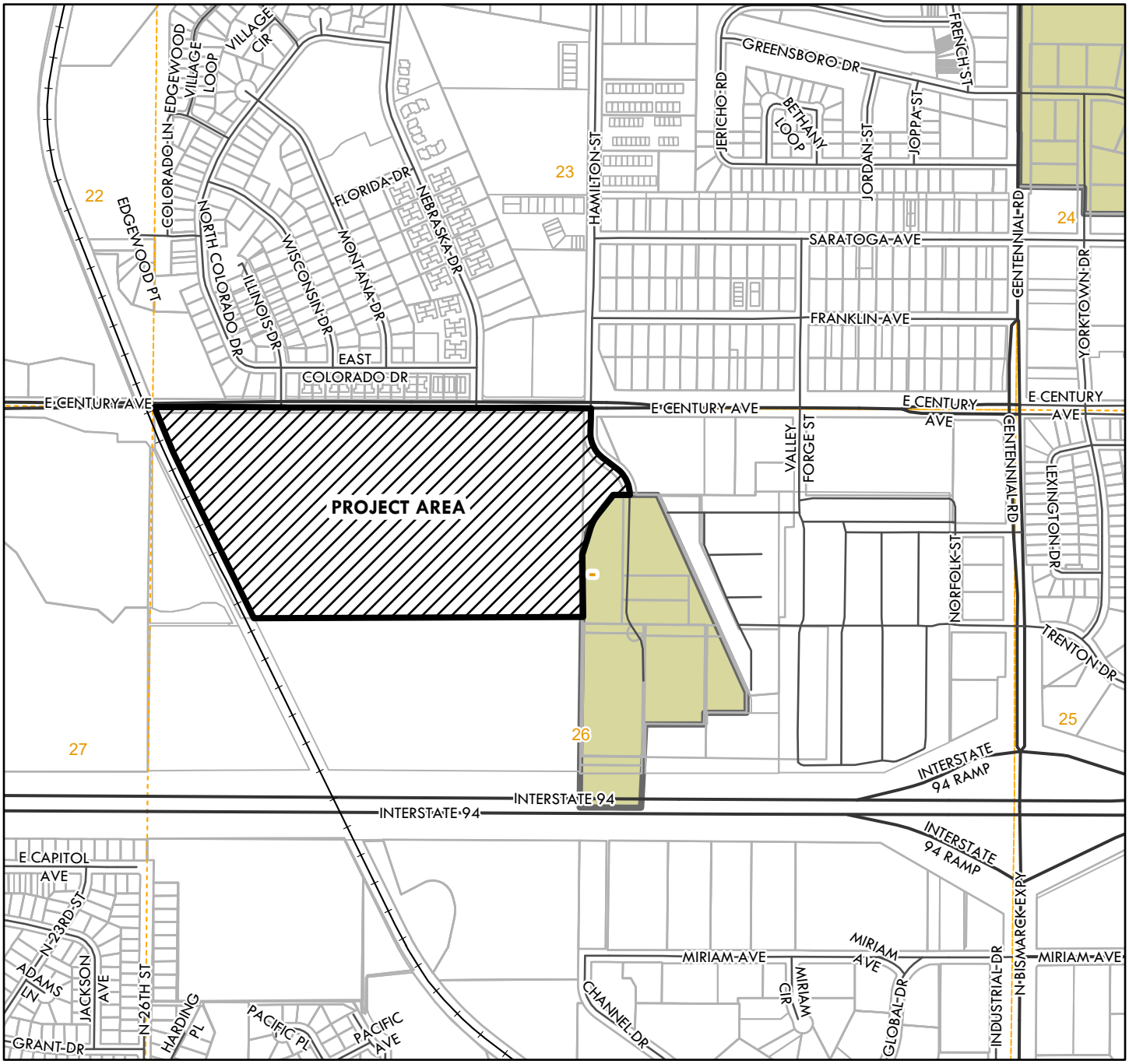
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Proposed Zoning Map
5. Major Subdivision Preliminary Plat

Staff report prepared by: Daniel Nairn, AICP, Senior Planner
701-355-1854 | dnairn@bismarcknd.gov

Location Map

FAIRVIEW CEMETERY ADDITION

PPLT2021-004



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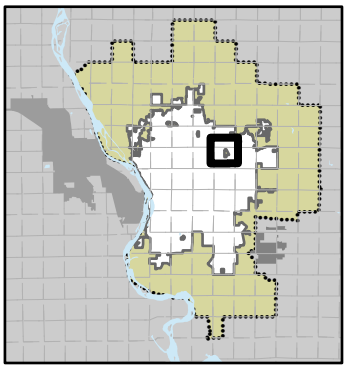


City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

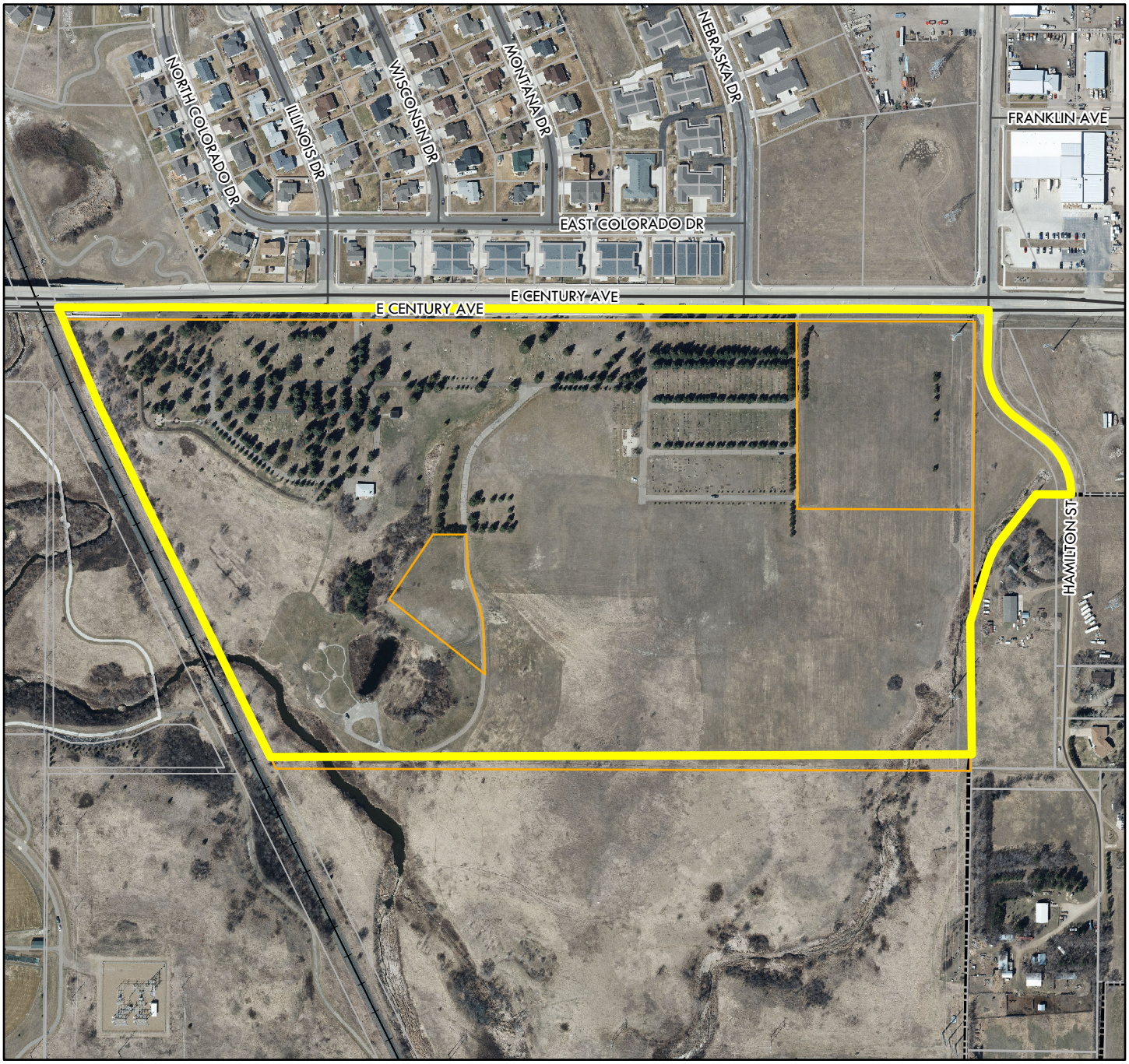
City of Bismarck
Community Development Department
Planning Division
May 18, 2021 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

Aerial Map

FAIRVIEW CEMETERY ADDITION

PPLT2021-004



Miles

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City Limits

Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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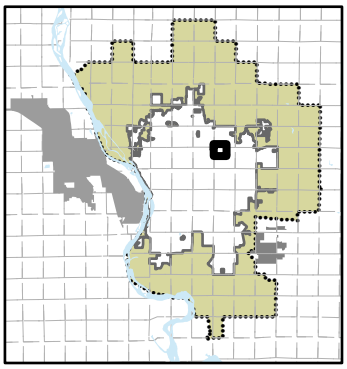


City of Bismarck
Community Development Department
Planning Division
May 18, 2021

Zoning and Plan Reference Map

FAIRVIEW CEMETERY ADDITION

PPLT2021-004

Zoning Districts

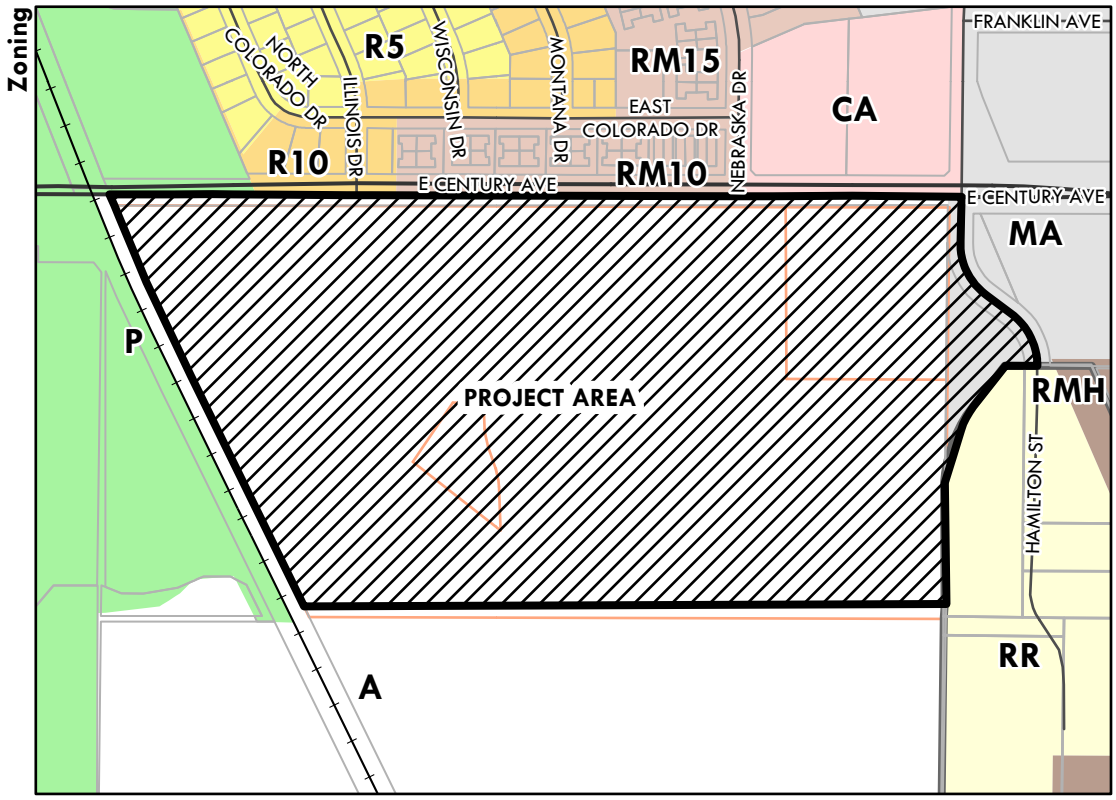
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

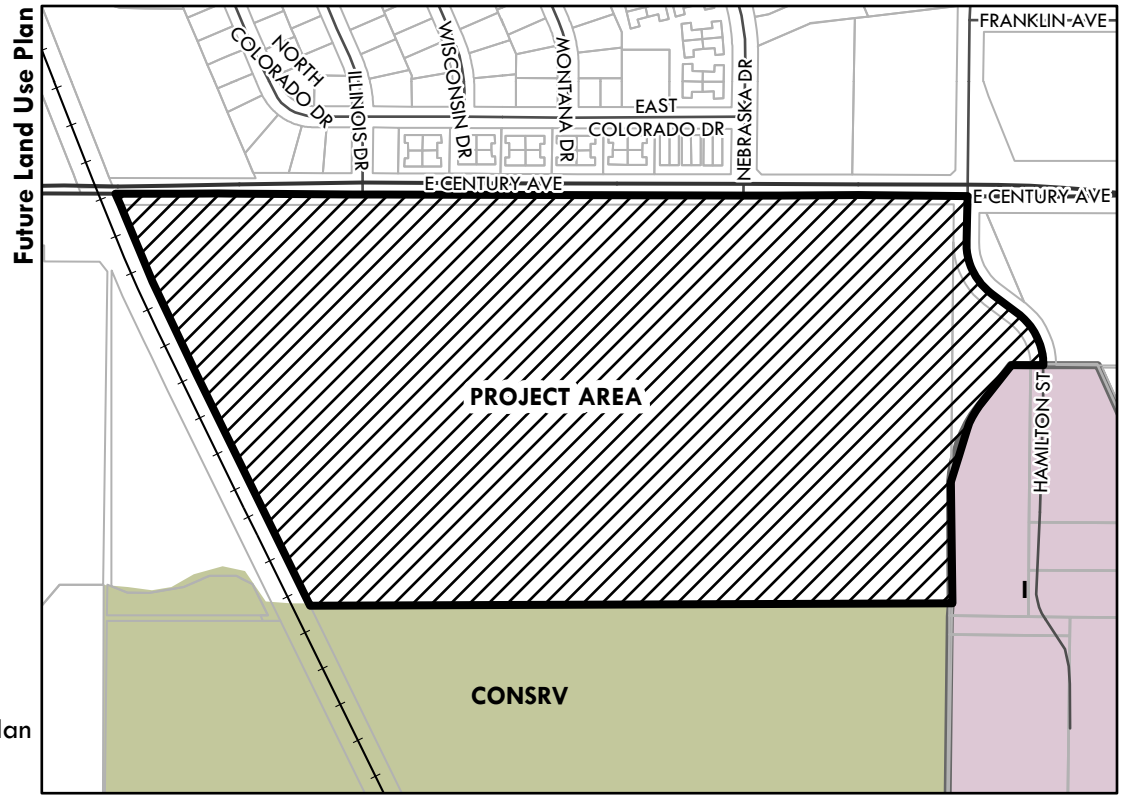
Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/ Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/ Mixed Use
O/MU	Office/ Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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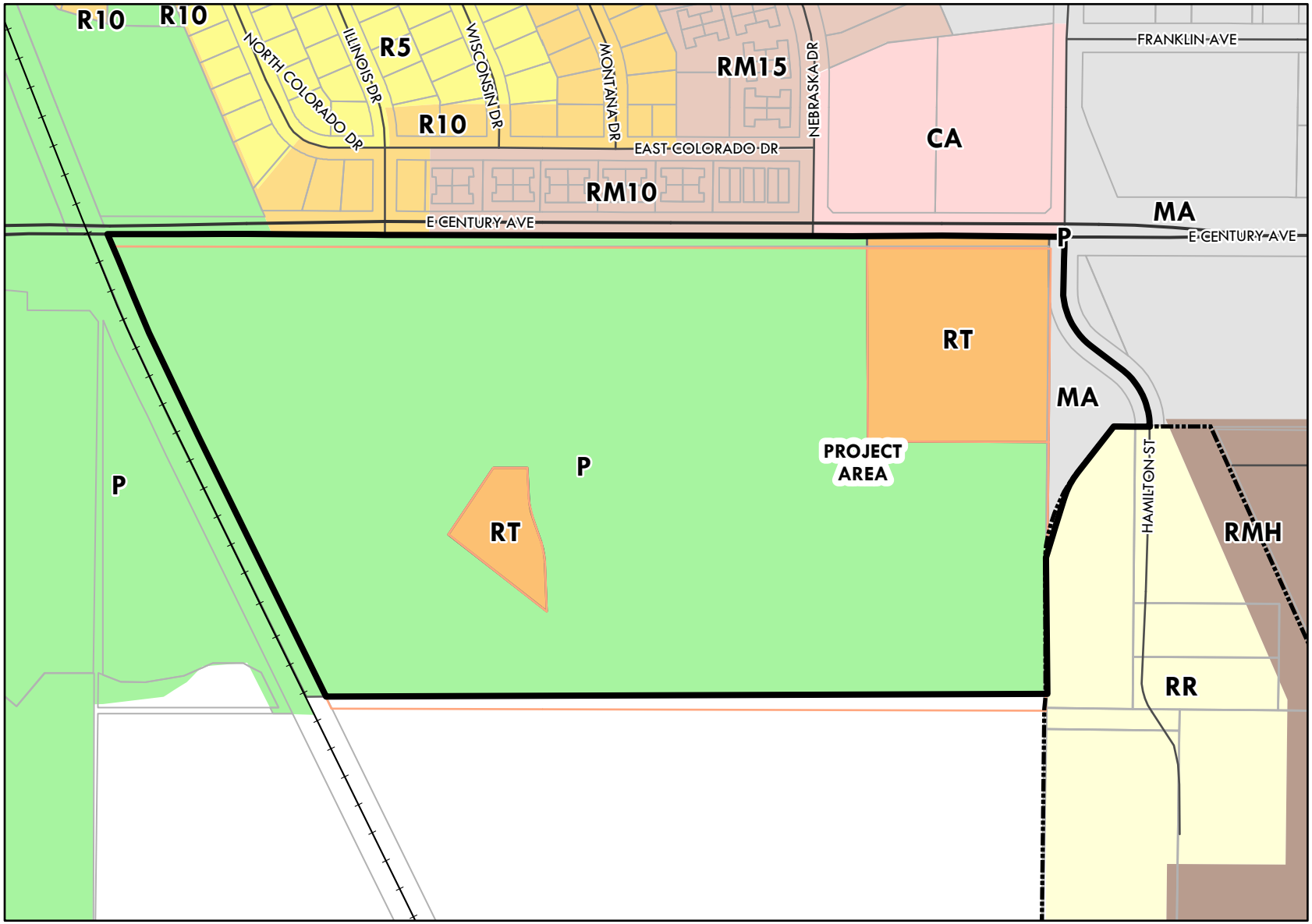
City of Bismarck
Community Development Dept.
Planning Division
May 18, 2021

Proposed Zoning Change

FAIRVIEW CEMETERY ADDITION

PPLT2021-004

Proposed New Zoning Map



Project Area (zoning within is proposed)

City Limits

Zoning Districts

A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

A "C-" prior to the district indicates that special conditions would apply to the zoning district

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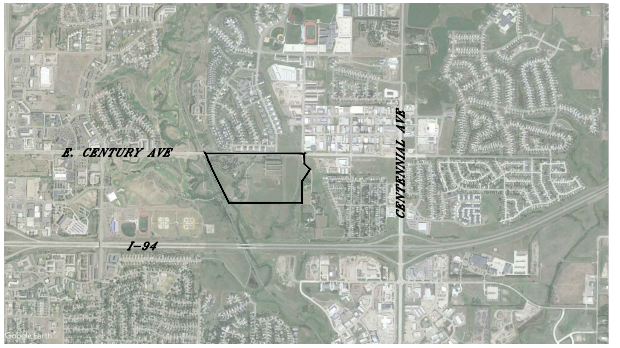
City of Bismarck
Community Development Dept.
Planning Division
May 18, 2021

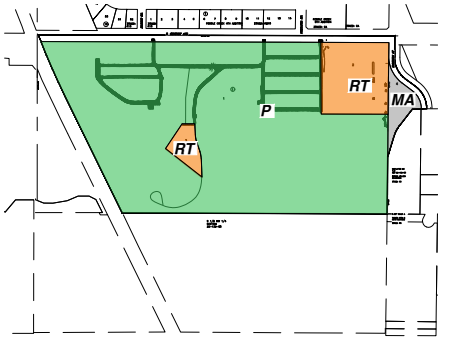
FAIRVIEW CEMETERY ADDITION

PART OF THE N 1/2 OF THE NW 1/4 & LOT 1 BLOCK 1
REVOLUTIONARY ADDITION OF SECTION 26 TOWNSHIP 139 NORTH,
RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, NORTH DAKOTA



LOCATION MAP



33 ZONING MAP

73.3 ACRES
EXISTING ZONING: A/MA
PROPOSED ZONING: P/RT/MA
4 LOTS

OWNER: FAIRVIEW CEMETERY
ADDRESS: PO BOX 7151
BISMARCK, ND 58507
PHONE: 701 223 1947

OWNER: CITY OF BISMARCK
ADDRESS: 221 N. 5TH ST
BISMARCK, ND 58506

100 YR FLOODPLAIN: 1698
38015C0805D
EFFECTIVE 8/4/14

SCALE – 1" = 100'

VERTICAL DATUM: NAVD 88

MAY 12, 2021

SWENSON, HAGEN & COMPANY P.C.
909 Basin Avenue
Bismarck, North Dakota 58504
shcmp@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

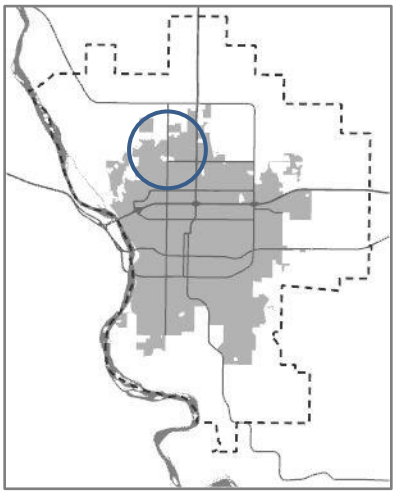
Agenda Item # 5
May 26, 2021

Application for: Zoning Change *TRAKiT Project ID:* ZC2021-008

Major Subdivision Preliminary Plat PPLT2021-005

Project Summary

Title:	Boden Addition
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Boulder Ridge Development Ron & Ruth Knutson
Project Contact:	Landon Niemiller, Swenson, Hagen & Co.
Location:	In north Bismarck, on the west side of North Washington Street and the south side of East Lasalle Drive
Project Size:	18.4 Acres
Request:	Plat and rezone for development of small-scale office buildings



Site Information

Existing Conditions		**Proposed Conditions**	
Number of Lots:	5 parcels	*Number of Lots:*	46 Lots in 1 Block
Land Use:	Undeveloped	*Land Use:*	Small-scale offices and one single-family residence
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	*Designated GMP Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	R5 – Residential A – Agricultural	*Zoning:*	Conditional RT – Residential R5 – Residential
Uses Allowed:	R5 – Single-family residential A – Agriculture	*Uses Allowed:*	Conditional RT – Offices and multi-family residential R5 – Single-family residential
Max Density Allowed:	R5 – 5 units / acre A – 1 unit / 40 acres	*Max Density Allowed:*	Conditional RT – 30 units / acre R5 – 5 units / acre

Property History

Zoned:	*10/2012* *R5 - Residential*	*Platted:*	*04/2013* *Boulder Ridge 5th*	Annexed:	04/2013

Staff Analysis

Boulder Ridge Development is requesting approval of a zoning change from the R5 – Residential and A – Agricultural zoning districts to the Conditional RT – Residential zoning district and a major subdivision preliminary plat for Boden Addition.

Adjacent uses include an elementary school to the north across East Lasalle Drive, single-family residential and stormwater detention to the east, single-family residential to the south, and a developing assisted living and skilled care facility to the west across North Washington Street.

The area includes three lots within Boulder Ridge 5th Addition, and unplatted land to the east of this subdivision. Portions of the area were also included on a preliminary plat for Boulder Ridge 8th Addition, which has been withdrawn by the applicant.

The proposed development would consist of smaller office buildings on individual lots, in a scale and arrangement similar to a residential development. The zoning district would also include conditions to align with this design concept, in order to limit the impact to the surrounding neighborhood.

A draft conditional zoning ordinance is attached, including some of the following:

- Minimum and maximum building sizes and heights, and prohibition of accessory structures
- Basic design standards to resemble residential construction
- A landscaped buffer on the periphery and internal landscaping on each lot
- Lighting standards to limit light trespass
- Limits on number and size of commercial signs

The underlying zoning district of RT – Residential would allow the general office or medical office uses.

All access to the development would be made by private driveway loops connected to East LaSalle Drive to the north at two points. A small segment of Onyx Drive has already been dedicated and improved, and this would likely be handed over to the association with development of the plat. The internal roadway network and underlying utilities would be owned and managed by an association for the development. Stormwater for the development would be collected in Lot 45 to the east.

Each lot would include enough parking to meet the minimum requirements in the zoning ordinance. A cross-parking agreement within the association would potentially alleviate any possible strain on the parking. Parking on the private drives would be limited due to width needed for fire access and direct-access parking areas.

Boden Addition includes one lot zoned R5 – Residential for development of a single-family home. This lot would be disconnected from the remainder of the subdivision and would be accessed directly from Basalt Drive.

Required Findings of Fact (relating to land use)

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 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; and

   The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Preliminary Plat

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed preliminary plat is within an area already under agreement for a neighborhood park.
4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required;
5. A scoping sheet for a post-construction stormwater management permit (PCSMP) has been approved by the City Engineer;
6. 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.
7. 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;
8. 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;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for of a zoning change from the R5 – Residential and A – Agricultural zoning districts to the Conditional RT – Residential zoning district, as outlined in the attached draft ordinance, and tentative approval of the major subdivision preliminary plat for Boden Addition.

Attachments

1. Draft Conditional Zoning Ordinance
2. Location Map
3. Aerial Map
4. Zoning and Plan Reference Map
5. Proposed Zoning Map
6. Major Subdivision Preliminary Plat

Staff report prepared by: Daniel Nairn, AICP, Senior Planner
701-355-1854 | dnairn@bismarcknd.gov

ORDINANCE NO. XXXX

First Reading	_____
Second Reading	_____
Final Passage and Adoption	_____
Publication Date	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A – Agricultural zoning district and included in the R5 – Residential zoning district:

Lot 46, Block 1, Boden Addition

Section 2. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the R5 – Residential and A – Agricultural zoning districts and included in the Conditional RT – Residential zoning district:

Lots 1-45, Block 1, Boden Addition

This Conditional RT – Residential zoning district is subject to the following additional standards:

1. *Building Height*. Building heights shall be limited to two (2) stories and thirty (35) feet

2. *Building Area*. Each lot is limited to one (1) principal structure with a footprint of no less than one-thousand five hundred (1,500) square feet and no greater than three thousand (3,000) square feet. No accessory

structures are permitted, although decks, porches, patios, and other building features are permitted.

3. *Building Design*. All buildings shall be designed in a general residential character, including a pitched roof, a front entry visible from the street, and windows on the front building façade. Additional design standards may be enacted and administered by an association.

4. *Landscaped Buffer*. A landscaped buffer of at least twenty (20) feet in width shall be installed at the time of initial site development in compliance with all requirements of Section 14-03-11(10) as a visual screen for lots 26-27, 37-40, and 43-44, Block 1, Boden Addition.

5. *Interior Landscaping*. Each lot shall include a landscaped area of not less than fifteen (15) percent of the total lot area to be planted with trees, shrubs, grass, or other cultivated vegetation at the time of lot development.

6. *Lighting*. All outdoor lighting fixtures shall be designed as a full cut-off fixture or have a shielding method to direct light emissions down onto the site and not shine direct illumination or glare onto adjacent properties, with the exception of low-wattage landscape lighting and up-lighting intended to highlight part of a building or landscaping; provided, that the light distribution from the fixture is effectively contained by an overhanging architectural element or landscaping element and does not shine beyond the intended target including into the sky.

7. *Signs*. Each lot is limited to one (1) wall sign or one (1) monument sign, not illuminated, oriented toward a private street of Boden Addition, and no greater than sixty (60) square feet in size. Additionally, one (1) sign oriented toward LaSalle Drive may be permitted in compliance with all requirements of Chapter 14-03.1 (Signs) that apply to the RT – Residential zoning district.

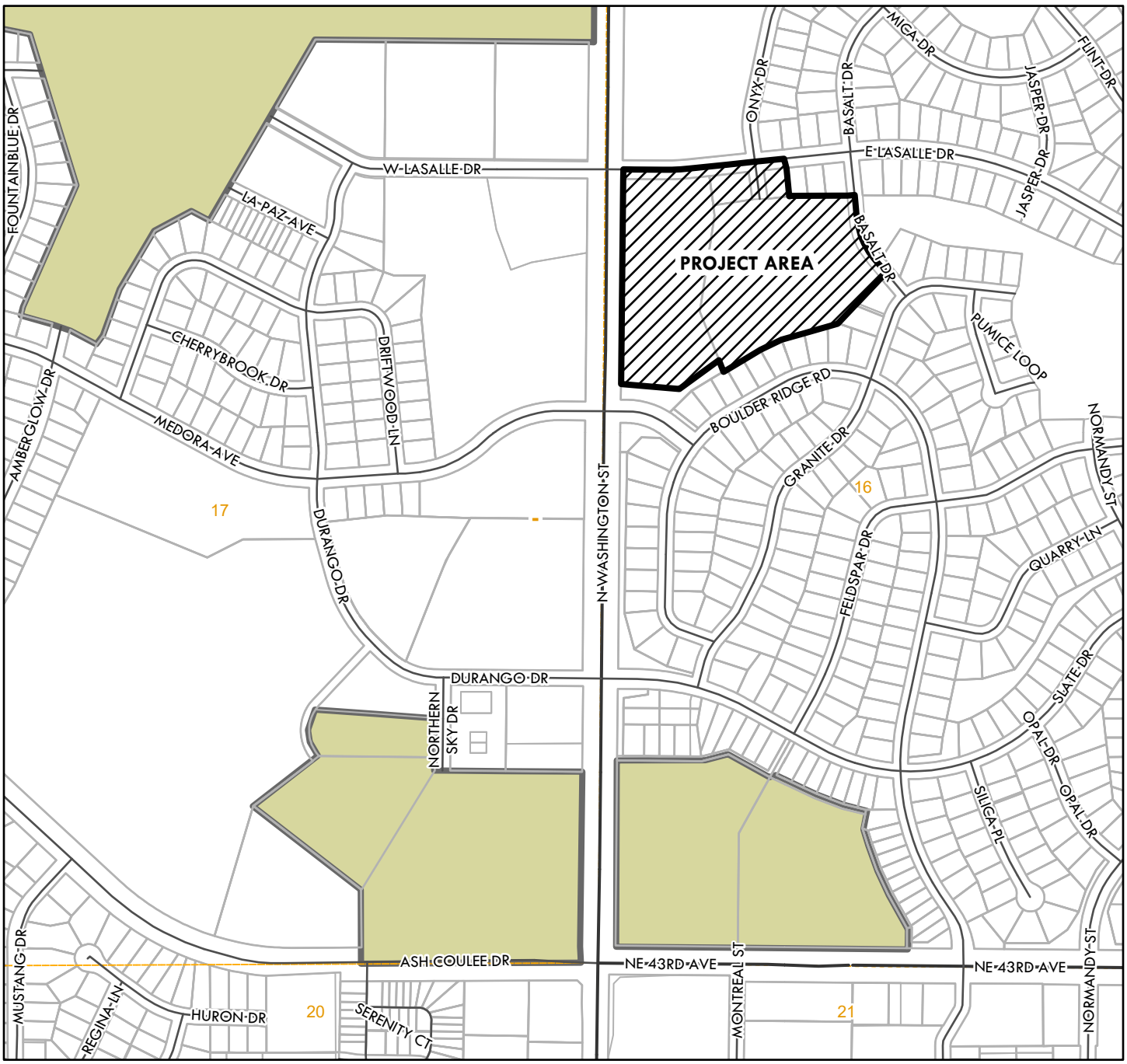
Section 3. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

Location Map

BODEN ADDITION

PPLT2021-005
ZC2021-008



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City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

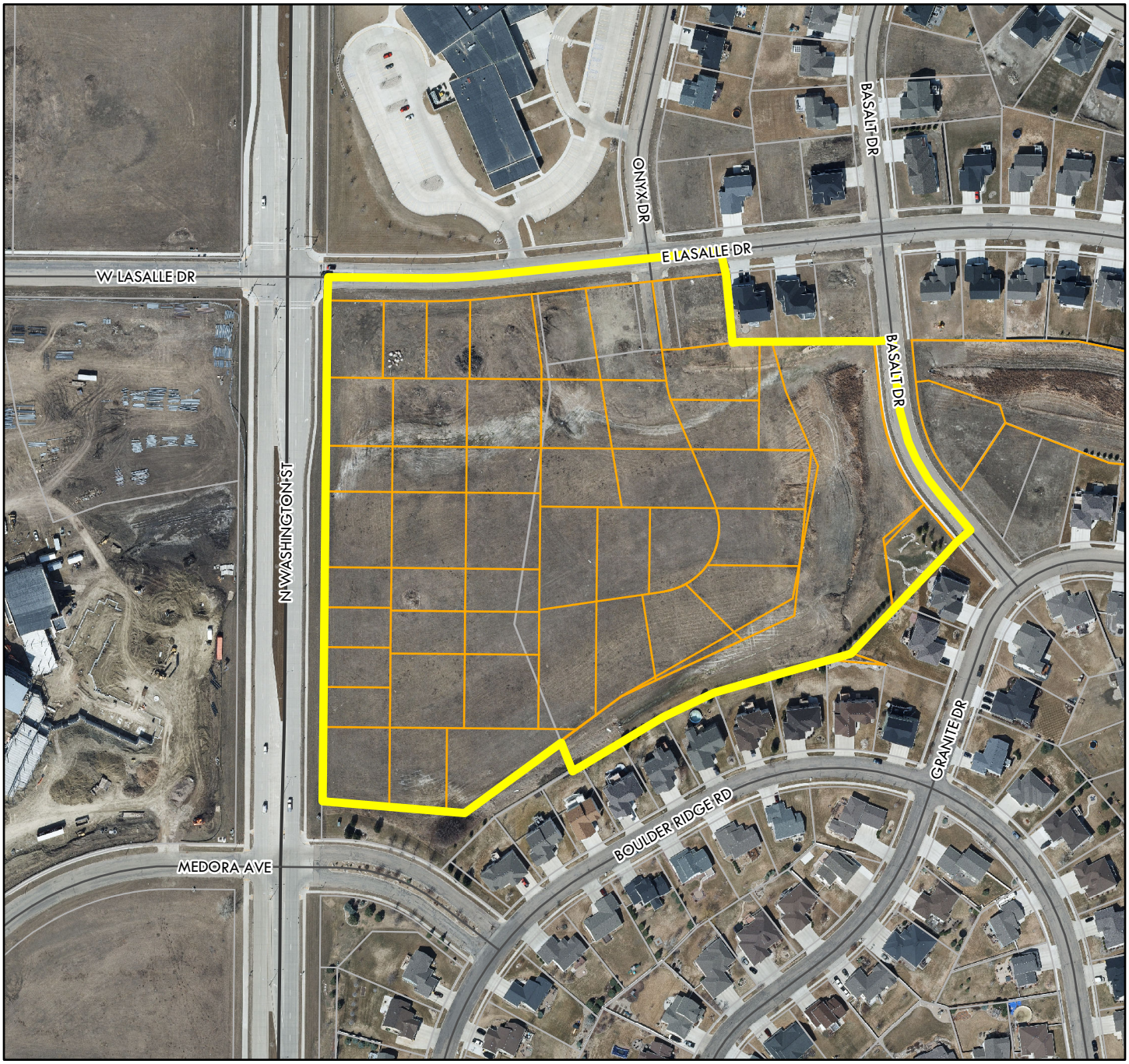
City of Bismarck
Community Development Department
Planning Division
May 12, 2021 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

Aerial Map

BODEN ADDITION

PPLT2021-005
ZC2021-008



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City Limits

Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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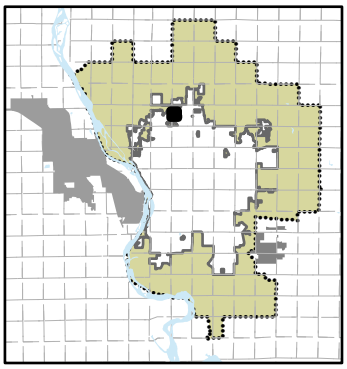


City of Bismarck
Community Development Department
Planning Division
May 12, 2021

Zoning and Plan Reference Map

BODEN ADDITION

PPLT2021-005
ZC2021-008

Zoning Districts

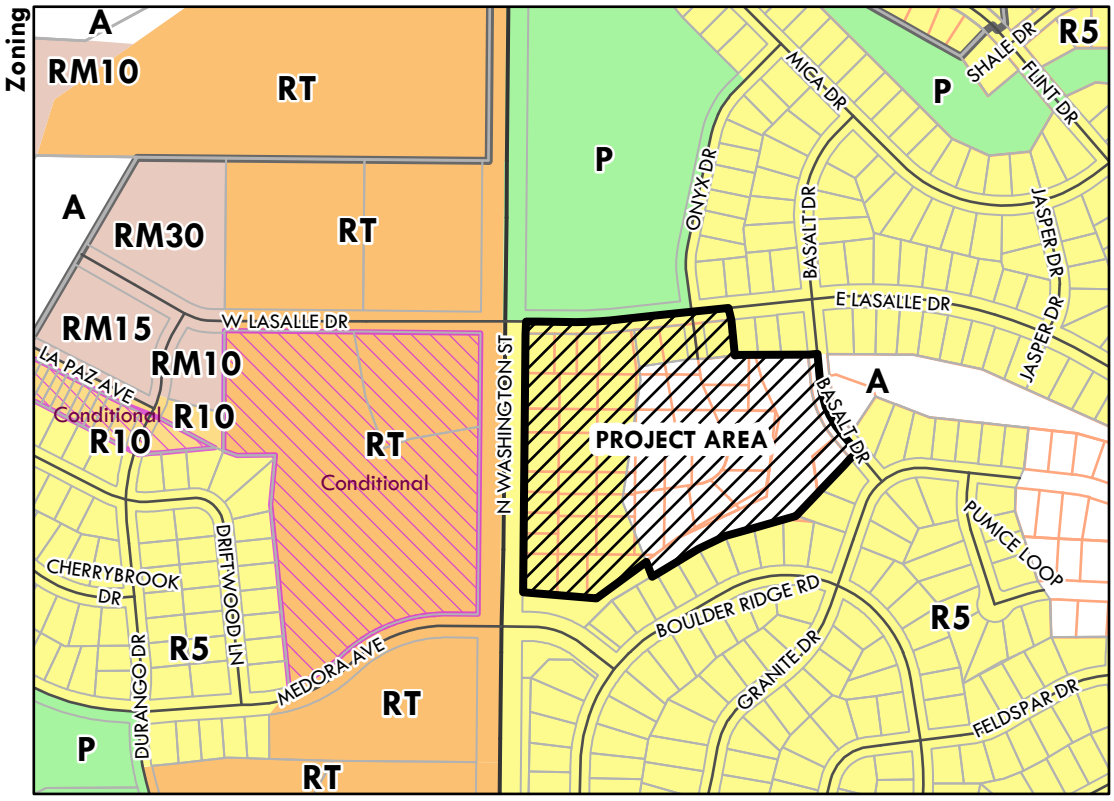
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

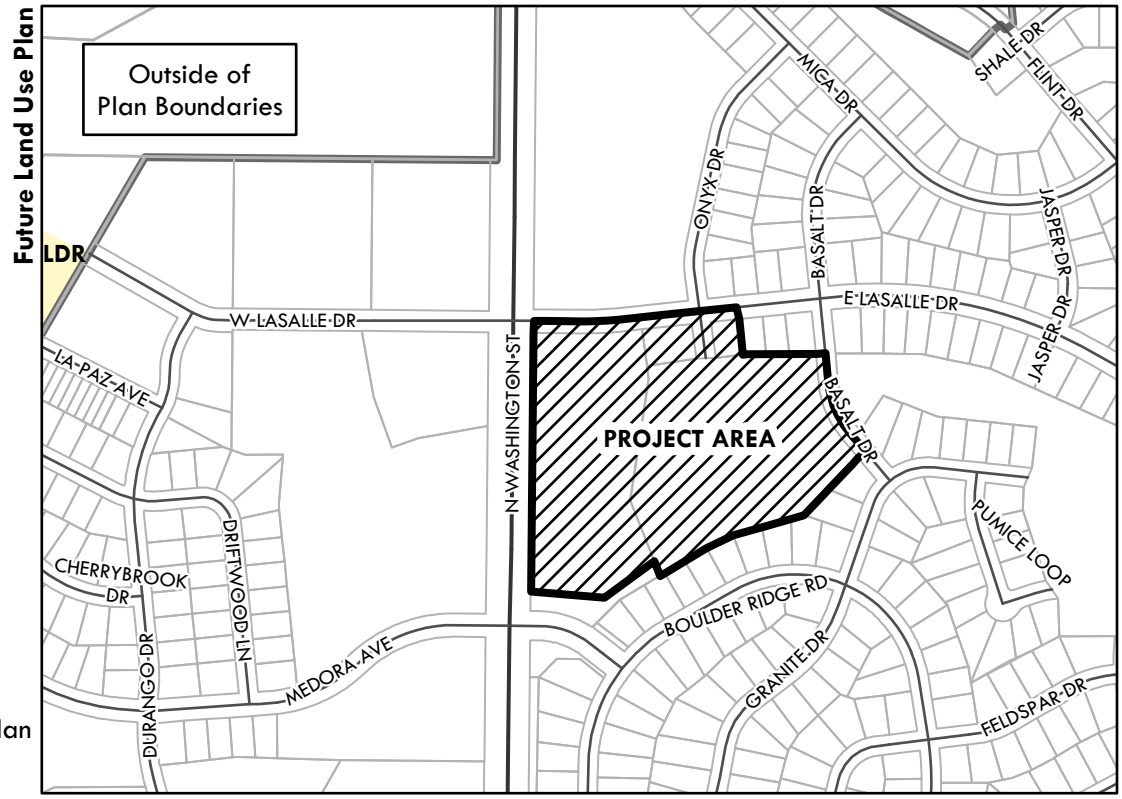
Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/ Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/ Mixed Use
O/MU	Office/ Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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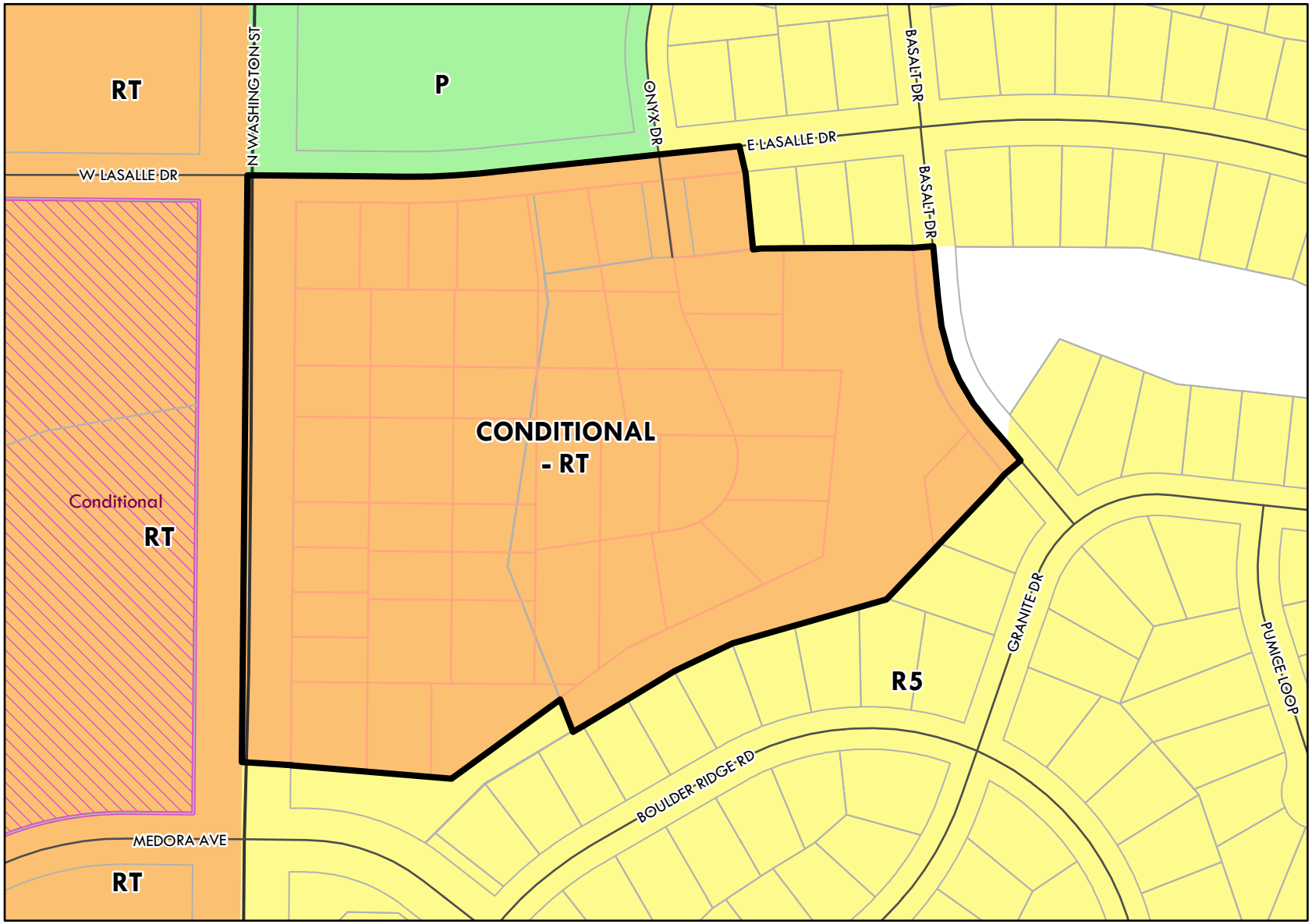
City of Bismarck
Community Development Dept.
Planning Division
May 12, 2021

Proposed Zoning Change
BODEN ADDITION

ZC2021-008

Proposed New Zoning Map



Project Area (zoning within is proposed)

City Limits

Zoning Districts

A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

A "C-" prior to the district indicates that special conditions would apply to the zoning district

0 0.07 0.15 0.3 Miles

City of Bismarck
Community Development Dept.
Planning Division
May 18, 2021

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

BODEN ADDITION

BEING A REPLAT OF LOT 2 & 3 BLOCK 1, LOT 2 BLOCK 4
BOULDER RIDGE FIFTH ADDITION &
PART OF THE WEST 1/2 OF
SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

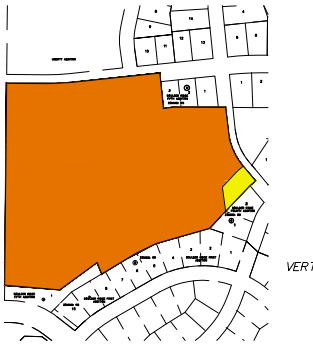
LOCATION MAP

18.4 ACRES
EXISTING ZONING: R5/A
PROPOSED ZONING: RESTRICTED RT & R5
46 LOTS

OWNER: RON &RUTH KNUTSON
ADDRESS: 555 HIGHWAY 1804 NE
BISMARCK, ND 58503

OWNER: BOULDER RIDGE DEVELOPMENT, INC
101 SLATE DR.
BISMARCK, ND 58503

OWNER: FIVE GUYS INVESTMENT, LLP
101 SLATE DR.
BISMARCK, ND 58503



SCALE – 1" = 60'
VERTICAL DATUM: NAVD 88

APRIL 21, 2021

ZONING MAP
LOT 46--R5
ALL REMAINING LOTS--RESTRICTED RT

SWENSON, HAGEN & COMPANY P.C.
909 Basin Avenue
Bismarck, North Dakota 58504
shcmp@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

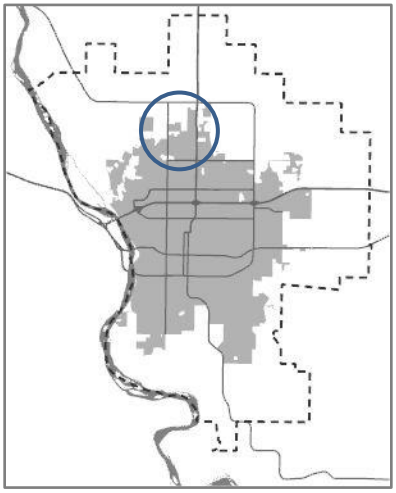
Agenda Item # 6
May 26, 2021

Application for: Annexation

TRAKiT Project ID: ANNX2021-005

Project Summary

Title:	Lot 4-14, Block 2, Lot 1, Block 3, and Lots 1-9 and Lots 23-29, Block 4, Boulder Ridge Seventh Addition First Replat
Status:	Planning & Zoning Commission – Final Consideration
Owner(s):	Five Guys Investment, LLP
Project Contact:	Landon Niemiller, Swenson, Hagen & Co.
Location:	In north Bismarck, west of North Washington Street and south of 57th Avenue NE
Project Size:	20.3 acres
Request:	Annex property for future development



Site Information

Existing Conditions		**Proposed Conditions**	
Number of Lots:	28 lots in 3 blocks	*Number of Lots:*	28 lots in 3 blocks
Land Use:	undeveloped	*Land Use:*	residential
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	*Designated GMP Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	R5 – Residential R10 – Residential RM15 – Residential	*Zoning:*	R5 – Residential R10 – Residential RM15 – Residential
Uses Allowed:	R5 – Single-family residential R10 – Single and two-family residential RM15 – Multi-family residential	*Uses Allowed:*	R5 – Single-family residential R10 – Single and two-family residential RM15 – Multi-family residential
Max Density Allowed:	R5 – 5 units / acre R10 – 10 units / acre RM15 – 15 units / acre	*Max Density Allowed:*	R5 – 5 units / acre R10 – 10 units / acre RM15 – 15 units / acre

Property History

Zoned:	*07/2019*	*Platted:*	*12/2020*	*Annexed:*	*N/A*

(continued)

Staff Analysis

Five Guys Investment, LLP is requesting approval of the annexation of Lot 4-14, Block 2, Lot 1, Block 3, and Lots 1-9 and Lots 23-29, Block 4, Boulder Ridge Seventh Addition First Replat.

Adjacent uses include a private school and undeveloped land zoned CA – Commercial to the north, developing single and two-family residential to the east and south, and undeveloped land zoned RT – Residential, CA – Commercial and P – Public to the west.

Growth Phasing Plan

The Growth Phasing Plan identifies this entire area as a Priority Urban Growth Area. The area of this annexation can currently be served with city utilities.

Utility Capital Charges

The annexation of any new lots within the City of Bismarck is subject to utility capital charges for municipal utilities. Utility capital charges are due at the latter of three points: annexation and platting; water and sewer escrow; or petition for street improvement.

Required Findings of Fact (relating to land use)

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; and
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the annexation of Lot 4-14, Block 2, Lot 1, Block 3, and Lots 1-9 and Lots 23-29, Block 4, Boulder Ridge Seventh Addition First Replat.

Attachments

1. Draft Annexation Ordinance
2. Location Map
3. Aerial Map
4. Zoning and Plan Reference Map

Staff report prepared by: Will Hutchings, Planner
701-355-1850 | whutchings@bismarcknd.gov

ORDINANCE NO. XXXX

First Reading	_____
Second Reading	_____
Final Passage and Adoption	_____

AN ORDINANCE ANNEXING PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, DECLARING THE TERRITORY ANNEXED; DECLARING THE SAME TO BE A PART OF THE CORPORATE LIMITS OF SAID CITY.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA:

Section 1. Territory Annexed. The territory and land hereinafter described is hereby declared and found to be a part of the corporate limits of the City of Bismarck, Burleigh County, North Dakota, as follows:

Lot 4-14, Block 2, Lot 1, Block 3, and Lots 1-9 and Lots 23-29, Block 4, Boulder Ridge Seventh Addition First Replat

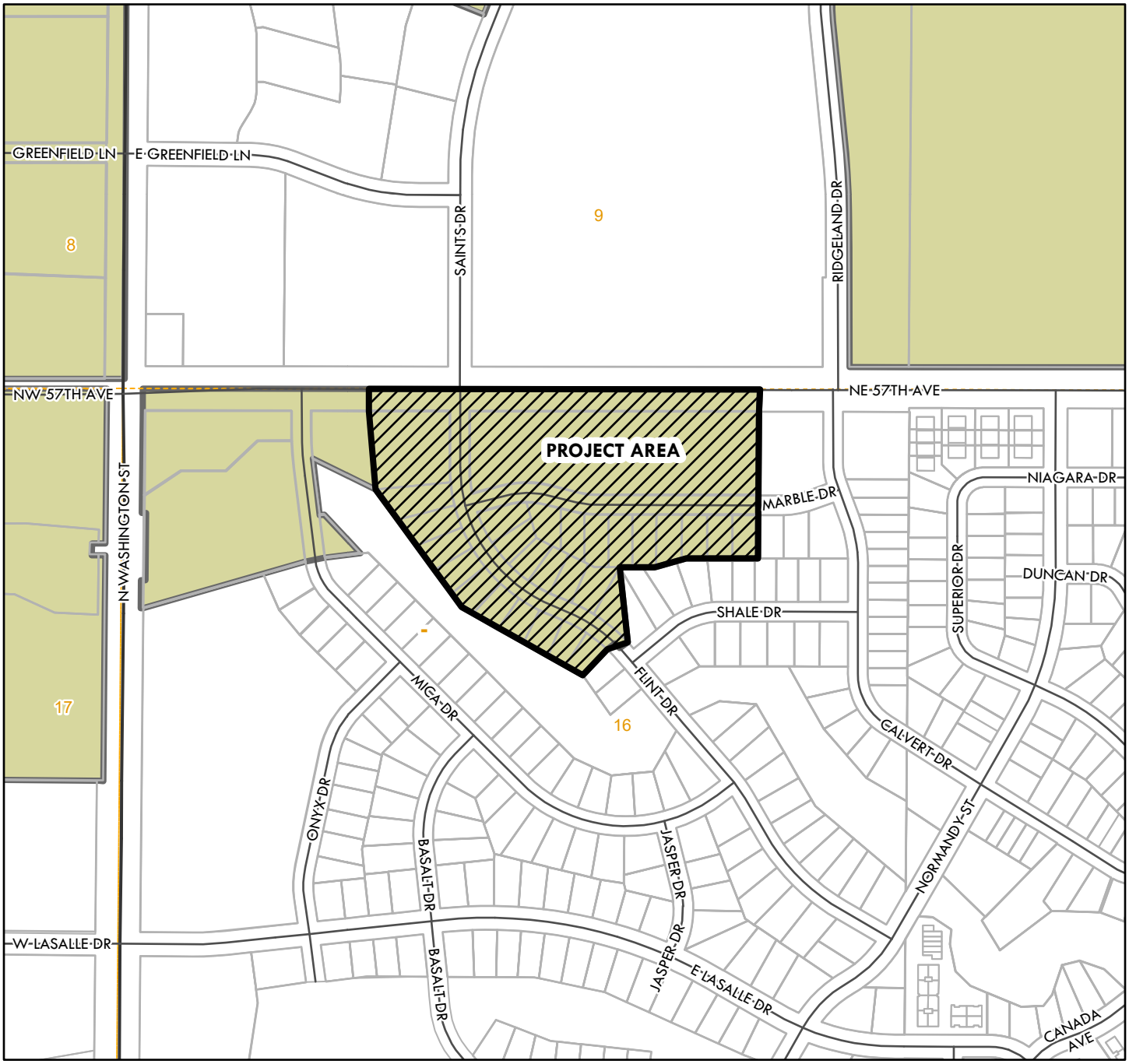
The above described tract of land contains 20.3 acres, more or less.

Section 2. Provisions Applicable. From and after the final passage and adoption of this ordinance and upon recording of this ordinance with the Burleigh County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, Burleigh County, North Dakota.

Location Map

BOULDER RIDGE SEVENTH ADDITION FIRST REPLAT, PT B2-4

ANNX2021-005



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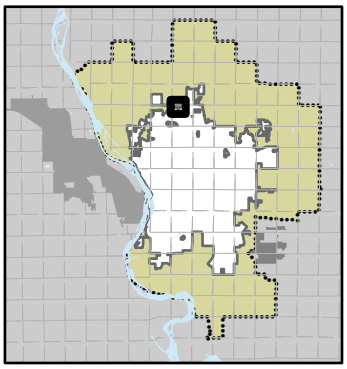
City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange



City of Bismarck
Community Development Department
Planning Division
May 21, 2021 (HLB)

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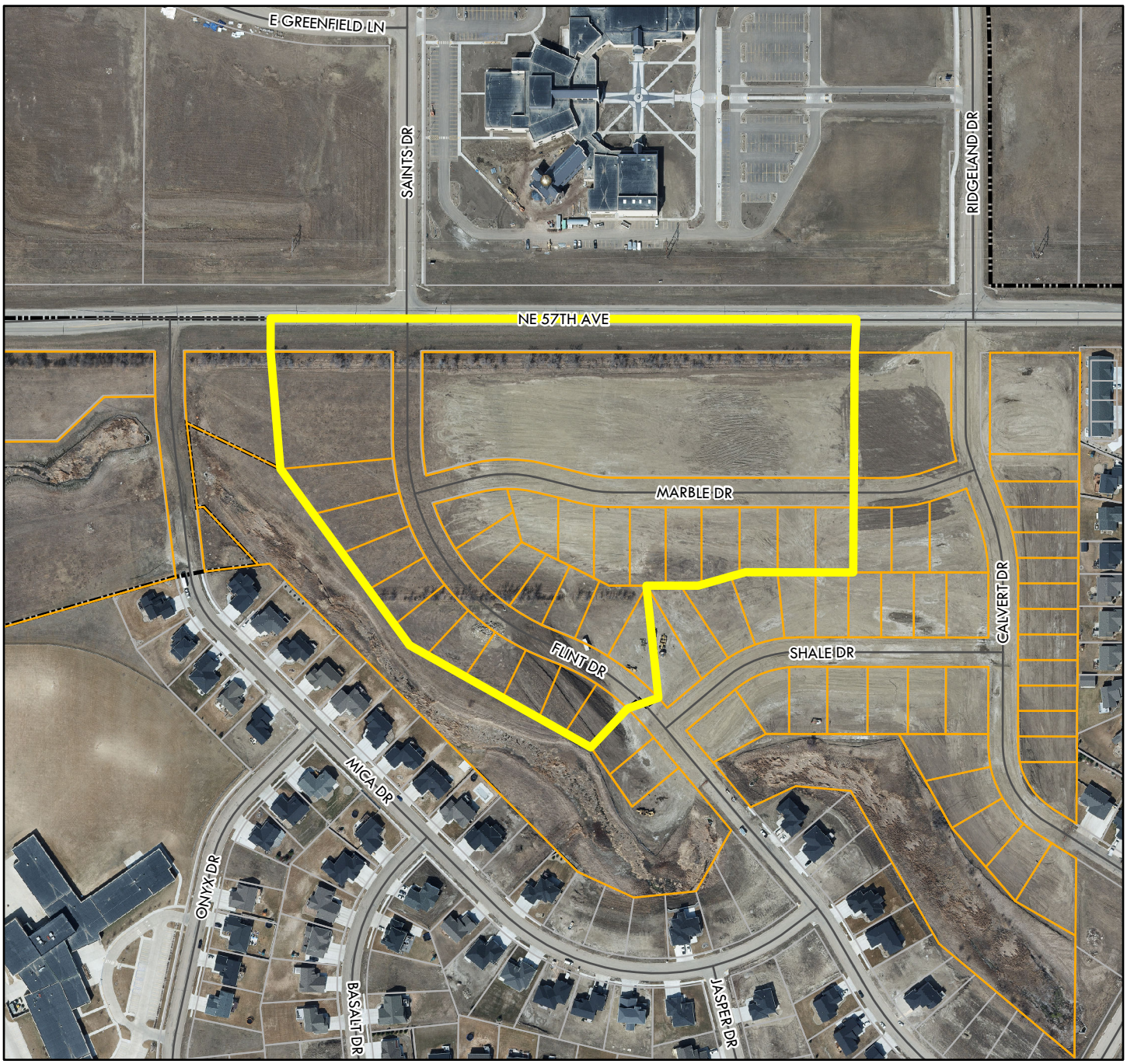
Aerial Map

BOULDER RIDGE SEVENTH ADDITION FIRST REPLAT, PT B2-4

ANNX2021-005



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City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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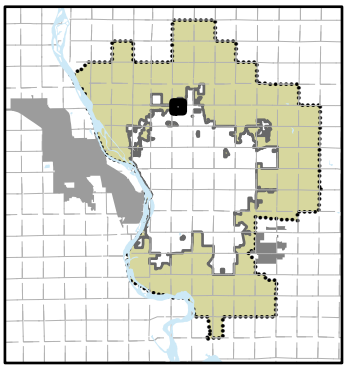


City of Bismarck
Community Development Department
Planning Division
May 21, 2021

Zoning and Plan Reference Map

BOULDER RIDGE SEVENTH ADDITION FIRST REPLAT, PT B2-4

ANNX2021-005

Zoning Districts

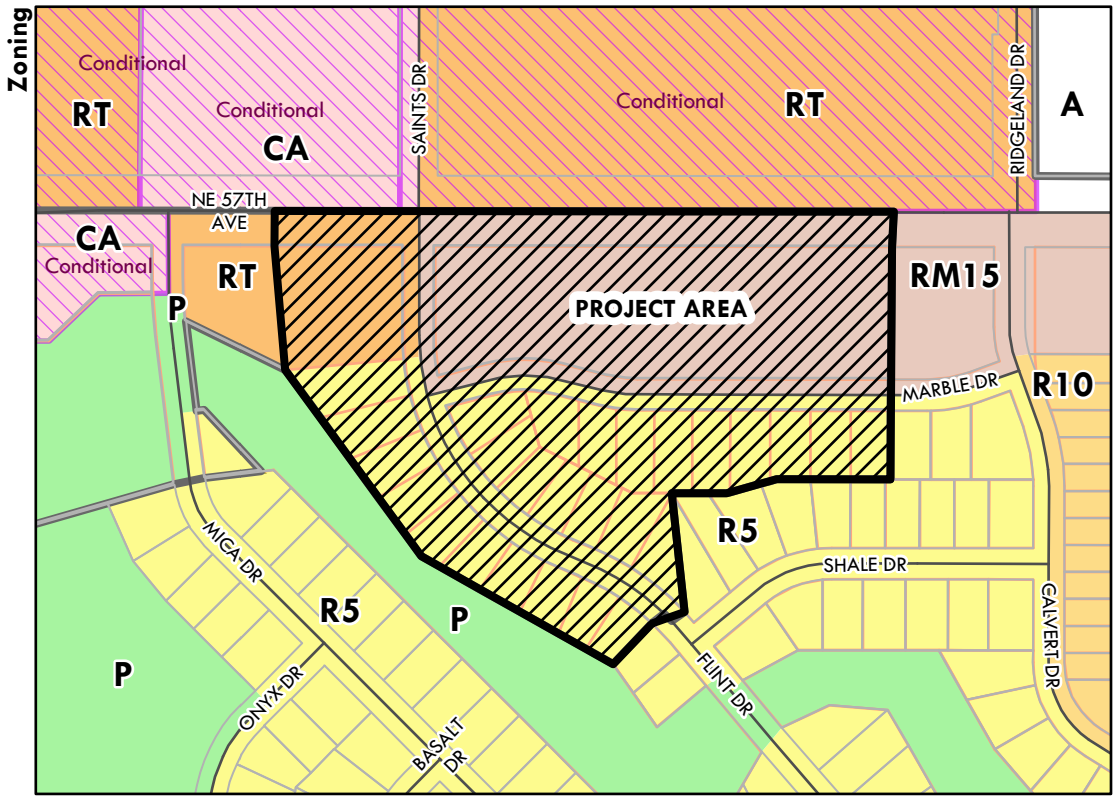
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

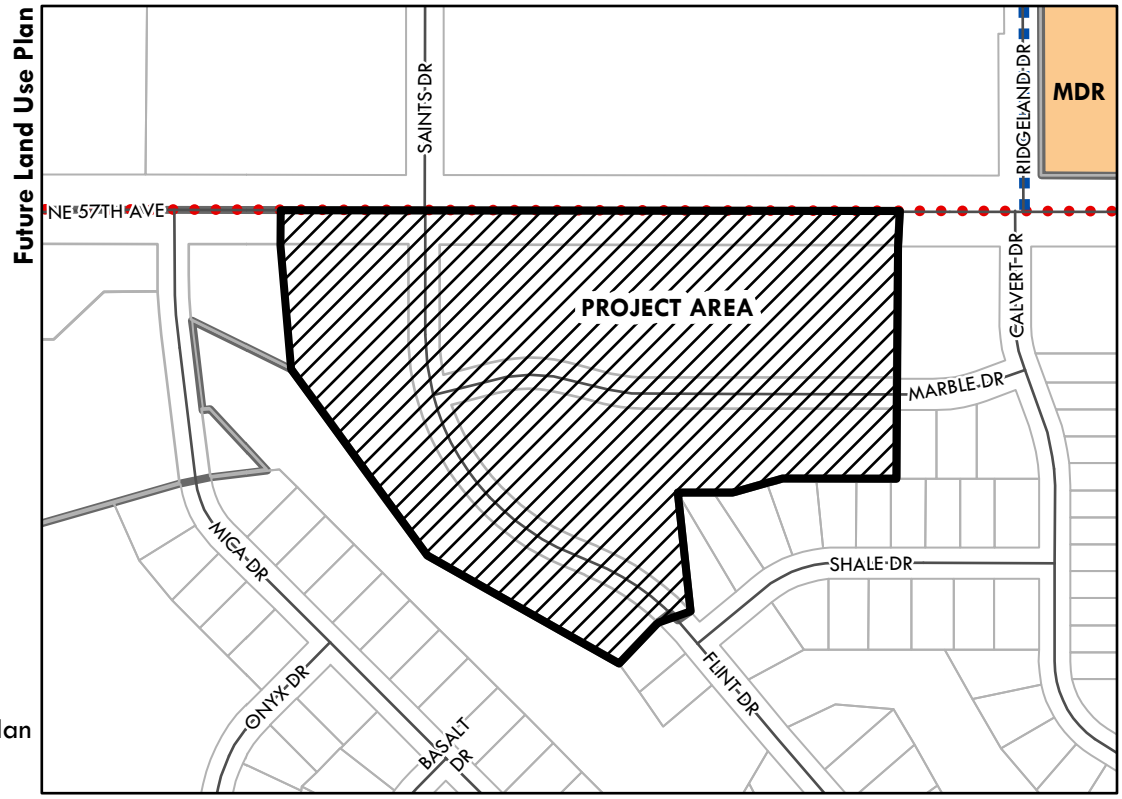
Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/ Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/ Mixed Use
O/MU	Office/ Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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City of Bismarck
Community Development Dept.
Planning Division
May 21, 2021

STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

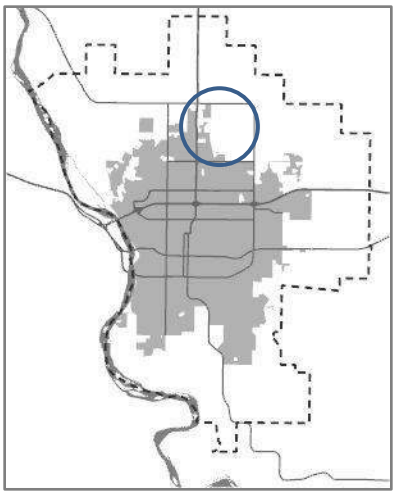
Agenda Item 7
May 26, 2021

Application for: Zoning Change *TRAKiT Project ID*: ZC2021-006

Major Subdivision Preliminary Plat FPLT2021-004

Project Summary

Title:	RBK Ventures Second Subdivision
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	RBK Ventures LLP
Project Contact:	Landon Niemiller, Swenson Hagen & Co
Location:	Northeast of Bismarck, east of US Highway 83 and south of 71st Avenue NE, along the east side of North 19th Street (Auditor's Lot B in the NE¼ less RBK Ventures Subdivision, Section 10, T139N-R80W/Hay Creek Township)
Project Size:	19.2 acres
Request:	Plat and zone property for future light industrial development



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 unplatted parcel	*Number of Lots:*	1 lot in 1 block
Land Use:	Agriculture/Undeveloped	*Land Use:*	Light industrial
Designated GMP Future Land Use:	Industrial	*Designated GMP Future Land Use:*	Industrial
Zoning:	A – Agricultural	*Zoning:*	Conditional MA – Industrial
Uses Allowed:	A – Agriculture	*Uses Allowed:*	Conditional MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
Max Density Allowed:	A – 1 unit / 40 acres	*Max Density Allowed:*	Conditional MA – N/A

Property History

Zoned:	N/A	*Platted:*	N/A	Annexed:	N/A

(continued)

Staff Analysis

RBK Ventures LLP is requesting approval of a zoning change from the A – Agriculture zoning district to the Conditional MA – Industrial zoning district and approval of a major subdivision final plat for RBK Ventures Second Addition. The proposed zoning change and plat would allow for the expansion of the light industrial development located north of this property.

Background Information

The Planning and Zoning Commission, at their meeting of April 28, 2021, recommended scheduling a public hearing on the proposed zoning change and tentatively approved the preliminary plat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on May 14th and May 21st, and 41 letters were mailed to the owners of nearby properties on May 14th.

Adjacent uses include a developing light industrial uses to the north, a rural residential subdivision to the east across the Dakota Missouri & Western (DMVW) rail line, undeveloped agriculture zoned land to the south and an undeveloped MA – Industrial zoned and annexed light industrial park to the west (JMAC Addition).

Conformance to the Comprehensive Plan

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies the area included in the proposed plat as Industrial (I). The proposed plat will not be annexed and would be considered a rural industrial subdivision. A Conditional MA – Industrial zoning is necessary to ensure that only uses that are appropriate in a rural setting without municipal water and sanitary sewer services would be allowed. The proposed zoning also matches the Conditional MA – Industrial zoning of RBK Ventures Subdivision to the north.

The Growth Phasing Plan identifies this area as Future Urban Growth Area. The applicant is proposing development that would not require the installation of municipal services.

Transportation and Access

The proposed plat would be accessed from 71st Avenue NE through a platted access easement along the west side of RBK Ventures Subdivision. City and County staff have reviewed the proposed access and have noted that an additional secondary access providing emergency services may be required in the future upon further development of the site as such a turn-around easement for the future connection of Northstar Drive has been placed on the plat.

Additional Information

A landscaping buffer is required along the eastern side of the plat, west of the stormwater and drainage easement and will be installed in conjunction with site development.

Required Findings of Fact (relating to land use)

Zoning Change

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 Hay Creek Township Board of Supervisors has recommended approval of the proposed zoning change;
5. 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;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;

(continued)

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

Final Plat

1. All technical requirements for approval of a major subdivision 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) with written concurrence from the County Engineer;
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts;
6. The Hay Creek Township Board of Supervisors has recommended approval of the proposed final plat
7. The City of Bismarck and 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;
8. 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;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends the approval of the zoning change from the A – Agriculture zoning district to the Conditional MA – Industrial zoning district and approval of the major subdivision plat for RBK Ventures Second Subdivision.

Attachments

1. Draft Zoning Change Ordinance
2. Location Map
3. Aerial Map
4. Zoning and Plan Reference Map
5. Proposed Zoning Map
6. Final Plat
7. Preliminary Plat
8. Township Resolution

Staff report prepared by: Jenny Wollmuth, AICP, CFM, Senior Planner
701-355-1845 | jwollmuth@bismarcknd.gov

ORDINANCE NO. 6321

Introduced by	_____
First Reading	_____
Second Reading	_____
Final Passage and Adoption	_____
Publication Date	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A – Agricultural district and included within the Conditional MA – Industrial zoning district.

Lot 1, Block 1, RBK Ventures Second Subdivision

This Conditional MA – Industrial zoning is subject to the following development standards:

1. *Uses Permitted.* The following uses are permitted:

a. ~~Hotel-motel.~~
b. ~~Retail group A.~~
c. ~~Retail group B.~~
d. ~~Service group A.~~
e. Service group B.
f. Wholesale group.
g. ~~Truck terminal.~~
h. ~~Railroad or bus passenger station.~~
i. ~~Railroad freight station.~~
j. Industrial group A, Industrial group A, limited to 1) storage buildings and warehouses, including rental and condo storage units; 2) the manufacturing, compounding, processing, packaging, treatment or assembly of products from previously prepared materials, provided said use meets the use standards included in

this ordinance, any wastewater generated by the use can be treated and disposed of by the approved on-site sewage treatment system (septic tank and drainfield), and any waste generated is allowed to be treated by an on-site sewage treatment system by the North Dakota Department of Health and the City of Bismarck; and 3) the following uses when conducted wholly within a completely enclosed building, or within an outdoor storage area that meets the design and aesthetic standards included in this ordinance, including proper screening:

i. Building materials sales yard, including the sale of rock, sand and gravel.
ii. Contractors' equipment storage yard.
iii. Public utility service yard.

k. ~~Radio or television transmitting station.~~
l. Commercial recreation group.
m. Office-bank group, excluding banks and medical offices.
o. Utility service group.

2. *Special Uses.* The following uses are allowed as special uses pursuant to Section 14-03-08 of the City Code of Ordinances:

a. Temporary Christmas tree sales.
b. Temporary religious meetings.
c. ~~Temporary circus/fair/carnival.~~
d. Temporary farm and garden produce sales.
e. Temporary fireworks sales.
f. Seasonal nursery and bedding stock sales.
e. ~~Solid waste disposal facility.~~
h. ~~Airport.~~
i. ~~Recreational vehicle park.~~
j. ~~Filling station~~.
k. ~~Drive-in retail or service establishments.~~
l. ~~Motor vehicle parts salvage yard~~.
m. ~~Small animal veterinary clinic~~.
n. ~~Animal hospital or kennel.~~
o. Golf driving range.
p. ~~Junkyard~~.
q. ~~Retail liquor sales.~~
r. ~~Racetracks.~~
s. ~~Child care center.~~
t. ~~Asphalt production facilities, both permanent and temporary~~

3. Dimensional Standards.

a. Lot Area. The minimum lot area is 40,000 square feet.

b. Lot Width. The minimum lot width is two hundred (200) feet.

c. Lot Coverage. The maximum lot coverage for buildings and required parking is fifty percent (50%) of the total lot area.

d. Front Yard. The minimum front yard setback is fifteen (15) adjacent to the platted turn-around around easement for the future extension of North Star Drive.

e. Side Yards. The minimum side yard setback is fifteen (15) feet.

f. Rear Yard. The minimum rear yard setback is fifteen (15) feet.

g. Height Limits. The maximum building height is thirty-five (35) feet.

4. Design and Aesthetic Standards.

a. Intent. It is the intent of the design standards to create and maintain a high visual quality and appearance for this development, encourage architectural creativity and diversity, to create a lessened visual impact upon the surrounding land uses and to stimulate and protect investment through the establishment of high standards with respect to materials, details and appearance.

b. Building Materials. All building facades shall be designed with architecturally finished materials, with primary building materials being limited to modular masonry materials such as brick, stone or dimensional block; precast concrete or aggregate panels; stucco or stucco-like materials; or prefinished metal architectural panels. If prefinished metal architectural panels are used, no more than 70% of the front elevation and no more than 80% of any other elevations facing a public-right-of-way may consist of this material.

The following building types and materials are expressly prohibited: wood as an exterior wall finish, except where used as an accent material; corregated metal roofing or siding; and exposed, untextured, uncolored, unaugmented concrete.

The main entrance or façade of the buildings shall be given special treatment through the use of different materials, colors and/or

architectural features to enhance the view from the public right of way.

All subsequent renovations, additions and related structures constructed after the construction of the original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

c. Enclosed Building Requirement. All production, processing, storage, sales, display, or other business activity shall be conducted within a completely enclosed building except for outdoor storage areas.

d. Outdoor Storage Areas. Outdoor storage areas shall be placed to the rear or side of the principal structure and shall be subject to the building setback requirements. Any outdoor storage area shall be fenced around its perimeter with a minimum six foot wall or fence and any storage area along a public right-of-way shall be screened with a vegetative buffer yard planted with four (4) trees and fifteen (15) shrubs per one hundred (100) linear feet, with at least 50% of the required trees being upright evergreen trees, and with the option of substituting trees for shrubs at a ratio of one tree per four shrubs at the discretion of the property owner. Goods and materials shall be located on a paved or gravel surface and the outdoor storage area shall be maintained in an orderly fashion. The height of materials stored, excluding operable vehicles and equipment, shall not exceed the height of the fence, with the exception that the height of materials may be increased to two times the fence height if the stored material is located no less than thirty (30) feet from the interior of the fence. The outdoor storage area shall not reduce the amount of required parking on the site.

6. Other Development Standards.

a. Accessory Buildings. Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure. Storage containers may not be used as Accessory Buildings.

b. Parking and Loading. Parking and loading areas shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. Said parking areas shall be hard-surfaced and striped in conjunction with site development and regularly

maintained. Concrete perimeter curbing of the parking areas will not be required.

c. Landscaping and Screening. Parking lot landscaping and buffer yards shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).

d. Buffer Yards. In addition to the requirements of Section 14-03-11, a 30-foot wide buffer yard shall be provided along the east side of the proposed plat, west of the stormwater and drainage easement along the eastern boundary of the property. Said buffer yard ~~shall be shown on the face of the plat as a landscape easement and~~ shall be densely planted in conjunction with site development with the minimum number, species and size of trees and shrubs required for a 20-foot buffer yard in the City's landscaping ordinance (2 shade trees, 4 ornamental trees, 3 large upright coniferous trees, 10 small upright coniferous trees and 14 shrubs).

e. Screening of Mechanical Equipment and Solid Waste Collection Areas. Mechanical equipment and solid waste collections areas shall be screened in accordance with Section 14-03-12 of the City Code of Ordinances (Screening of Mechanical Equipment and Solid Waste Collection Areas).

f. Signage. Signage for the development may be installed in accordance with the provisions of Sec14-03.1 (Signs) ~~-05 (10) (Industrial Park Area Identification Signs)~~. ~~Signage for individual lots within the development shall be installed in accordance with the provisions of Chapter 4-04 of the City Code of Ordinances (Signs and Display Structures).~~ Off-premise advertising signs (billboards) are specifically prohibited within this development.

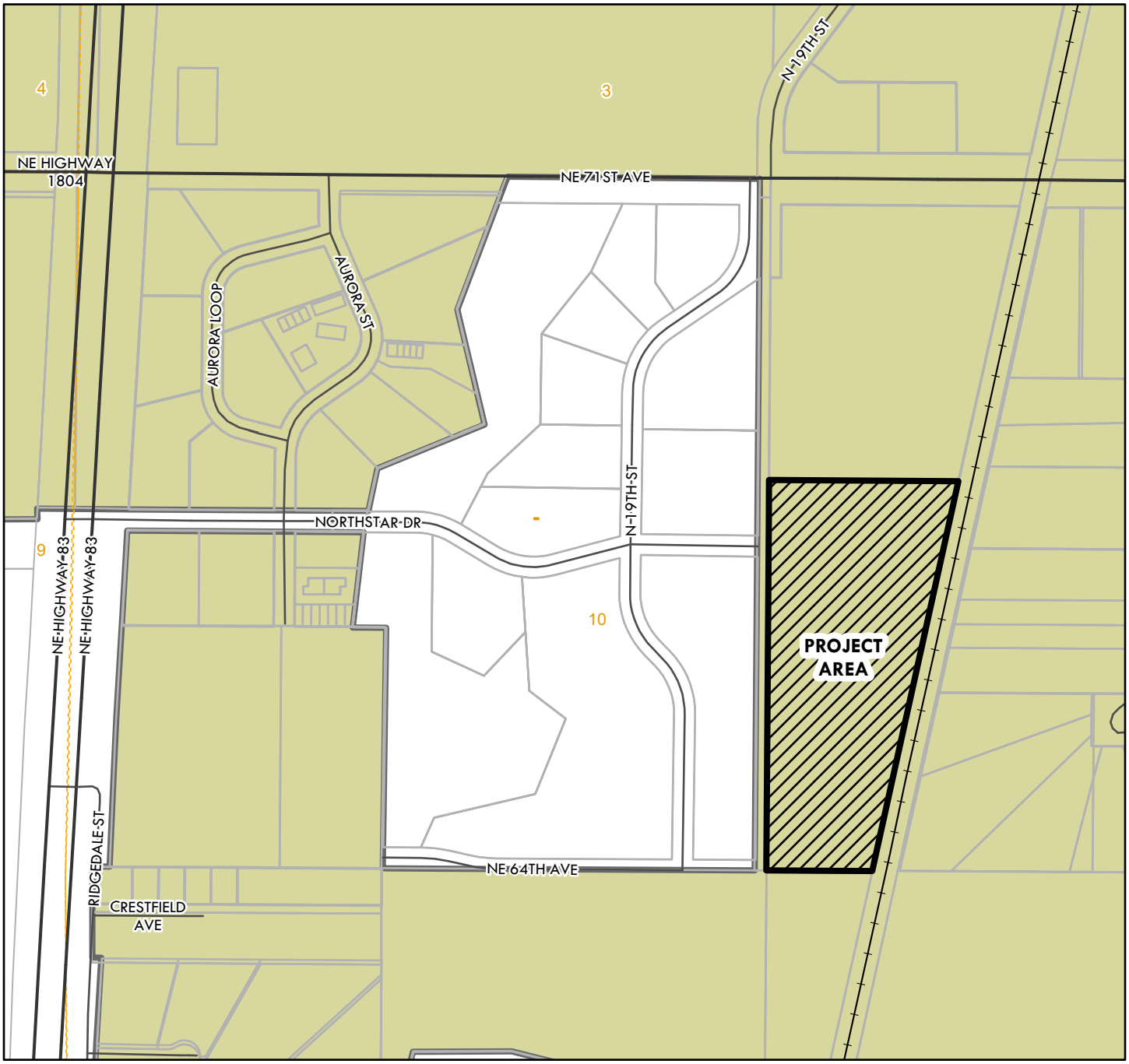
Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

Location Map

RBK VENTURES SECOND SUBDIVISION

PPLT2021-003
ZC2021-006



Miles
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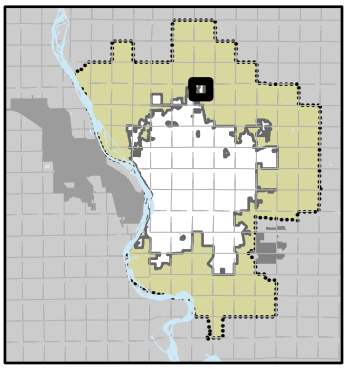


City Limits
Bismarck ETA Jurisdiction
County Outside ETA

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
May 24, 2021 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

Aerial Map

RBK VENTURES SECOND SUBDIVISION

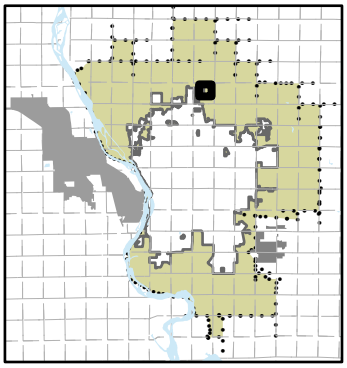
ZC2021-006
FPLT2021-004

0 0.1 0.2 0.4 Miles

City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Community Development Department
Planning Division
April 21, 2021

Zoning and Plan Reference Map

RBK VENTURES SECOND SUBDIVISION

FPLT2021-004
ZC2021-006

Zoning Districts

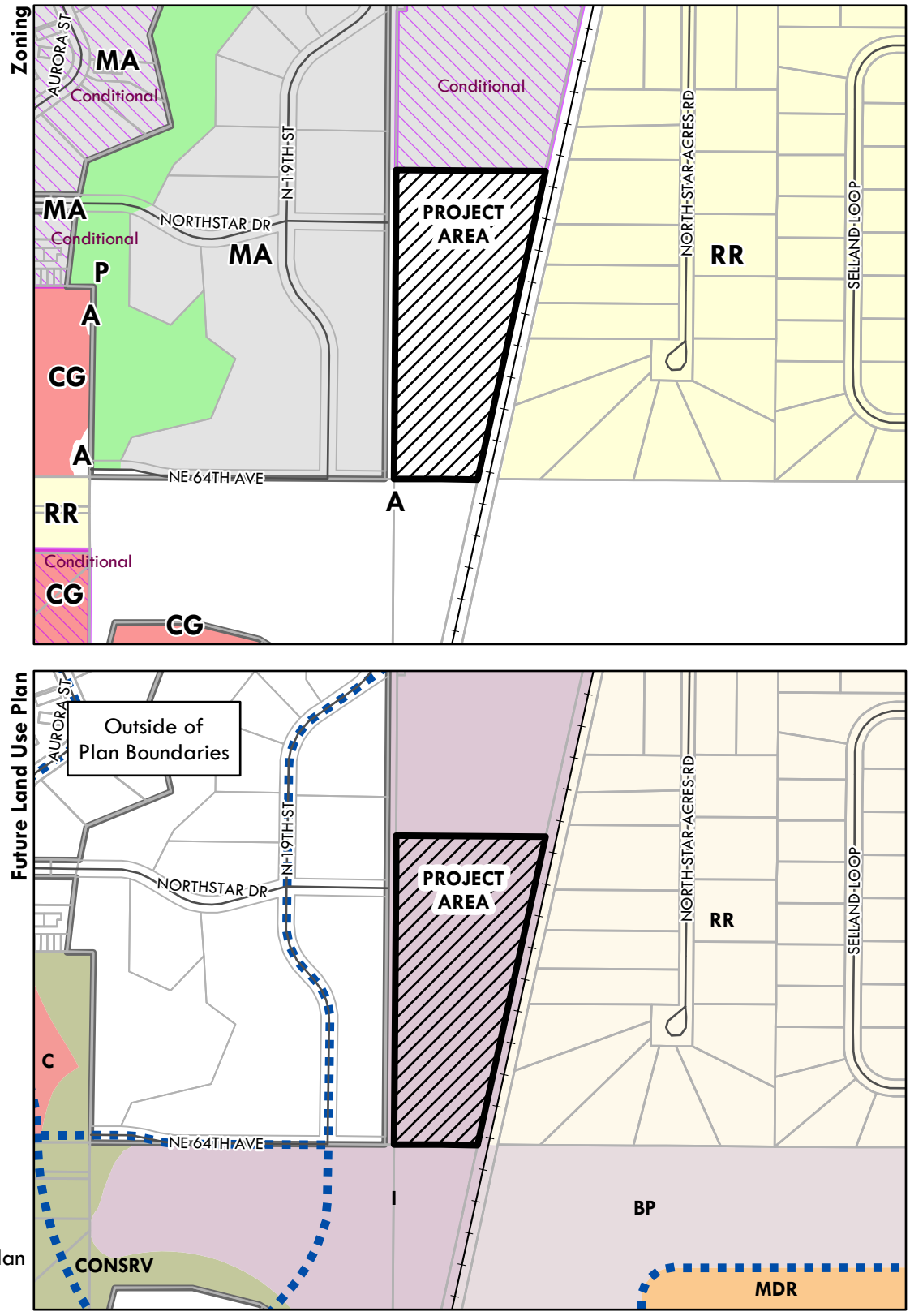
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/ Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/ Mixed Use
O/MU	Office/ Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road



This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

Miles
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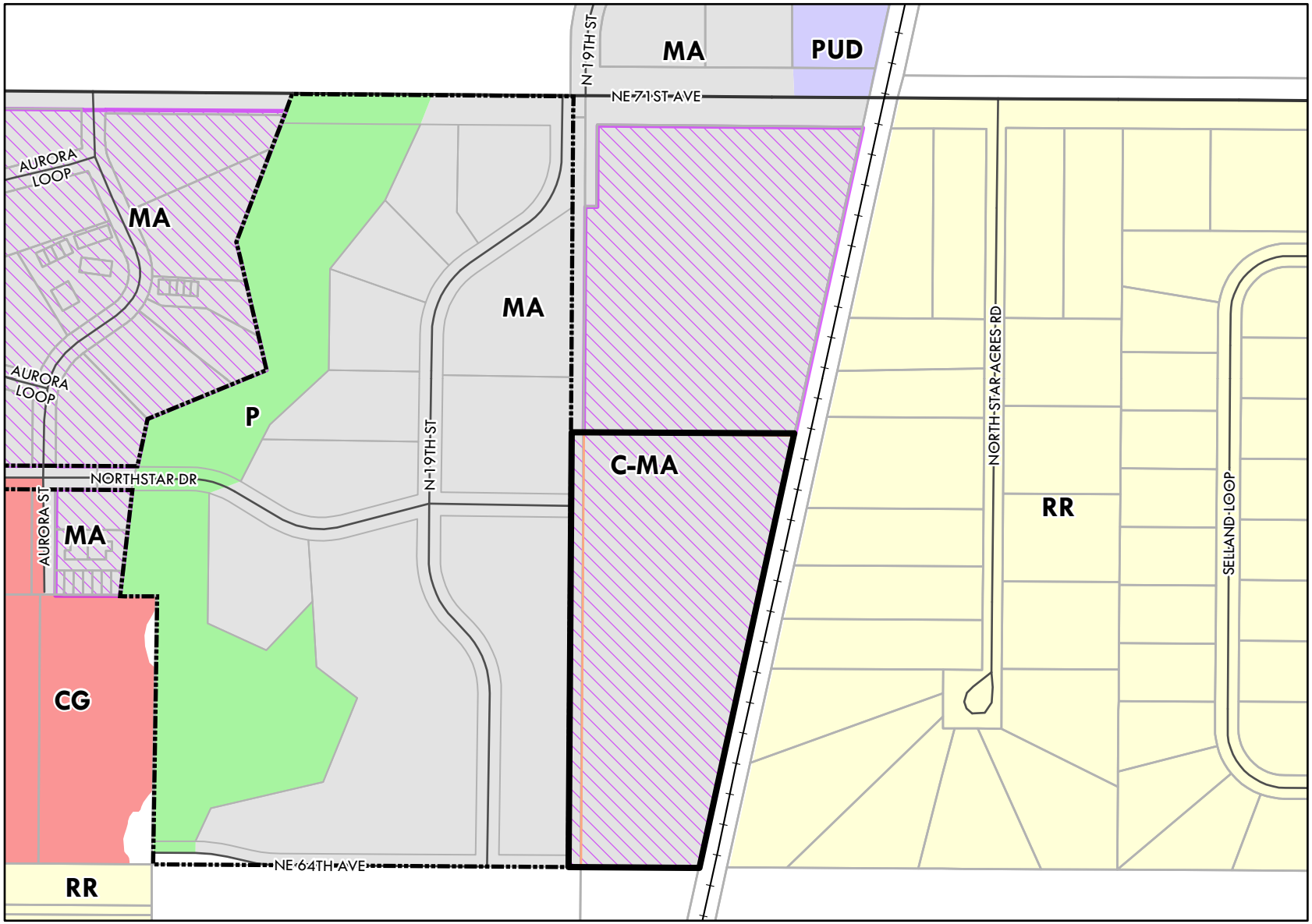
City of Bismarck
Community Development Dept.
Planning Division
April 20, 2021

Proposed Zoning Change

ZC2021-006
FPLT2021-004

RBK Ventures Second Subdivision

Proposed New Zoning Map



Project Area (zoning within is proposed)

City Limits

Zoning Districts

A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

A "C-" prior to the district indicates that special conditions would apply to the zoning district

0 0.15 0.3 0.6 Miles

City of Bismarck
Community Development Dept.
Planning Division
April 22, 2021

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

RBK VENTURES SECOND SUBDIVISION

BEING AUDITOR'S LOT B OF THE NE 1/4 LESS RBK VENTURES SUBDIVISION
OF SECTION 10 TOWNSHIP 139 NORTH, RANGE 80 WEST
OF THE FIFTH PRINCIPAL MERIDIAN
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIPTION

BEING AUDITOR'S LOT B OF THE NE 1/4 LESS RBK VENTURES SUBDIVISION OF SECTION 10, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID NE 1/4; THENCE NORTH 00 DEGREES 25 MINUTES 27 SECONDS EAST, ALONG THE WEST LINE OF SAID NE 1/4, A DISTANCE OF 1484.93 FEET TO THE SOUTH LINE OF RBK VENTURES SUBDIVISION; THENCE SOUTH 89 DEGREES 34 MINUTES 33 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 722.41 FEET TO THE WEST LINE OF THE CANADIAN PACIFIC RAILROAD RIGHT-OF-WAY; THENCE SOUTH 12 DEGREES 31 MINUTES 04 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 1517.96 FEET TO THE NORTH LINE OF LOT A OF THE SE 1/4 OF SECTION 10, TOWNSHIP 139 NORTH, RANGE 80 WEST; THENCE NORTH 89 DEGREES 40 MINUTES 05 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 404.38 FEET TO THE POINT OF BEGINNING.

CONTAINING 836,365 SF, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE APPROVED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON OCTOBER 16, 2020, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

SWENSON, HAGEN & CO. P.C.
909 BASIN AVENUE
BISMARCK, NORTH DAKOTA
58504

_____
TERRY BALTZER
PROFESSIONAL LAND SURVEYOR
N.D. REGISTRATION NO. 3595

APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE ____ DAY OF _____ 2021, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

_____ _____
MICHAEL J. SCHWARTZ – CHAIRMAN ATTEST
BEN EHRETH – SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT, HAS APPROVED THE GROUNDS AS SHOWN ON THE APPROVED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE APPROVED PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE ____ DAY OF _____ 2021.

_____
ATTEST
KEITH J. HUNKE – CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "RBK VENTURES SECOND SUBDIVISION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THE PLAT.

_____
GABRIEL J. SCHELL
CITY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT RBK VENTURES, LLP, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "RBK VENTURES SECOND SUBDIVISION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA.

THEY DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

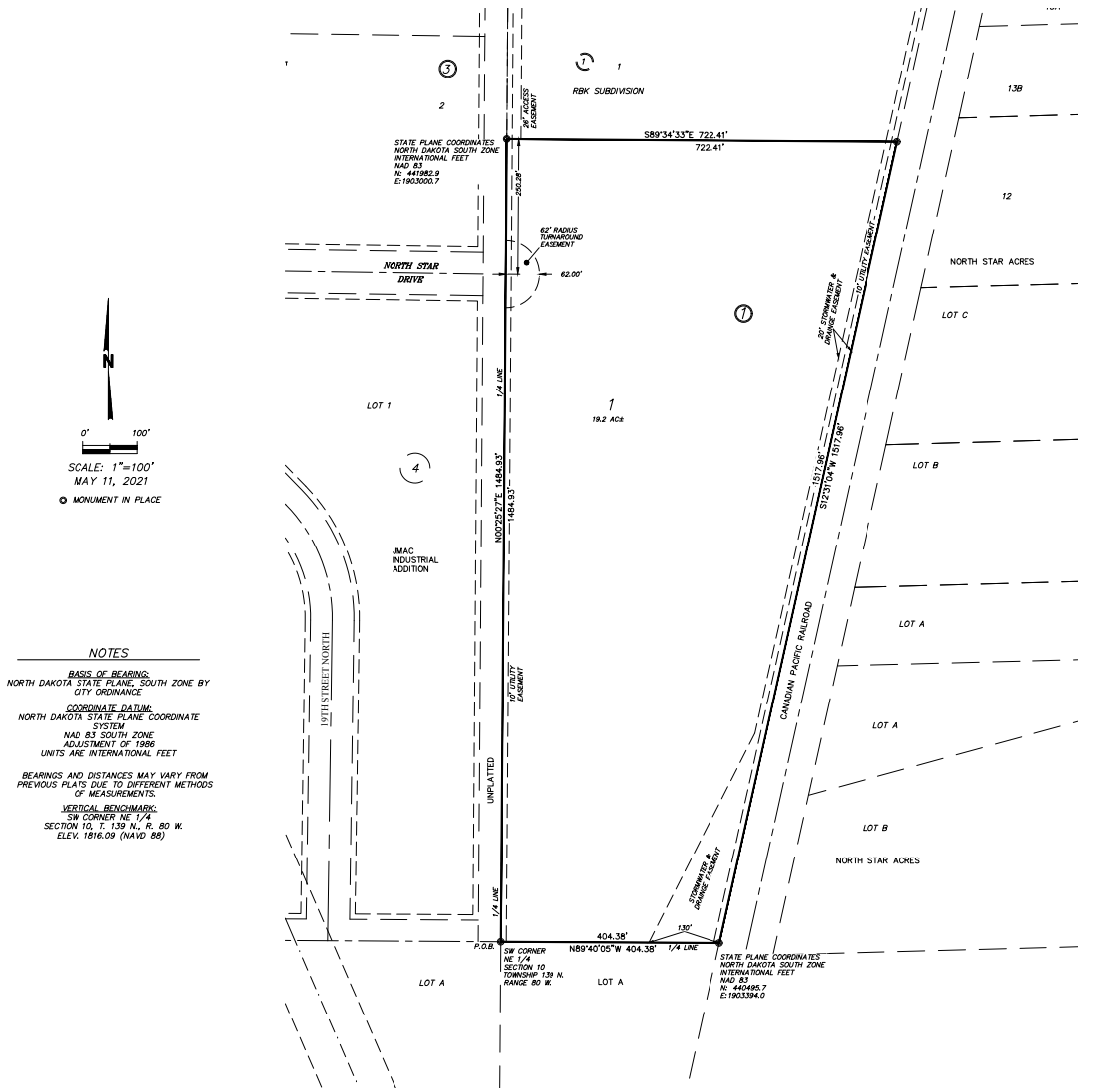
THEY FURTHERMORE DEDICATE UNTO THE CITY OF BISMARCK "STORM WATER AND DRAINAGE EASEMENTS" TO RUN WITH THE LAND FOR THE PURPOSE OF STORM SEWER AND SURFACE WATER DRAINAGE UNDER, OVER, THROUGH AND/OR ACROSS THOSE AREAS DEDICATED HEREON AS "STORM WATER AND DRAINAGE EASEMENTS" FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, ENLARGING AND MAINTAINING STORM WATER MANAGEMENT FACILITIES TOGETHER WITH NECESSARY APPURTENANCES THERETO FOR STORM WATER, STORM SEWER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORM WATER FLOW IN A MANNER THAT WILL PERMIT THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER, OVER AND/OR ACROSS THE EASEMENT AREA.

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

_____(PRINT)
RBK VENTURES, LLP
555 HIGHWAY 1804 NE
BISMARCK, ND 58503

ON THIS ____ DAY OF _____ 2021, BEFORE ME PERSONALLY APPEARED _____ OF RBK VENTURES, LLP, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

_____
NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____



NOTES

BASIS OF BEARING:
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY CITY ORDINANCE

COORDINATE DATUM:
NORTH DAKOTA STATE PLANE COORDINATE SYSTEM
NAD 83 SOUTH ZONE
ADJUSTMENT OF 1986
UNITS ARE INTERNATIONAL FEET

BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS.

VERTICAL BENCHMARK:
SW CORNER NE 1/4
SECTION 10, T. 139 N., R. 80 W.
ELEV. 1816.09 (NAVD 88)

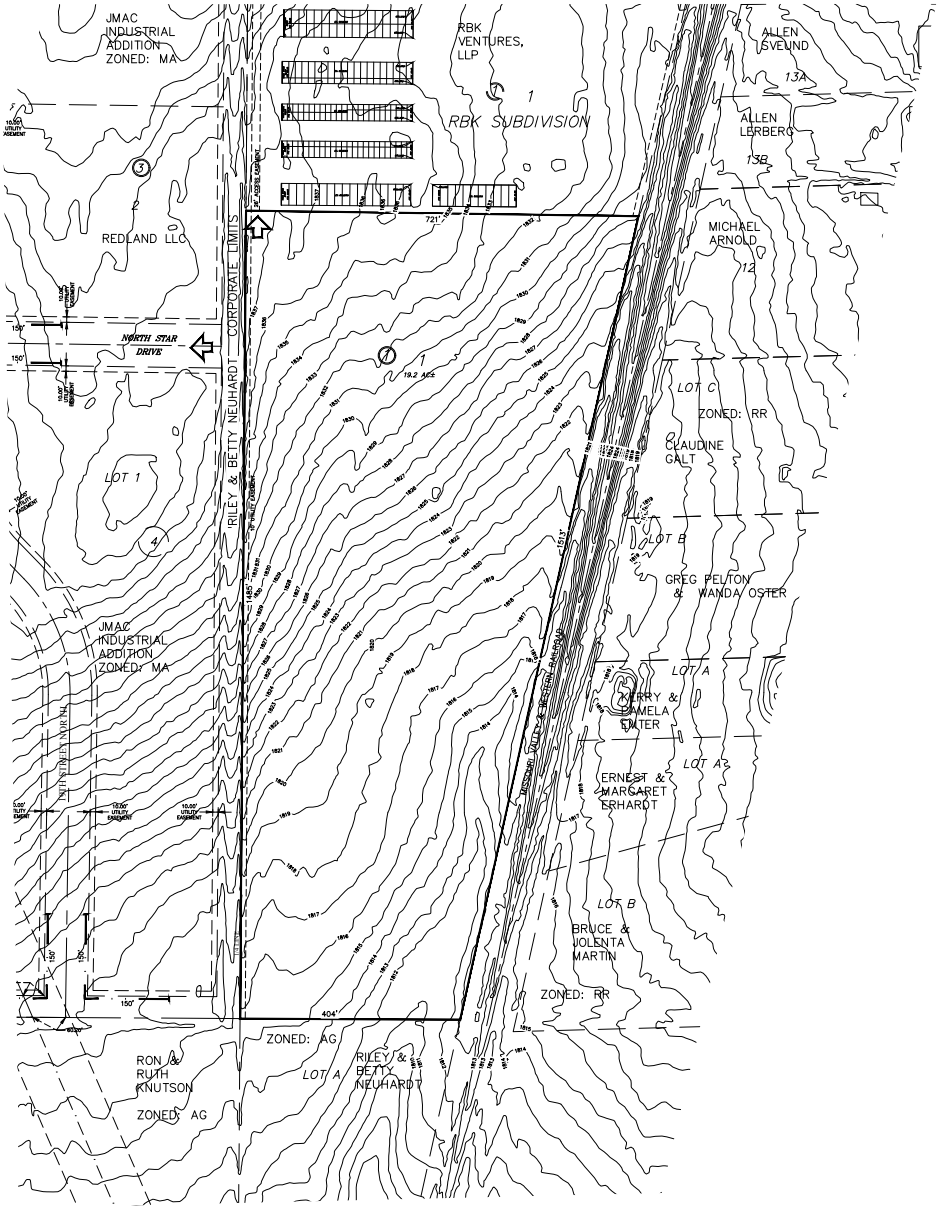
NOTE:
THE WATER SERVICE AGREEMENT BETWEEN THE CITY OF BISMARCK AND SOUTH CENTRAL REGIONAL WATER DISTRICT WILL ALLOW THE PROVISION OF WATER SERVICE TO RBK SUBDIVISION FOR A PERIOD OF 5 YEARS AND SUBSEQUENT TO THAT TIME, THE CITY MAY, UPON A ONE YEAR NOTICE, REQUIRE SOUTH CENTRAL REGIONAL WATER DISTRICT TO DISCONTINUE WATER SERVICE IF CITY WATER SERVICE IS AVAILABLE.

SWENSON, HAGEN & COMPANY P.C.
909 Basin Avenue
Bismarck, North Dakota 58504
sheng@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

RBK VENTURES SECOND SUBDIVISION

AUDITOR'S LOT B NORTHEAST 1/4
LESS RBK VENTURES SUBDIVION
SECTION 10, TOWNSHIP 139 NORTH, RANGE 80 WEST
BURLEIGH COUNTY, NORTH DAKOTS

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



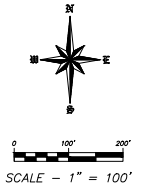
19.2 ACRES

EXISTING ZONING: A

PROPOSED ZONING: CONDITIONAL MA

OWNER: RBK VENTURES LLP
ADDRESS: 555 HIGHWAY 1804 NE
BISMARCK, ND 58503

LOCATION MAP



SCALE – 1" = 100'

VERTICAL DATUM: NAVD 88
MARCH 25, 2021

SWENSON, HAGEN & COMPANY P.C.
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management
909 Basin Avenue
Bismarck, North Dakota 58504
shcnp@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606

RESOLUTION

WE, THE BOARD OF TOWNSHIP SUPERVISORS OF HAY CREEK TOWNSHIP, BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE PROPOSED ZONING CHANGE FROM THE A-AGRICULTURE ZONING DISTRICT TO THE CONDITIONAL MA-INDUSTRIAL ZONING DISTRICT AND A PRELIMINARY PLAT OF RBK VENTURES SECOND SUBDIVISION AND HEREBY RECOMMEND TO THE BOARD OF CITY COMMISSIONERS THAT SAID ZONING CHANGE AND PLAT BE (APPROVED) (DENIED).

IF THE TOWNSHIP IS RECOMMENDING DENIAL, PLEASE LIST THE REASONS:

_____

_____

_____

_____

_____ 4/15/2021
CHAIRMAN, TOWNSHIP BOARD

_____
ATTEST: TOWNSHIP CLERK

STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

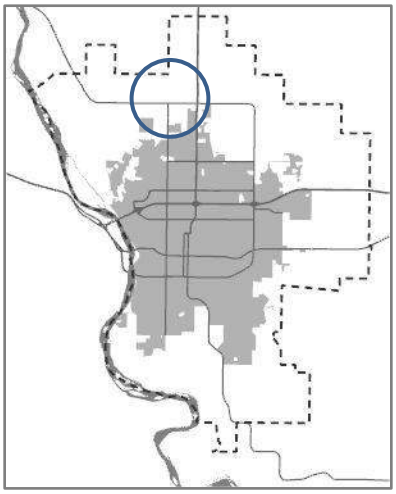
Agenda Item # 8
May 26, 2021

Application for: Zoning Change

TRAKiT Project ID: ZC2021-005

Project Summary

Title:	Lots 2-4, Block 1, Northridge Estates Commercial Park, less the portion taken for right-of-way – Planned Unit Development
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Steve Mariner and Art Mariner (owners) Five Star Storage (applicant)
Project Contact:	Jacob Hendricks and Charles Hendricks – Five Star Storage
Location:	North of Bismarck, along the east side of North Washington Street and the north side of ND Highway 1804
Project Size:	6.2 acres
Request:	Rezone property to allow development of a self-storage complex



Site Information

Existing Conditions		**Proposed Conditions**	
Number of Lots:	3 parcels	*Number of Lots:*	1 parcel
Land Use:	Undeveloped	*Land Use:*	Storage buildings
Designated GMP Future Land Use:	Conventional Rural Residential Commercial	*Designated GMP Future Land Use:*	Conventional Rural Residential Commercial
Zoning:	CA – Commercial	*Zoning:*	PUD – Planned Unit Development
Uses Allowed:	CA – Neighborhood commercial	*Uses Allowed:*	PUD – Uses specified in PUD
Max Density Allowed:	CA – 30 units / acre	*Max Density Allowed:*	PUD – Density specified in PUD

Property History

Zoned:	*02/2003*	*Platted:*	*12/2010*	Annexed:	N/A

Staff Analysis

Five Star Storage is requesting approval of a zoning change from the CA – Commercial zoning district to a PUD – Planned Unit Development zoning district for Lots 2-4, Block 1, Northridge Estates Commercial Park, less the portion taken for right-of-way.

(continued)

Background

The Planning and Zoning Commission considered this request at their meeting of April 28, 2021 and called for a public hearing.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on May 14th and May 21st, and 40 letters were mailed to the owners of nearby properties on May 14th.

Adjacent uses include a religious institution and office use to the north, rural residential to the north and east, and undeveloped land zoned A – Agriculture to the south across ND Highway 1804 and west across North Washington Street.

Proposed Project

The requested zoning change would allow development of a self-storage complex featuring a two-story climate-controlled building with a 750 square feet office and 12 single-story cold storage buildings consisting of multiple units.

This property is currently zoned CA – Commercial. The property was initially zoned to preserve this location as a future urban commercial node at the intersection of two major roadways – North Washington Street and ND Highway 1804. Since the time the property was zoned, staff has consistently told potential developers that commercial development at this location would be difficult until municipal utility services were available.

At the time of platting, landscape easements along the north and east sides of the property were established and plant material was planted to ensure that, by the time of development, that material would have matured to create a dense planting screen between the area and the adjacent rural residential uses.

Self-storage facilities are a permitted use in industrial zoning districts and they are not permitted in commercial zoning districts. In some commercial areas, storage facilities have been permitted within a specific PUD – Planned Unit Development zoning district with restrictions and additional design standards. Due to the proximity to adjacent rural residential uses and the anticipation of future commercial and high density residential development as identified, in the Future Land Use Plan, the proposed development would be subject to additional conditions. The development and maintenance conditions, outlined in the PUD ordinance, are proposed to help ensure compatibility with current and future adjacent land uses.

Conditions and Restrictions

Because the area would remain outside of city limits, municipal water and sewer service would not be available. Rural water does not provide sufficient pressure for fire suppression. The applicant has proposed a water tank within the two-story climate-controlled facility to serve any potential fire suppression needs. The cold storage buildings would not require fire suppression.

The draft PUD ordinance is attached to this staff report. The proposed conditions are summarized as follows:

- Uses allowed would be limited to indoor storage and the associated office
- Building setbacks would be based on the proposed site plan. These setbacks are either consistent or greater than setbacks for commercial zoning districts
- Hazardous material storage would be prohibited
- Design standards would be in place to ensure high quality materials and design
- Landscaping would be required including the requirement to meet landscaped buffer yard planting requirements outlined in Section 14-03-11 (Landscaping) of the City Code of Ordinances
- Lighting would be designed to minimize light pollution onto adjacent properties by use of downcast lighting and low voltage accent lighting

Other Considerations

The proposed development would be within three existing separate parcels or lots. Prior to development these would need to be combined. In addition, an access easement was provided along the north side of these lots at the time of platting to provide access from North Washington Street to each lot. According to the site plan submitted with the application, portions of the

(continued)

platted access would need to be released to avoid conflicts with the proposed buildings and site features.

Hay Creek Township has recommended denial of this zoning change. Reasons stated for their recommendation of denial are listed in the resolution attached to this staff report.

Required Findings of Fact (relating 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 not necessarily compatible with adjacent land uses and zoning, however additional landscape and design standards will alleviate most incompatibilities;
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 Hay Creek Township Board of Supervisors has recommended denial of the proposed zoning change;
5. 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;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located;
8. The proposed planned unit development would preserve the natural features of the site insomuch as possible, including the preservation of trees and natural drainage ways;
9. The internal roadway circulation system within the planned unit development has been adequately designed for the type of traffic that would be generated;
10. Adequate buffer areas have been provided between the planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
11. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
12. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
13. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning change from the CA – Commercial zoning district to the PUD – Planned Unit Development zoning district for Lots 2-4, Block 1, Northridge Estates Commercial Park, less the portion taken for right-of-way, as outlined in the attached draft PUD ordinance.

Attachments

1. Draft PUD Ordinance
2. Location Map
3. Aerial Map
4. Zoning and Plan Reference Map
5. Proposed Zoning Map
6. Written Statement
7. Proposed Site Plan/Landscape Plan
8. Proposed Building Renderings
9. Cross-Section Exhibit
10. Township Resolution

(continued)

Staff report prepared by: Will Hutchings, Planner
701-355-1850 | whutchings@bismarcknd.gov

ORDINANCE NO. XXXX

Introduced by	_____
First Reading	_____
Second Reading	_____
Final Passage and Adoption	_____
Publication Date	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the CA - Commercial zoning district and included within the PUD – Planned Unit Development zoning district:

Lots 2-4, Block 1, Northridge Estates Commercial Park, less the portion taken for right-of-way.

This PUD is subject to the following standards:

1. *Conformance to Submitted Documents*. The development must generally conform to the submitted site plan and site renderings approved in conjunction with the PUD.

2. *Uses Permitted.* The uses within the district shall be limited to the following:

    a. *Principal Uses*. The following principal uses shall be allowed:

        i. Personal self-storage, including rental storage units and climate-controlled storage, provided that no business may operate out of any rental unit;

        ii. Office(s) for use of the owner of the facility

    All other uses not included in this list shall be prohibited

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3. *Special Uses.* There are no uses allowed as special uses within this Planned Unit Development.

4. *Dimensional Standards.* The following dimensional standards shall apply to all structures within this district:

    a. *Front Yard Setback.* The minimum front yard setback is 50 feet along ND Highway 1804 and 60 feet along North Washington Street.

    b. *Side Yard Setback.* The minimum side yard setback along the northern lot line is 25 feet. The minimum side yard setback for Building C from the access easement on the north side of the lot is 20 feet.

    c. *Rear Yard Setback.* The minimum rear yard setback along the eastern lot line is 50 feet.

    d. *Height Limits.* The maximum height of Building A, as indicated on the submitted site plan as two stories, shall be no greater than 30 feet. All other buildings, indicated as one-story shall be no greater than 13 feet in height

5. *Design Standards.* The following design standards shall apply to all development within the district.

    a. *Intent.* It is the intent of the design standards to create and maintain a high visual quality and appearance for this development, encourage architectural creativity and diversity, create a lessened visual impact upon the surrounding land uses, and stimulate and protect investment through the establishment of high standards with respect to materials, details and appearance.

    b. *Building Materials.* All building facades must be designed with architecturally finished materials, with primary building materials being limited to modular masonry materials such as brick, stone or dimensional block; precast concrete or aggregate panels; stucco or stucco-like materials; or non-corrugated prefinished metal architectural panels (including standing seam metal products). If prefinished metal architectural panels are used, no more than 70% of any elevation facing a public right-of-way may consist of the same material, although two different panel types of complementary colors could be used.

    The following building types and materials are expressly prohibited: wood as an exterior wall finish, except where used

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as an accent material; corrugated metal roofing or siding; and exposed, untextured, uncolored, unaugmented concrete (including poured in place, pre-cast concrete panels and concrete block).

All subsequent renovations, additions and related structures constructed after the construction of the original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

6. *Development Standards.* The following development standards shall apply to all development within the district.

    a. *Enclosed Building Requirement.* All storage activity shall be conducted within a completely enclosed building.

    b. *Hazardous Materials Prohibited.* Storage buildings may not contain any materials classified as hazardous or toxic under any local, state, or federal law or regulation, and any production of such materials is prohibited. Prohibitions of such materials shall be incorporated into any rental agreements and posted on sign(s) in each storage unit.

    c. *Parking and Loading*. Parking and loading areas shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. All interior access lanes, off-street parking spaces required and all driveways on private property leading to such parking areas shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock or gravel shall not be considered an acceptable surfacing material. All parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement.

    d. *Landscaping and Screening.* Landscaping and buffer yards shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).

    e. *Screening of Mechanical Equipment and Solid Waste Collection Areas.* Mechanical equipment and solid waste collections areas shall be screened in accordance with Section

DRAFT

14-03-12 of the City Code of Ordinances (Screening of Mechanical Equipment and Solid Waste Collection Areas).

f. *Lighting.* All outdoor lighting fixtures shall be designed as a full cut-off fixture or have a shielding method to direct light emissions down onto the site and not shine direct illumination or glare onto adjacent properties, with the exception of low-wattage landscape lighting and up-lighting intended to highlight part of a building or landscaping; provided, that the light distribution from the fixture is effectively contained by an overhanging architectural element or landscaping element and does not shine beyond the intended target including into the sky.

g. *Signs.* Signage may be installed in accordance with the provisions of Chapter 14-03.1 (Signs) following standards for Commercial zoning districts, provided that only one monument sign, one wall sign per street frontage and permit exempt signs shall be permitted. No Electronic Message Center Signs or Off-Premise Advertising Signs shall be permitted.

7. *Modifications.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major modifications require a public hearing and approval by the Bismarck Planning & Zoning Commission.

Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

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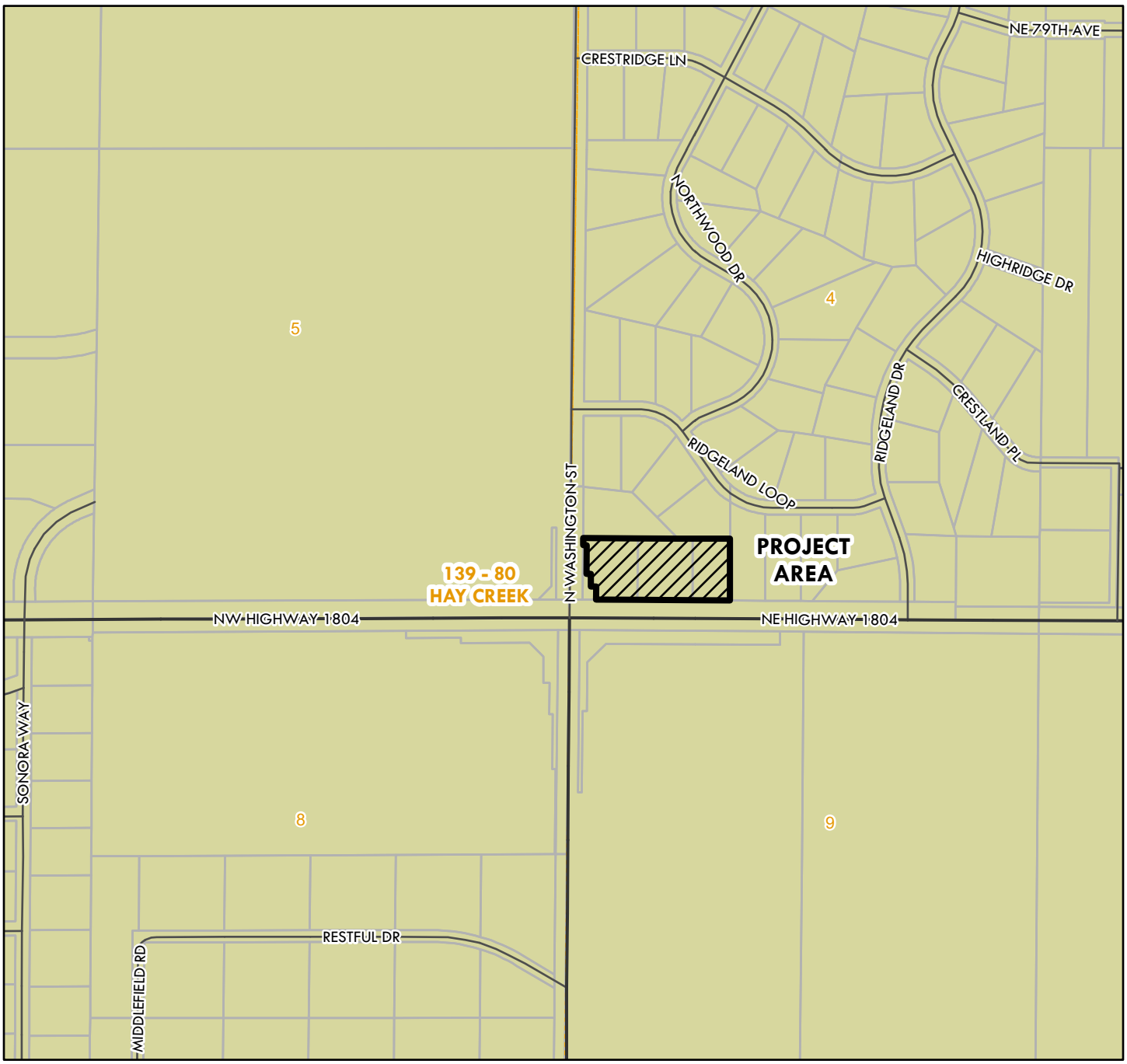
Location Map

NORTHRIDGE ESTATES COMMERCIAL PARK, L2-4, B1

ZC2021-005



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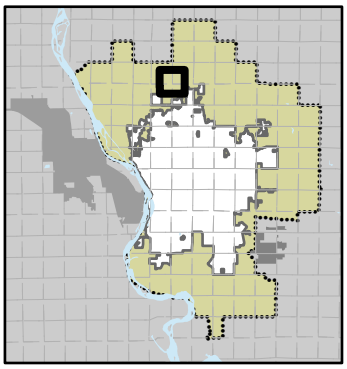
Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange



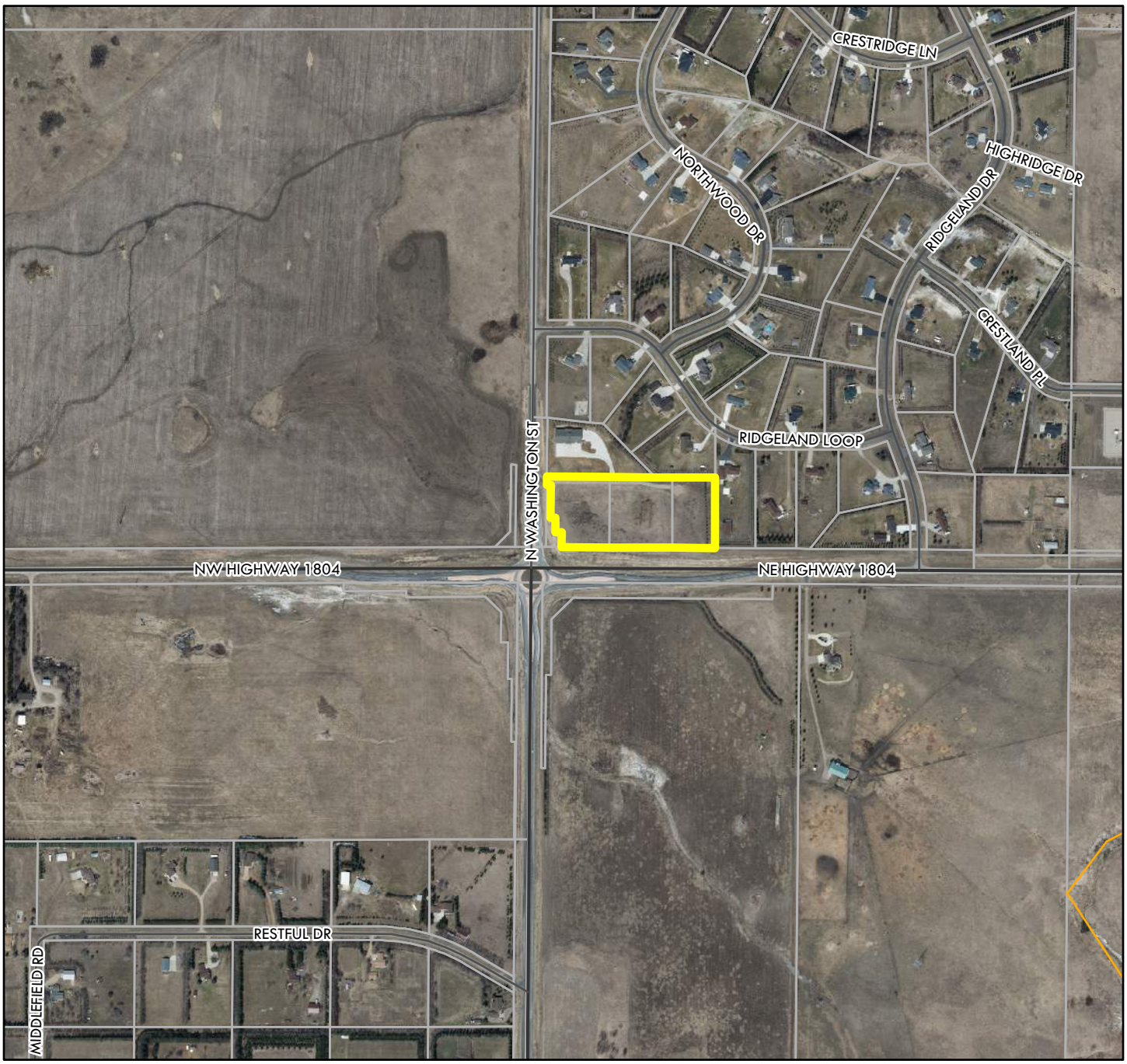
City of Bismarck
Community Development Department
Planning Division
March 29, 2021 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

Aerial Map

NORTHRIDGE ESTATES COMMERCIAL PARK, L2-4, B1

ZC2021-005



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Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck
Community Development Department
Planning Division
April 20, 2021

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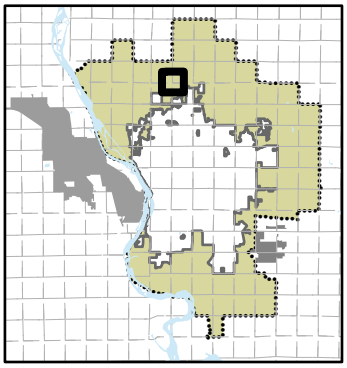


Zoning and Plan Reference Map

NORTHRIDGE ESTATES COMMERCIAL PARK, L2-4, B1

ZC2021-005

Zoning Districts

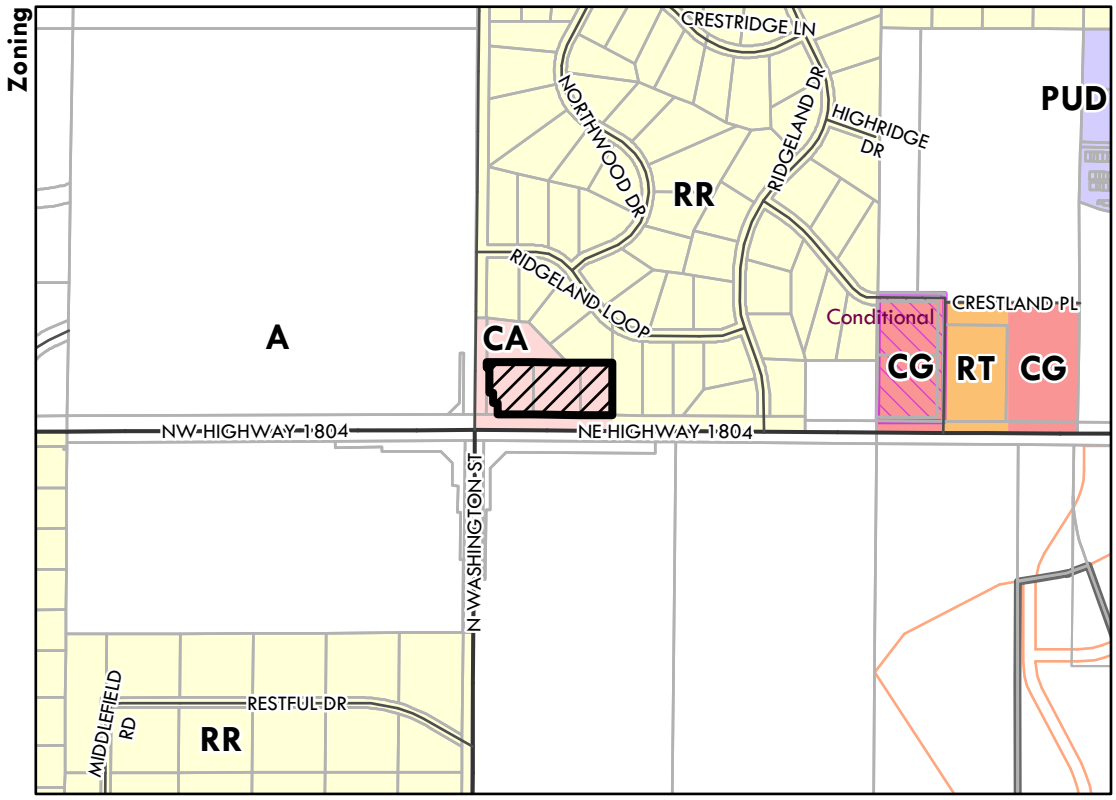
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

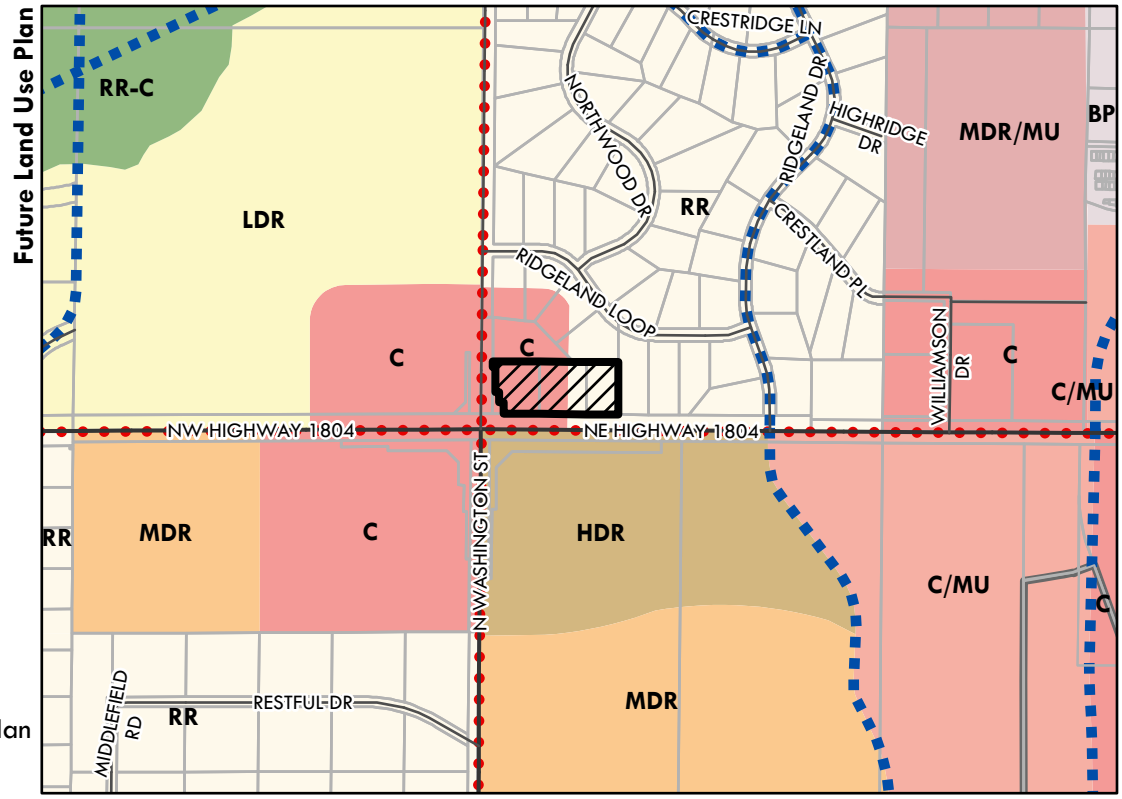
Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/ Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/ Mixed Use
O/MU	Office/ Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

Miles
0 0.15 0.3 0.6

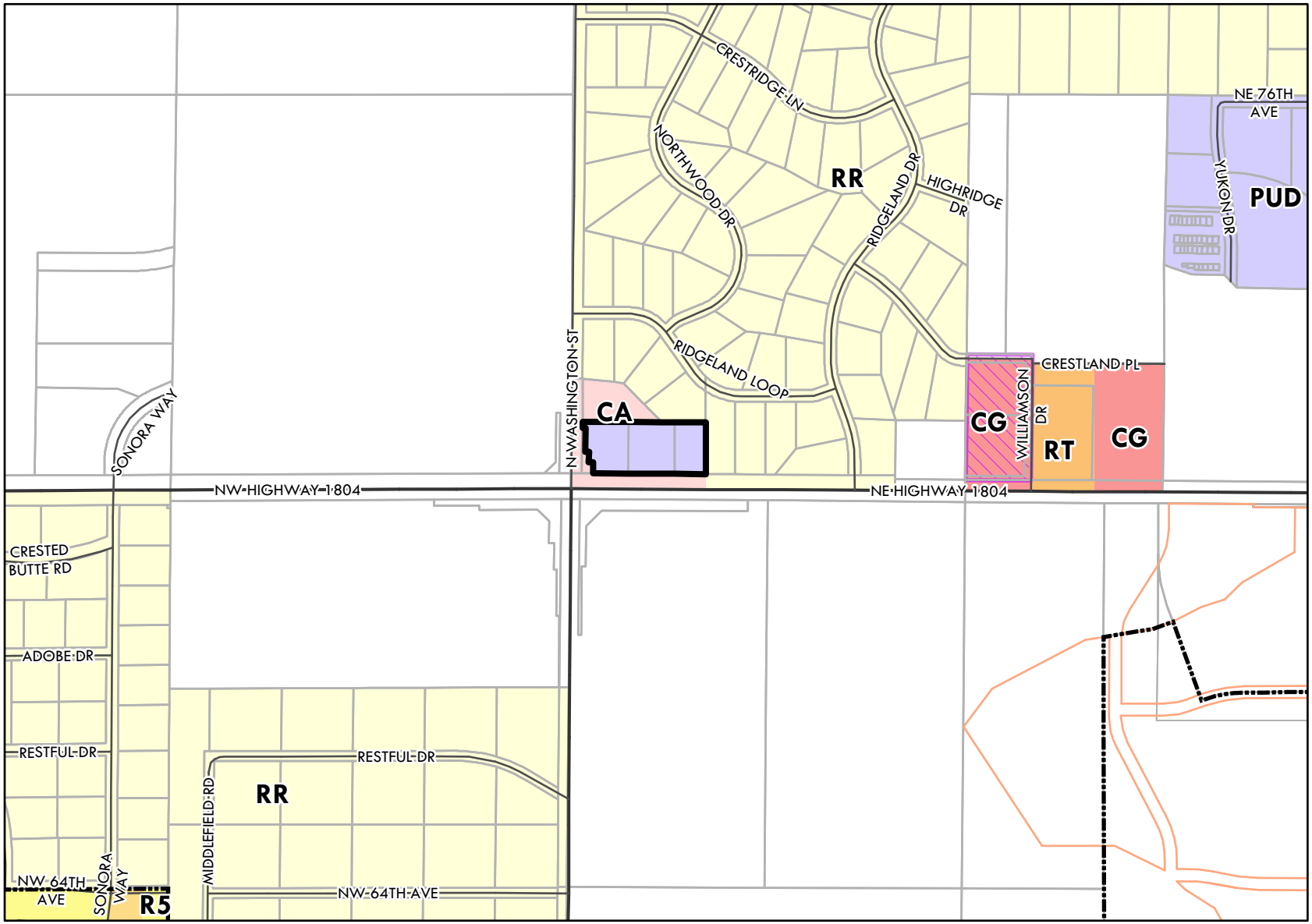
City of Bismarck
Community Development Dept.
Planning Division
April 20, 2021

Proposed Zoning Change

NORTHRIDGE ESTATES COMMERCIAL PARK, L2-4, B1

ZC2021-005

Proposed New Zoning Map



Project Area (zoning within is proposed)

City Limits

Zoning Districts

A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

A "C-" prior to the district indicates that special conditions would apply to the zoning district

0 0.33 0.65 1.3 Miles

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

City of Bismarck
Community Development Dept.
Planning Division
April 20, 2021

Five Star Storage Written Statement in Support of Planned Unit Development (PUD)

Five Star Storage is pleased to present its application for a PUD at the property referenced in the attached application. The property is currently owned by Apple Creek, LLP, and is legally described as follows:

Lots 2, 3 and 4, Block 1, Northridge Estates Commercial Park, Burleigh County, North Dakota,
EXCEPT:
A portion of Lot 2, Block 1 of Northridge Estates Commercial Park in Section 4, Township 139 North, Range 80 West of the 5th Principal Meridian, County of Burleigh, State of North Dakota, described as follows: Commencing at the Southwest corner of Section 4; thence Easterly along the South line of Section 4, South 89°37'49" East a distance of 75.42 feet; thence North 0°22'11" East a distance of 100.00 feet to the point of beginning; thence North 0°36'30" East parallel with the West line of Section 4 a distance of 303.49 feet; thence South 89°36'21" East a distance of 20.00 feet; thence South 0°36'30" West a distance of 160.00 feet; thence South 89°23'30" East a distance of 25.00 feet; thence 0°36'30" West a distance of 70.00 feet; thence South 89°23'30" East a distance of 30.00 feet; thence South 0°36'30" West a distance of 73.25 feet; thence North 89°37'49" West parallel with the South line of Section 4 a distance of 75.00 feet to the point of beginning.

Five Star Storage was created in 2003 to invest in and operate safe, secure, convenient, and high-quality self-storage facilities throughout North Dakota, Minnesota and in other markets and communities where there is need for our facilities and services. Five Star's executive team consists of Charles Hendricks, Jacob Hendricks, Benjamin Hendricks, and William Schneider, who collectively have more than 60 years of professional property management and development experience.

Our company's self-storage facilities offer rental of storage space to consumers and businesses on a month-by-month basis. The tenant provides his or her own locking device and has sole access to the unit. Five Star owns and/or operates a total of 20 self-storage facilities across North Dakota and Minnesota. Five Star currently owns two self-storage properties in Bismarck, one is located at 3320 Hamilton Street (which serves as our main Bismarck and Western North Dakota office) and the other is a newly acquired satellite facility located at 4613 Centurion Drive.

Five Star is proposing a new state-of-the-art self-storage facility, not currently found in Bismarck, in this new Planned Unit Development. The facility will consist of a mix of multi-story temperature controlled self-storage and traditional drive-up self-storage units. The facility will include an on-site office and manager. Five Star prides itself on developing and operating facilities that meet three core criteria—safety and security, convenience, and quality. Based on current demand, North Bismarck needs such a facility, and the project we are proposing on the subject parcel meets that criteria as follows.

Safety and Security. Five Star is proposing a fully enclosed self-storage facility that is secured by a perimeter fence and buildings and controlled access gate. Additionally, the facility will utilize strategically placed down angle lighting to help provide added security without unduly disrupting the surrounding community. Most of the lighting will be contained to the property itself and will assist customers accessing their units in the evening. The property will have numerous cloud-based security cameras fed not only to the main office, but also accessible by facility management remotely. Further, the facility will have restricted night hours to prevent unnecessary traffic in the evening when it is more likely for unwanted activity to occur. Five Star's secured facilities have a track record of very low illegal activity, particularly compared to traditionally unsecured storage properties in the surrounding community.

The buildings and landscaping surrounding the perimeter will provide a visual barrier to the interior of the property. Five Star also intends to include a 50-foot buffer between its use and the adjacent residential areas that includes landscape materials required by Section 14-03-11(10), which will be included in a landscape plan to be submitted in advance of the public hearing on this application. One of the renderings included in the application materials shows a view of this buffer yard as if you were standing on the residential properties adjacent to the subject parcel.

Self-storage is a very low traffic use—based on data we obtained from our entrance gate software for our other two locations in Bismarck, we can safely assume that around 20 to 30 vehicles on average will visit the site each day, and the national average for a facility of this size is around 40 to 45 vehicles per day. The proposed use will undoubtedly generate much less traffic than many other potential uses for the property under its current CA zoning which include gas stations, office buildings, strip malls, hotels, or apartments. Access to the facility will use an existing low traffic driveway and will not add any direct traffic to the new roundabout at the intersection of Washington and 71st Avenue/Highway 1804. Finally, the facility will be staffed by at least one manager in the on-site office during normal business hours, so any issues with safety or security will be promptly uncovered and addressed. Simply put, security is and will remain paramount for our property and the surrounding neighbors.

Convenience. Five Star Storage develops, owns, and operates self-storage facilities that are truly defined as "community assets." We pride ourselves on providing high-quality self-storage in locations convenient to home. In doing so, we carefully select development locations close to residential areas which provide easy access for our customers, rather than those which are difficult and less appealing to reach. In doing so, we also naturally increase the safety of our facilities by avoiding dark industrial or remote areas, which improves not only the customer experience, but the community around us. Long gone are the days of self-storage lined with razor wire in poorly lit industrial parks. Instead, Five Star is proposing a facility that is perfectly located in a growing area of Bismarck that will provide an essential service to its residents.

Further, developing a state-of-the-art high-quality self-storage facility near residential areas will likely improve the aesthetics of the neighborhood in general. Area residents who become Five Star customers will many times declutter their garages by moving items into storage, thus providing more space to park vehicles, boats, and other personal property inside, rather than in driveways, yards or on the street. Or better yet, many of our customers will move that unsightly boat or vehicle that had sat in the driveway for months into one of our larger self-storage units. Simply put, the self-storage facility proposed by Five Star Storage will benefit surrounding community and provide a convenient storage location for Bismarck residents as the neighborhood continues to grow and progress. This is consistent and conforms with Bismarck's comprehensive plan, which earmarks the property for commercial development and the general area for substantial residential growth in the future.

Quality. Everyone knows there is a stark difference between the Ritz Carlton and a Super 8 Motel. Not everyone understands the difference between a Five Star Storage facility and your run-of-the-mill storage building. Five Star prides itself on educating municipalities, customers, and the general public on the stark difference between the two.

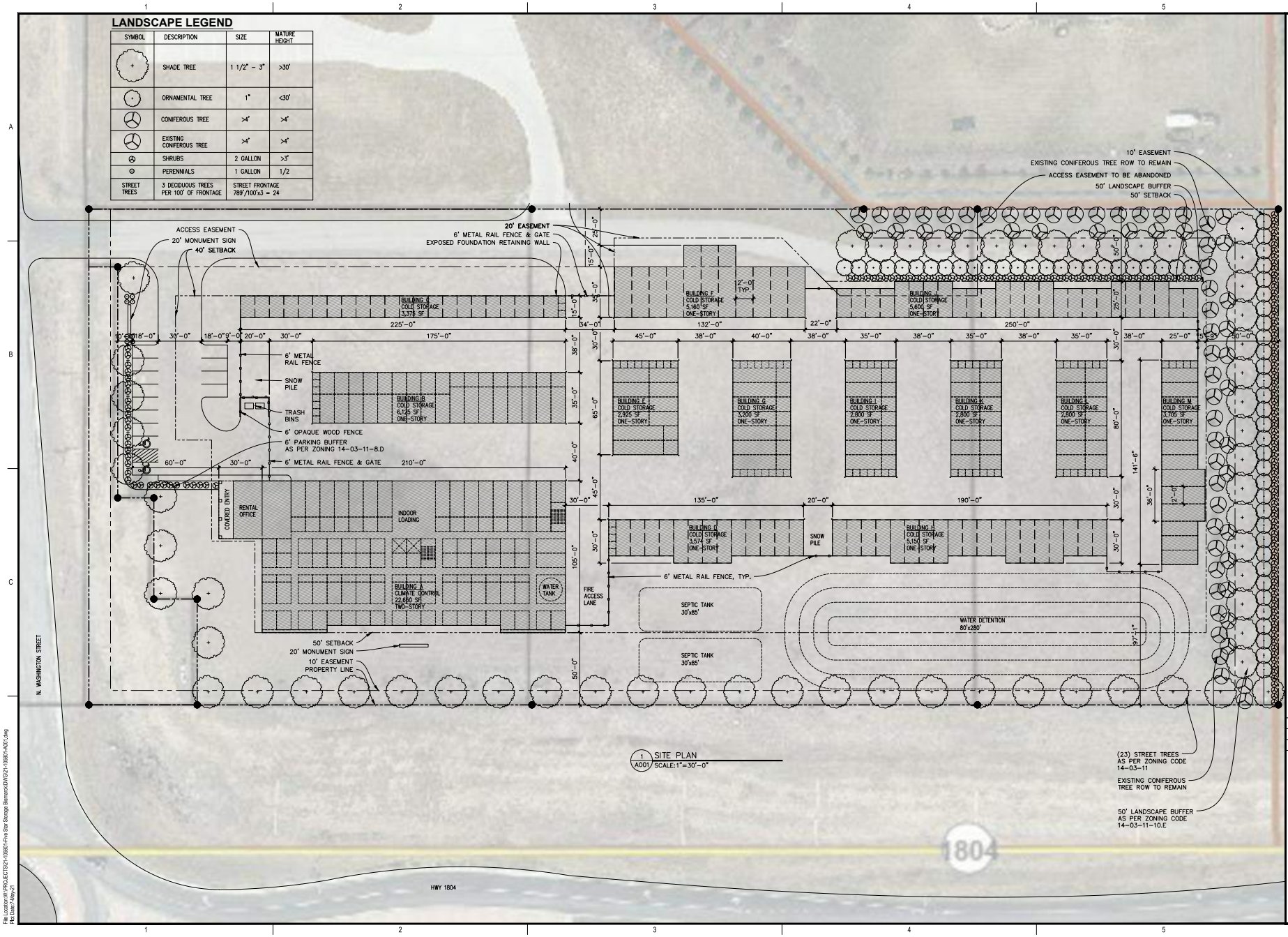
As evidenced by the enclosed renderings, Five Star is proposing a facility constructed with high quality materials, providing a premium storage experience for our customers, as well as a visually pleasing property for our neighbors around us. We plan to add landscaping buffers and preserve natural features including trees and drainage areas, architectural enhancements, and make other aesthetic upgrades to the site which will set us apart from every other storage facility in the community. Our facility will be harmonious with the adjacent land areas—much more so than many other potential uses. Five Star owns and operates storage facilities in many residential areas and prides itself on providing the highest quality storage service around. Our online reviews speak for themselves—over the last 12 months at our facilities in Bismarck alone, we have received over 40 positive reviews and our average rating is 4.9 stars out of 5.0.

Five Star believes that a PUD is the perfect zoning mechanism to enable this much needed project for North Bismarck. There is no better high need, low impact and low traffic use for this parcel and creating a special district to ensure the use remains as such is more advantageous than a general rezone. The City of Bismarck and its residents will be well-served for many years to come by adding such a facility to a fast-growing part of town.

Thank you for your consideration.

LANDSCAPE LEGEND

SYMBOL	DESCRIPTION	SIZE	MATURE HEIGHT
	SHADE TREE	1 1/2" – 3"	>30'
	ORNAMENTAL TREE	1"	<30'
	CONIFEROUS TREE	>4'	>4'
	EXISTING CONIFEROUS TREE	>4'	>4'
	SHRUBS	2 GALLON	>3'
	PERENNIALS	1 GALLON	1/2
STREET TREES	3 DECIDUOUS TREES PER 100' OF FRONTAGE	STREET FRONTAGE 789'/100'x3 = 24	



1 A001 SITE PLAN
SCALE:1"=30'-0"

RHET ARCHITECTURE, LLC
ATTN: RHET FISKNESS, AIA
27 11th ST. N, FARGO, ND 58102
PHONE: 701.715-8232
EMAIL: RHET@RHET-ARCH.COM
WEB: WWW.RHET-ARCH.COM

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Architect under the laws of the State of North Dakota.

Signature: _____

Date: 00/00/2021 REG. NO. : 1811

NOT FOR CONSTRUCTION

PROJECT:
FIVE STAR STORAGE
BISMARCK, ND

CLIENT:
FIVE STAR STORAGE
Attn: CHUCK HENDRICKS
3255 43rd STR. S.
FARGO, ND 58104
(P) 701.365.5000
chuck@fivestarstorage.biz

MARK	DESCRIPTION	DATE
CD	CONSTRUCTION DOCUMENTS	05/07/2021

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PROJECT NO:	21-105801
DRAWN BY:	RF
CHECKED BY:	RF

DRAWING TITLE:
DEVELOPMENT PLAN

A001

File Location:W:\PROJECTS\21-105801-Five Star Storage Bismarck\DWG\21-105801-A001.dwg
Plot Date: 7-May-21

RHET
ARCHITECTURE

RHET
ARCHITECTURE

FIVE ST R
STORAGE
RHET
ARCHITECTURE

RHET
ARCHITECTURE

SECTION A - LOOKING EAST

SECTION B - LOOKING EAST

RHET ARCHITECTURE

RESOLUTION

WE, THE BOARD OF TOWNSHIP SUPERVISORS OF HAY CREEK TOWNSHIP, BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE ZONING CHANGE FROM THE CA-COMMERCIAL ZONING DISTRICT TO THE PUD-PLANNED UNIT DEVELOPMENT ZONING DISTRICT FOR LOTS 2-4, BLOCK I, NORTHRIDGE ESTATES COMMERCIAL PARK, LESS THAT PORTION TAKEN FOR RIGHT-OF-WAY, AND HEREBY RECOMMEND TO THE BOARD OF CITY COMMISSIONERS THAT SAID ZONING CHANGE BE (APPROVED)(DENIED).

(PLEASE ATTACH CONDITIONS, IF ANY, TO THE BOARD'S ACTION.)

IF THE TOWNSHIP IS RECOMMENDING DENIAL, PLEASE LIST THE REASONS:

1) Best use of property is commercial
2) Northridge Estates residents appeared and voiced concerned and expressed they were not in favor.
3) Developer has not informed adjacent property owners and subdivision of the proposed project.

Jason R Gullickson 4/15/2021

CHAIRMAN, TOWNSHIP BOARD DATE

STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

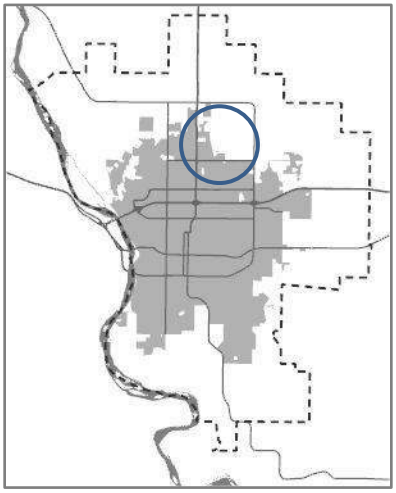
Agenda Item # 9
May 26, 2021

Application for: Special Use Permit

TRAKiT Project ID: SUP2021-004

Project Summary

Title:	Lot 4D of Lot 4, Block 1, Meadowlark Commercial Sixth Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Invesco Holdings Inc. & MDR PR, Owner Dan Rhoden, Applicant
Project Contact:	Dan Rhoden
Location:	In north Bismarck, north of 43rd Avenue NE, between North 15th Street and North 19th Street, along the north side of Skyline Boulevard (1720 Skyline Boulevard)
Project Size:	99,139 square feet
Request:	Allow the operation of an auto-laundry/carwash



Site Information

Existing Conditions		**Proposed Conditions**	
Number of Lots:	1 parcel	*Number of Lots:*	1 parcel
Land Use:	Undeveloped	*Land Use:*	Auto-laundry (carwash)
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	*Designated GMP Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	CG – Commercial	*Zoning:*	CG – Commercial
Uses Allowed:	CG – General commercial, multi-family residential, and offices	*Uses Allowed:*	CG – General commercial, multi-family residential, and offices
Max Density Allowed:	CG – 42 units / acre	*Max Density Allowed:*	CG – 42 units / acre

Property History

Zoned:	N/A	*Platted:*	N/A	Annexed:	N/A

Staff Analysis

Invesco Holdings Inc. & MDR PR and Dan Rhoden are requesting approval of a special use permit to

Dan Rhoden (applicant)requesting approval of a special use permit to allow the operation of an auto-

(continued)

laundry (carwash) on Lot 4D of Lot 4, Block 1, Meadowlark Commercial Sixth Addition.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on May 14th and May 21st and eight letters were mailed to the owners of nearby properties on May 14th.

Adjacent uses include a fitness center to the north, publicly owned stormwater detention ponds to the east, and undeveloped commercial-zoned property to the south and west.

The following criteria from Section 14-03-08(4)(q) of the City Code of Ordinances (Special uses)(Auto laundry/carwash) apply:

1. *The lot area, lot width, front yard, side yards, rear yards, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located except that the minimum front yard setback shall be twenty-five (25) feet.*

   The lot area, lot width, front yard, side yards, rear yard and height limit of the structure and its appurtenances appear to conform to the requirements of the CG – Commercial zoning district. Compliance with all development standards will be verified through the site plan and building permit review processes.

2. *Access to and egress from an auto laundry facility shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets. In addition, vehicle stacking spaces shall be provided on the premises in accordance with section 14-03-10 of this ordinance, in addition to all common ingress and egress areas provided.*

   Access to and egress from the drive-through will be from North 19th Street and will not impact adjacent sidewalks and streets.

3. *Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersecting street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on local streets.*

   Ingress and egress locations to and from the auto laundry/carwash will be located more than 60 feet from North 19th Street and Skyline Boulevard.

4. *An auto laundry-car wash may front on only one arterial or collector street and may also be adjacent to a local street.*

   The proposed facility would front along North 19th Street, which is considered a local roadway north of 43rd Avenue NE.

5. *All access and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. All curb cuts, widths, and other specifications shall comply with the standards established by the city engineer.*

   Ingress and egress driveways would be along North 19th Street, a future private access along the west side of the site. It appears that the driveways will comply with this provision and compliance will be verified through the site plan review process.

6. *No fence, wall, terrace, structure, shrubbery or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the front ten (10) feet of any lot except a sign pole as permitted in Chapter 14-03.1 of the City Code of Ordinances.*

   No fence, wall, terrace or structure is located within the front 10 feet of the lot. Compliance will be verified through the review of the landscape plan during the site plan review process.

7. *No automobile shall be parked in the first fifteen feet of a required setback area.*

   Based on the site plan submitted with the application, this provision appears to be met and

(continued)

will be verified for compliance during the site plan review process.

Required Findings of Fact (relating 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; and
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit to allow the operation of an auto-laundry/carwash on Lot 4D of Lot 4, Block 1, Meadowlark Commercial Sixth Addition.

Attachments

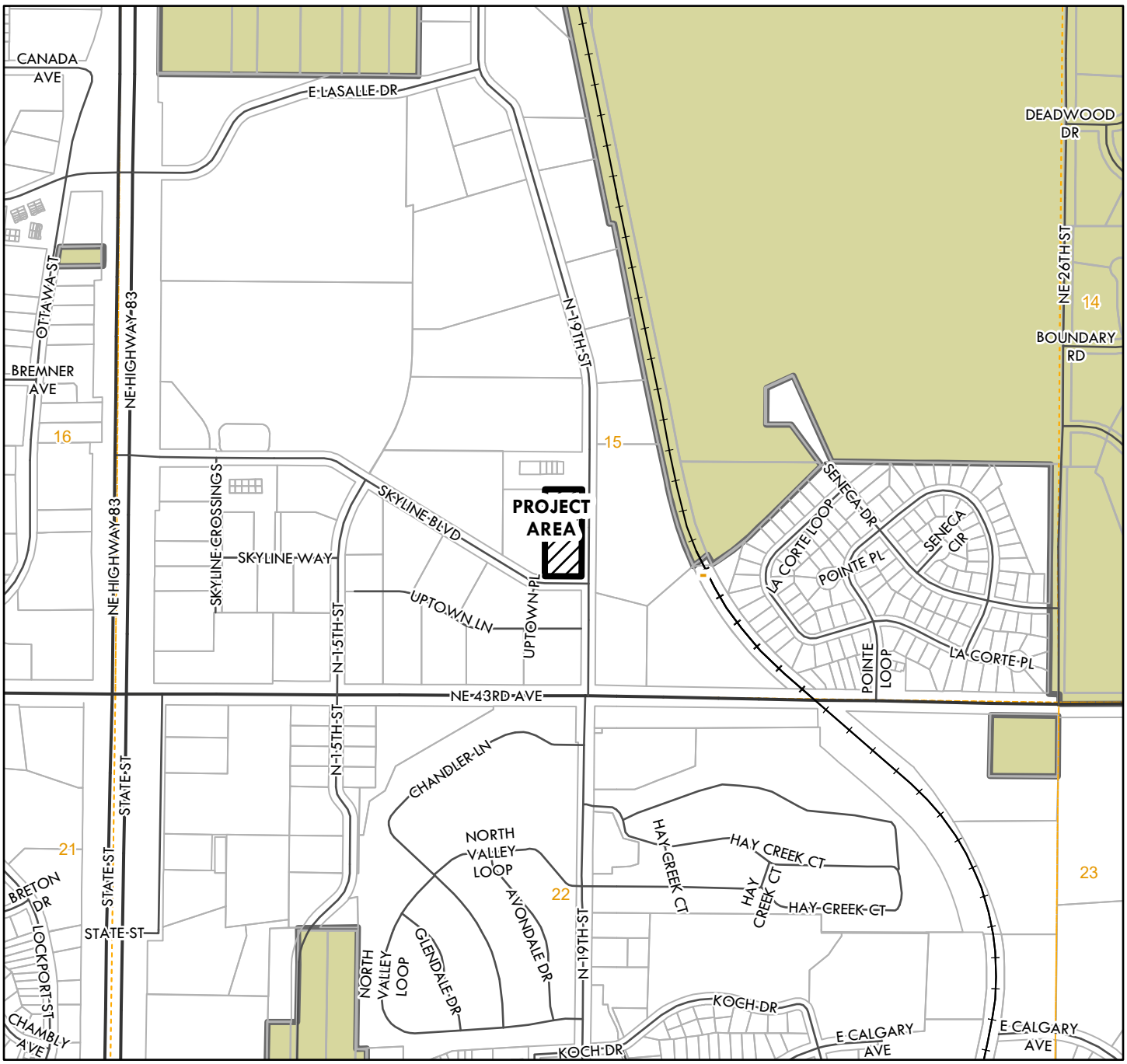
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Proposed Site Plan
5. Proposed Building Elevations

Staff report prepared by: Jenny Wollmuth, AICP, CFM, Senior Planner
701-355-1845 | jwollmuth@bismarcknd.gov

Location Map

MEADOWLARK COMMERCIAL 6TH ADDITION, PT L4, B1

SUP2021-004



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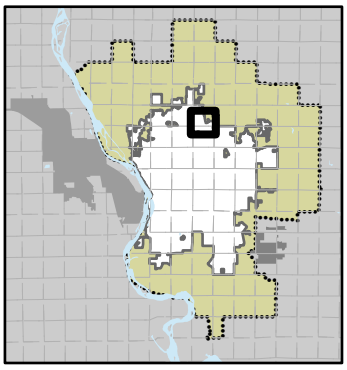


City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
April 27, 2021 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

Bismarck

Aerial Map

MEADOWLARK COMMERCIAL 6TH ADDITION, PT L4, B1

SUP2021-004

Miles

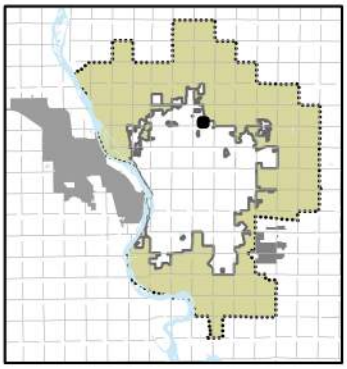
0 0.04 0.08 0.16

City Limits

Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Community Development Department
Planning Division
May 19, 2021

Zoning and Plan Reference Map

MEADOWLARK COMMERCIAL 6TH ADDITION, PT L4, B1

SUP2021-004

Zoning Districts

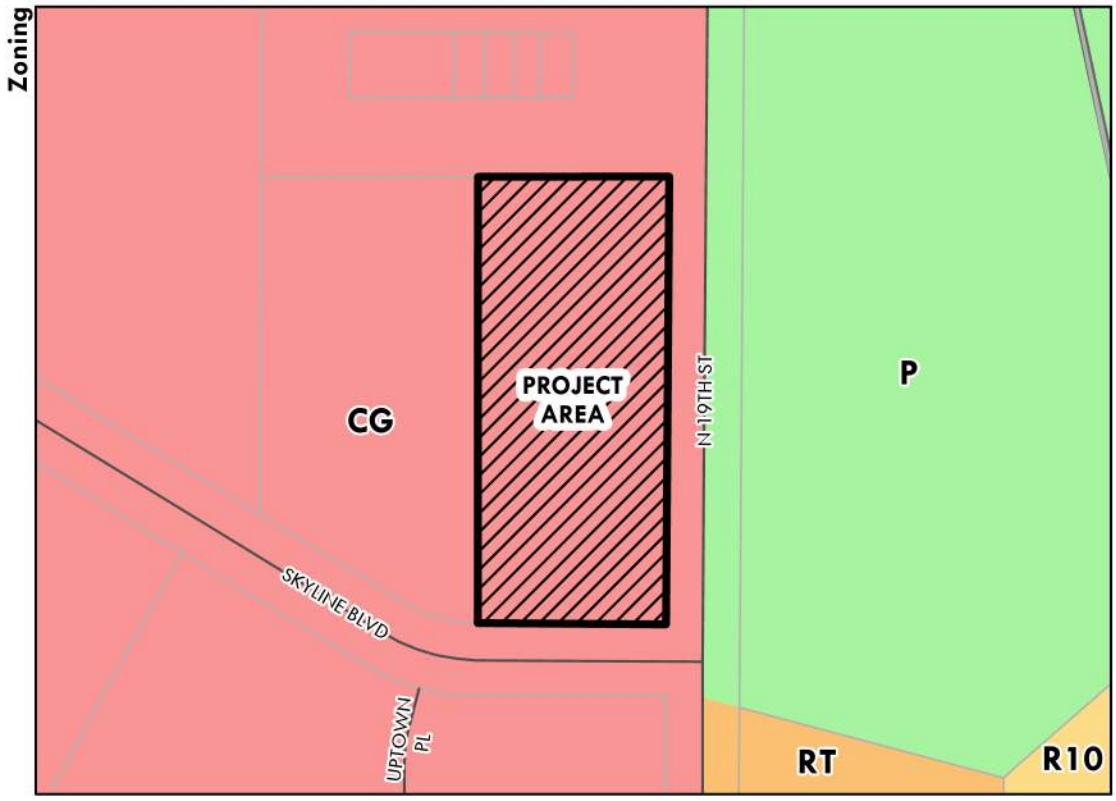
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

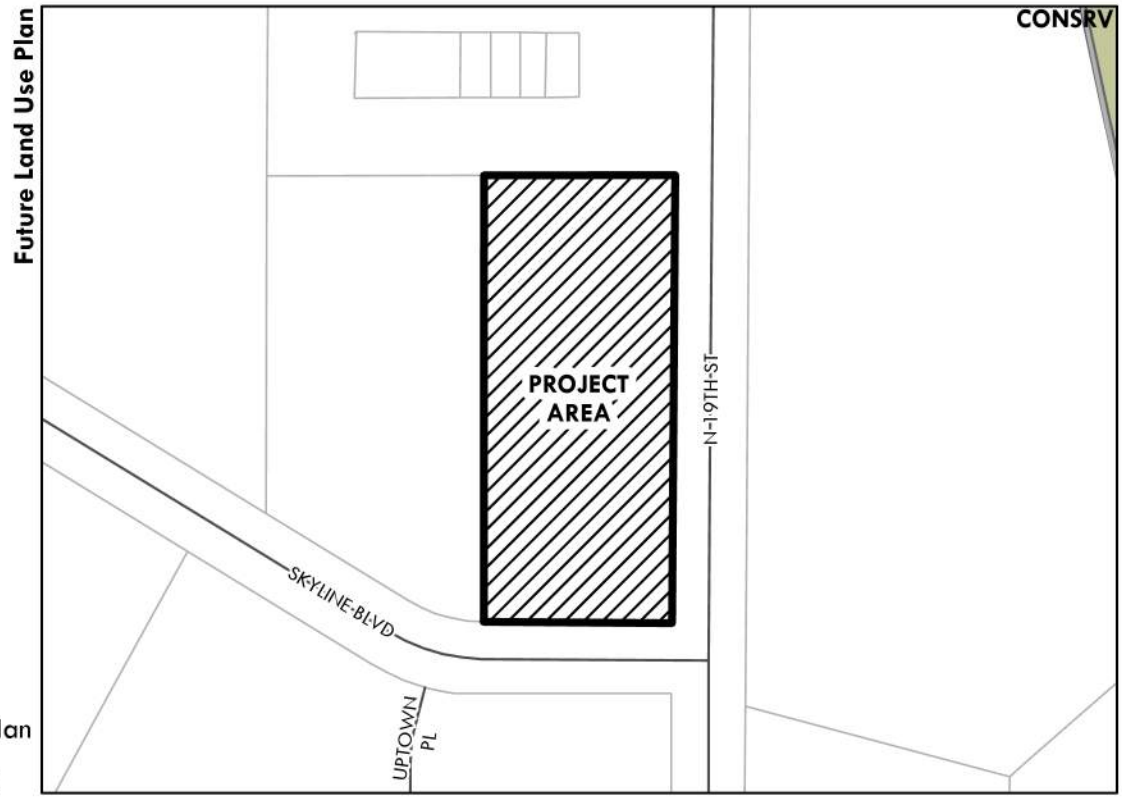
Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/ Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/ Mixed Use
O/MU	Office/ Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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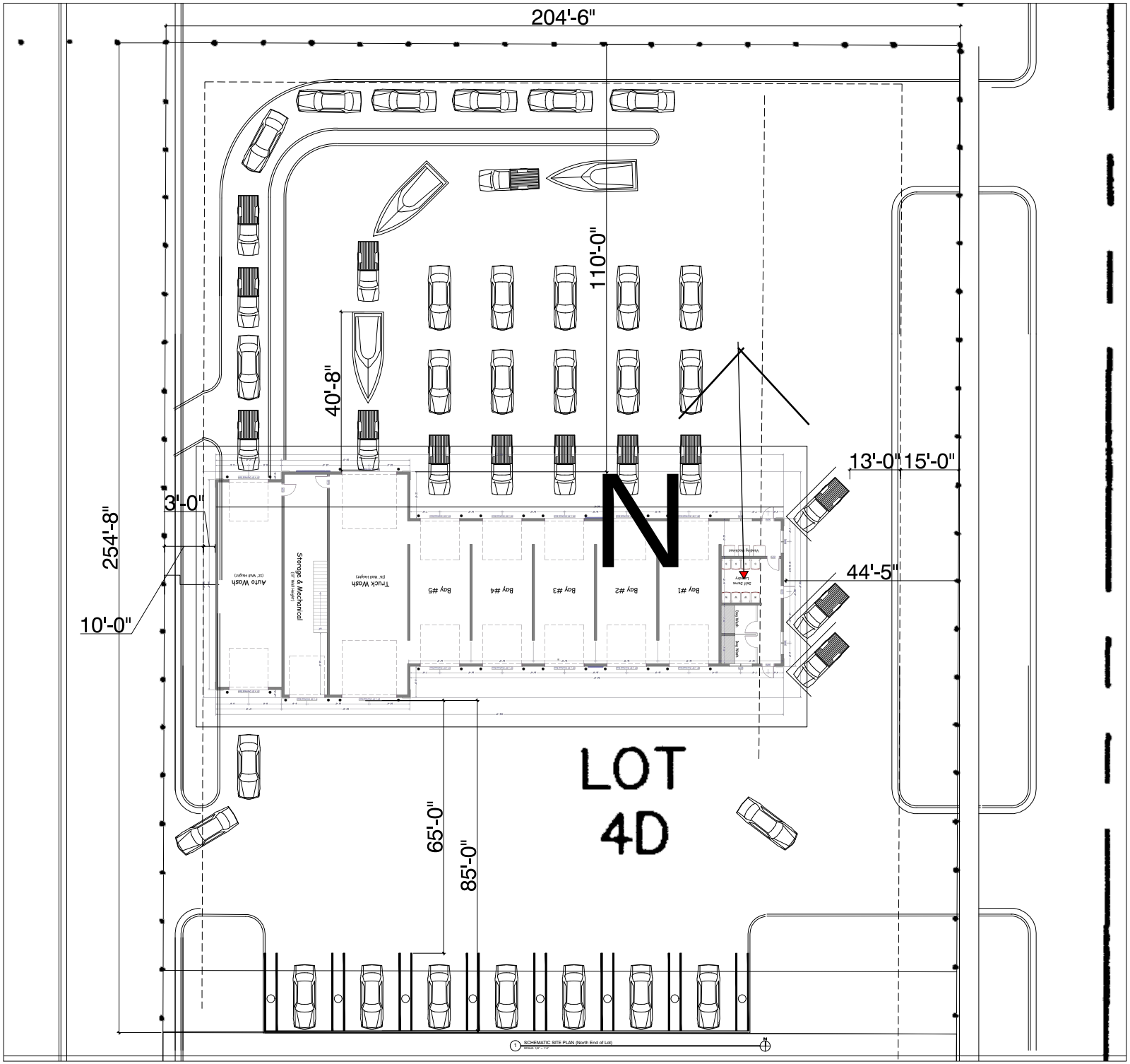
City of Bismarck
Community Development Dept.
Planning Division
May 19, 2021


204'-6"
110'-0"
40'-8"
254'-8"
3'-0"
10'-0"
13'-0"
15'-0"
44'-5"
65'-0"
85'-0"
N
LOT
4D
Auto Wash
Storage & Mechanical
Truck Wash
Bay #5
Bay #4
Bay #3
Bay #2
Bay #1
Vacuuming Area
Staff Service Laundry
Dog Wash
Dog Wash
1 SCHEMATIC SITE PLAN (North End of Lot)

Preliminary - Not For Construction

These Plans Are Not Complete And Are Not To Be Used For Estimating Or Construction Drawings

Perspective Views

Not To Scale

Dimensioning Explanation/Door & Window Sizing Description:

All Exterior Dimensions Are From Outside Of Framing To Outside of Framing/All Interior Dimensions Are From Edge Of Framing To Edge Of Framing/All Exterior Foundation Walls Dimensioned From Outside of Foundation Wall To Outside Of Foundation Wall/All Interior Dimensions Are From The Inside Edge Of The Concrete Foundation Wall To Edge of Interior Wall Framing Or From Edge Of Framing To Edge Of Framing/Interior Bearing Walls Are Represented By Solid Walls Door Labels Are Specified By 3068 Which Translates To 3'-0" x 6'-8". Window Labels Are Specified By 2040 Which Translates To 2'-0" x 4'-0". Foundation Walls Include a 1" Air Gap Between Foundation & Stud Per Code.

Disclaimer For Plans Designed:

The plans and elevations are only conceptual and give the client an example of what is to be built. A contractor or an Architect is responsible for verifying the dimensions and other information on these plans. Verify all local building codes. All plot plans to be verified by an engineer for setbacks and easements. Property contours and stepped foundation walls may be different from that shown on plans. Stone, siding types, and exterior materials have to be verified by the contractor and may "NOT" be included in the estimate of the house. Inline Designs cannot be held responsible for inaccurate information that may lead to additional cost for the owner or a delay in the project.

Inline Designs Inc.
701-214-3311

Date Published: 3/19/2021

Inline Designs, Inc
Shawn Whitney (Owner)
Bismarck, North Dakota
(email) inlinedesign@msn.com
(cell) 701-214-3311

Carwash

Drawn For: Hopfauf Custom Builders

Bismarck Lumber

Preliminary - Not For Construction

These Plans Are Not Complete And Are Not To Be Used For Estimating Or Construction Drawings

Perspective Views

Not To Scale

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STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 10
May 26, 2021

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2020-002

Project Summary

Title:	Keeping of Chickens
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Will Hutchings, Planner
Sections Amended:	14-02-03 (Definitions) 14-03-06 (Incidental Uses) 14-04-01 (RR Residential District) 14-04-01.1 (RR5 Residential District)
Request:	Consider revisions to existing ordinance regulations and proposed regulations for the keeping of chickens within rural and urban residential zoning districts

Staff Analysis

The Community Development Department – Planning Division is initiating a zoning ordinance text amendment to revise existing ordinances related to the keeping of chickens on rural residential lots outside the city and propose regulations for the keeping of chickens within the city.

The Planning and Zoning Commission considered this request at their April 28, 2021 meeting and called for a public hearing.

The amendments are being proposed at the request of the Planning and Zoning Commission, who at their regularly scheduled meeting on November 18, 2020 heard a request from a citizen that the keeping of chickens be allowed within the city. The Planning and Zoning Commission directed staff to draft an amendment for their consideration.

To facilitate the development of the proposed zoning ordinance text amendment staff formed a stakeholder committee. The stakeholder committee was made up of staff from Animal Control – Police, Building Inspections, Environmental Health and Public Health and a representative each from the Animal Advisory Board, NDSU Extension, an extra-territorial area resident, a city resident, and a local food advocate.

Staff consulted with other urban jurisdictions in the region that allow backyard chickens. Most communities set a maximum number of chickens between 4 and 8 and typically define setback requirements, standards for coops and runs and require permits. In all jurisdictions the keeping of male chickens or roosters are prohibited. Some jurisdictions also require adjacent property owner consent; however, this practice is not favored by staff as it gives any one adjacent property owner veto power. A table summary of research conducted is attached to this staff report.

The keeping of backyard chickens has been allowed outside of the city on lots zoned RR – Residential and RR5 – Residential since the ordinance was amended in 2017. Currently, up to 10 chickens are allowed with minor regulations related to setbacks. In conjunction with the proposed ordinance changes to allow backyard chickens within the city, additional standards are proposed for areas outside of the city limits in the extra-territorial area. These standards include additional screening requirements, predator and rodent mitigation requirements, size requirements and coop and run material and design standards. Chicken keeping outside the city has not been subject to

(continued)

permitting requirements and under the proposed ordinance no permitting requirement would be added.

The following outlines the proposed ordinance provisions:

Permit Required

Any person who wishes to keep chickens within city limits would need to obtain a permit. Permits will help ensure the applicant is aware of the regulations and will help track applicants with a history of non-compliance. The permit will be issued by the Zoning Administrator and is revocable at any time for non-compliance. The permit fee would be set by City Commission during the 2022 budget cycle.

The permit application must also include a site plan showing the location of coop and run, setbacks from property lines and neighboring residences, and material and height of coop and run. In addition, applicants will be required to provide a signed acknowledgement of the zoning regulations prior to issuance of the permit. Applicants will be encouraged to complete a training course through NDSU Extension.

A copy of the draft permit application and sample exhibits of the required submittals items are attached to this staff report.

Number of Chickens Allowed

Within the city limits, four chickens would be allowed on a R5 – Residential, R10 – Residential and RM-Residential zoned lots. Outside the corporate limits, ten chickens are allowed on RR – Residential and RR5 – Residential zoned lots.

Restrictions

Under the proposed ordinance, keeping chickens would only be permitted for properties in which the primary use is single-family residential and zoned either RR – Residential, RR5 - Residential, R5 – Residential, R10 – Residential or RM - Residential. Keeping chickens would not be permitted for two-family, multifamily, manufactured homes, any properties in the Downtown Core or Downtown Fringe, or on single-family properties that are a non-conforming use for the zoning district in which they are located. If the property contains a permitted accessory dwelling unit and is a single-family use, chickens would be permitted.

Under the proposed ordinance, no male chickens (roosters) would be permitted and only domestic chickens formally known as gallus gallus domesticus would be allowed. The chickens must always be kept within the coop or run. All food must be kept in metal predator and rodent proof containers or stored within an accessory structure or the primary residence.

Standards

1. Coops
   - Minimum of 4 square feet per chicken
   - Maximum size 120 square feet
   - Count toward allowed cumulative area allowed for accessory structure(s)
   - Must be constructed to be rodent and predator proof
2. Runs
   - Minimum area of 10 square feet per chicken
   - Must be fully enclosed with fencing on all sides and on top
   - Fencing must be wooden or woven wire
   - Must be installed either on a concrete slab or foundation or with buried fencing to a depth of twelve inches below the ground
3. Setbacks and Screening – Coops and Runs
   - Must be kept a minimum of 20 feet away from streams, tributaries, ditches, stormwater management facilities, storm drainage areas or stormwater easements to prevent any fecal matter from entering any storm drainage system or stream
   - For R5, R10 and RM zoned lots – Must be placed within the rear yard, hidden from public right-of-way and neighboring properties by placement or with a 6 foot tall opaque fence and must be set back a minimum of 10 feet from all property lines and no closer than 20 feet from adjacent residences
   - For properties zoned RR and RR5 – Must be placed within the rear yard, hidden from public right-of-way and neighboring properties by placement or with a 6 foot tall opaque fence and must be setback a minimum of 50 feet

(continued)

from rear property line, 15 feet from side property lines and no closer than 150 feet from an adjacent property dwelling

Potential Impacts

During stakeholder meeting and staff level discussions, it was noted that animals are considered "personal property" and by law, if Animal Control – Police were to capture any chickens on the loose in the community, they would be required to hold that animal for a period of ten days in order to allow the rightful owner time to come forward and claim their chicken(s). This would result in fiscal impacts that will be associated with this proposed ordinance change - specifically the costs necessary to construct a holding facility at Animal Control specifically for chickens. The estimated range of these costs is between $4,500 to $5,500.

In addition to the proposed changes to zoning requirements to allow the keeping of chickens within the city, additional changes to other city ordinances would be necessary. Section 3-01-02 of the City Code of Ordinances explicitly prohibits the keeping and raising of domestic fowl within the corporate limits. If the Planning and Zoning Commission recommends approval of the ordinance, additional coordination with the City Attorney will be needed to amend potential conflicting requirements under Title 3.

Animal Control – Police has consistently expressed concerns for this proposed zoning ordinance text amendment. Specifically, they have noted concerns with the possibility of chickens attracting predatory animals and rodents as well as concerns with enforcement calls in case any chickens get lose. The proposed zoning ordinance was drafted to alleviate these concerns, and revocation of the permit provides an enforcement mechanism for individuals who do not comply with the ordinance requirements.

The Bismarck Animal Advisory Board received a copy and overview of the proposed ordinance and met on April 8, 2021. They voted 5-0 to support the proposed ordinance to allow backyard chickens in the City as outlined in the proposed ordinance.

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment of 14-02-03 (Definitions), 14-03-06 (Incidental Uses), 14-04-01 (RR Residential District), And 14-04-01.1 (RR5 Residential District) as presented in the draft ordinance attached to the staff report.

Attachments

1. Draft Zoning Ordinance Amendment
2. Peer Community Research
3. Draft Permit Application
4. Example Site Plan and Coop Detail

Staff report prepared by: Will Hutchings, Planner
701-355-1850 | whutchings@bismarcknd.gov

CITY OF BISMARCK
ORDINANCE NO. XXXX

First Reading	_____
Second Reading	_____
Final Passage and Adoption	_____
Publication Date	_____

AN ORDINANCE TO AMEND 14-02-03 (DEFINITIONS), 14-03-06 (INCIDENTAL USES), 14-04-01. (RR RESIDENTIAL DISTRICT), AND 14-04-01.1. (RR5 RESIDENTIAL DISTRICT) OF THE CODE OF ORDINANCES OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE KEEPING OF CHICKENS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amend. 14-02-03 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Definitions, is hereby amended to read as follows:

14-02-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

* * * * *

Chicken: A type domesticated fowl formally known as Gallus gallus domesticus.

Chicken-Hen: A female chicken.

Chicken-Rooster: A male chicken.

Chicken-Coop: a fully enclosed, detached non-residential structure for the purpose of housing chickens.

Chicken-Run: A fully enclosed and covered area attached to a Coop for the purpose of allowing chickens to roam unsupervised outside.

DRAFT

Chicken-Brood: A group of chickens

* * * * *

Section 2. Amend. 14-03-06 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Incidental Uses, is hereby amended to read as follows:

14-03-06. Incidental Uses. Permitted uses and approved special uses shall be deemed to include accessory uses and accessory structures that are customarily incidental to the principal use, subject to the following standards:

1. Accessory Uses and Buildings.

* * * * *

b. One and two-family residential accessory uses and buildings.

* * * * *

2. Customary domestic pets are allowed in accordance with the provisions of Title 3 of the Bismarck Code of Ordinances, but not including horses, poultry or agricultural livestock except as allowed in this Section and Sections 14-04-01, 14-04-01.1 or 14-04-17 of this ordinance. No more than three (3) dogs or cats, four months of age or older are allowed.

* * * * *

5. Backyard Chicken Keeping:

a. Intent: Allow for the keeping of chickens at an individual or household scale while promoting the health, safety and general welfare of the citizens of the city.

b. Permit Required: No person residing within the City shall keep chickens unless granted a permit from the Zoning Administrator. The permit shall be required prior to conducting the keeping of chickens and shall

be good for one calendar year. Upon a one-year period from the date of issuance, the permit may be renewed. The permit is tied to the applicant and the land and is non-transferrable. The permit may be revoked by the Zoning Administrator by written notice or upon request for renewal for failure to comply with the requirements outlined here within or any other local or state regulation. Any person whose permit is revoked shall, within fourteen days thereafter, remove from the premises all chickens, coops and runs. Application fees for revoked permits shall not be refunded. The permittee may appeal the revocation, suspension or refusal of renewal of the permit by timely request for a hearing before the board of city commissioners. Permit fees shall be set by the board of city commissioners.

c. A permit application shall include the following:

1. The applicable fee

2. Site plan illustrating:

a. Property lines of the entire site.

b. Distance to proposed coop and run.

c. Distance and size of all on-site structures and distance to neighboring property dwelling.

d. Material type and height of screening fence, chicken coop and run.

e. Distance from any adjacent streams, tributaries, ditches, stormwater management facilities, storm drainage areas or stormwater easement.

3. Photos of the chicken coop and run (permit renewal only).

d. Standards:

DRAFT

1. Backyard chickens may only be kept on property in which primary use is single-family residential or rural residential.

2. For single-family residential properties within the R5-Residential, R10-Residential or RM-Residential zoning districts no more than four (4) chicken hens may be permitted. For single-family residential properties within the extra-territorial area, outside of the corporate limits and zoned RR-Residential or RR5-Residential no more than ten (10) chicken hens may be permitted.

3. No male chickens (roosters) may be kept as backyard chickens. As soon as a rooster is identified it shall be culled from the brood.

4. Chickens, as permitted under this subsection, may only be kept and raised for private uses only.

5. Chickens shall not be kept outside of the coop or run.

6. Lot area. Chickens may only be permitted on lots that conform to the minimum allowable lot size as set by the zoning district standards.

7. Chicken feed must be kept in metal predator and rodent proof containers or stored inside the home, garage or accessory structure.

8. Chicken coops shall be constructed to provide a minimum of four (4) square feet per chicken, shall not be larger than one-hundred-twenty (120) square feet and shall be counted in overall size limitations for allowable accessory structures. The coop must be constructed with predator and rodent proof measures and shall be elevated with a clear open space of at least twenty-four (24) inches between the ground and the framing/floor or on a concrete

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floor/foundation. The coop must be fully enclosed on all sides and top.

9. Chicken runs shall be constructed to provide a minimum of ten (10) square feet of ground area per chicken, shall be fully enclosed with fencing on all sides and top and said fencing shall be installed either on a concrete slab or foundation or with buried fencing to a depth of twelve inches below the ground. The fencing shall be wooden or wire materials or a combination thereof.

10. Chicken coops, runs, and manure storage shall be kept a minimum of twenty (20) feet from streams, tributaries, ditches, stormwater management facilities, storm drainage areas or stormwater easement that would allow fecal matter to enter any storm drainage system or stream. Dumping of feces or manure in a storm drainage system is prohibited.

11. For properties within the R5-Residential, R10-Residential and RM-Residential zoning districts chicken coops and runs:

a. Shall be located within the rear yard and must be obscured from view of any street, trail, public park, neighboring properties and other right-of-way by either placement behind the home, dense mature vegetation and/or with a six (6) foot tall opaque fence.

b. Shall be located no closer than ten (10) feet from any property line and no closer than twenty (20) feet from an adjacent property dwelling.

12. Within the extra-territorial area outside of the corporate limits for properties within the RR-Residential and RR5-Residential zoning district, chicken coops and runs:

a. Shall be located within the rear yard and must be obscured from view of any

street, trail, public park, neighboring properties and other right-of-way by either placement behind the home, dense mature vegetation and/or with a six (6) foot tall opaque fence.

b. Shall be located no closer than fifty feet (50) feet from the rear property line, fifteen (15) feet from side property lines and no closer than one hundred-fifty (150) feet from an adjacent property dwelling.

Section 3. Amend. 14-04-01. of the Code of Ordinances of the City of Bismarck, North Dakota, relating to RR Residential District, is hereby amended to read as follows:

14-04-01. RR Residential District. In any RR residential district, the following regulations shall apply:

* * * * *

e. ~~Chicken Hens and Coops in areas outside of the corporate limits, provided that the animals are kept for private use only; that no male chickens (roosters) are kept; all hens are kept in a fenced area; all coops and structures meet applicable setbacks and size limitations for allowable accessory structures and are not located less than one hundred and fifty (150) feet of any neighboring residence or structure; and that no more than ten (10) chickens shall be permitted.~~ Backyard Chicken Keeping:

a. Intent: Allow for the keeping of chickens at an individual or household scale while promoting the health, safety and general welfare of the citizens of the city.

b. Standards:

1. The primary use of the person's property for keeping of backyards chickens must be single-family residential.

2. For rural residential zoned properties within the extra-territorial area, outside of the corporate limits, no more than ten (10) chicken hens may be permitted.

3. No male chickens (roosters) may be kept as backyard chickens. As soon as a rooster is identified it shall be culled from the brood.

4. Chickens, as permitted under this subsection, may only be kept and raised for private uses only.

5. Chickens shall not be permitted outside of the coop or run.

6. Lot area. Chickens may only be permitted on lots that conform to the minimum allowable lot size as set by the zoning district standards.

7. Chicken feed must be kept in metal predator and rodent proof containers or stored inside the home, garage or accessory structure.

8. Chicken coops shall be constructed to provide a minimum of four (4) square feet per chicken, shall not be larger than one-hundred-twenty (120) square feet and shall be counted in overall size limitations for allowable accessory structures. The coop must be constructed predator and rodent proof measures and shall be elevated with a clear open space of at least twenty-four (24) inches between the ground and the framing/floor. The coop must be fully enclosed on all sides and top.

9. Chicken runs shall be constructed to provide a minimum of ten (10) square feet of ground area per chicken, shall be fully enclosed with either fencing on all sides and top and said fencing shall be installed either on a concrete slab or foundation or with buried fencing to a depth of twelve inches below the ground. The fencing shall be wooden or wire materials or a combination thereof.

10. Chicken coops, runs, and manure storage shall be kept a minimum of twenty (20) feet from streams, tributaries, ditches, stormwater management facilities, storm drainage areas or stormwater easement that would allow fecal matter to enter any storm drainage system or stream. Dumping of feces or manure in a storm drainage system is prohibited.

11. Chicken coops and runs:

a. Shall be located within the rear yard and must be obscured from view of any street, trail, public park, neighboring properties and other right-of-way by either placement behind the home, dense mature vegetation, and/or with a six (6) foot tall opaque fence.

b. Shall be located no closer than fifty feet (50) feet from the rear property line, fifteen (15) feet from side property lines and no closer than one hundred-fifty (150) feet from an adjacent property dwelling.

Section 4. Amend. 14-04-01.1 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to RR5 Residential District, is hereby amended to read as follows:

14-04-01.1. RR5 Residential District. In any RR5 residential district, the following regulations shall apply:

* * * * *

e. ~~Chicken Hens and Coops in areas outside of the corporate limits, provided that the animals are kept for private use only; that no male chickens (roosters) are kept; all hens are kept in a fenced area; all coops and structures meet applicable setbacks and size limitations for allowable accessory structures and are not located less than one hundred and fifty (150) feet of any neighboring residence or structure; and that no more than ten (10) chickens shall be permitted.~~ Backyard Chicken Keeping:

a. Intent: Allow for the keeping of chickens at an individual or household scale while promoting the health, safety and general welfare of the citizens of the city.

b. Standards:

1. The primary use of the person's property for keeping of backyards chickens must be single-family residential.

2. For rural residential zoned properties within the extra-territorial area, outside of the

corporate limits, no more than ten (10) chicken hens may be permitted.

3. No male chickens (roosters) may be kept as backyard chickens. As soon as a rooster is identified it shall be culled from the brood.

4. Chickens, as permitted under this subsection, may only be kept and raised for private uses only.

5. Chickens shall not be permitted outside of the coop or run.

6. Lot area. Chickens may only be permitted on lots that conform to the minimum allowable lot size as set by the zoning district standards.

7. Chicken feed must be kept in metal predator and rodent proof containers or stored inside the home, garage or accessory structure.

8. Chicken coops shall be constructed to provide a minimum of four (4) square feet per chicken, shall not be larger than one-hundred-twenty (120) square feet and shall be counted in overall size limitations for allowable accessory structures. The coop must be constructed predator and rodent proof measures and shall be elevated with a clear open space of at least twenty-four (24) inches between the ground and the framing/floor. The coop must be fully enclosed on all sides and top.

9. Chicken runs shall be constructed to provide a minimum of ten (10) square feet of ground area per chicken, shall be fully enclosed with either fencing on all sides and top and said fencing shall be installed either on a concrete slab or foundation or with buried fencing to a depth of twelve inches below the ground. The fencing shall be wooden or wire materials or a combination thereof.

10. Chicken coops, runs, and manure storage shall be kept a minimum of twenty (20) feet from streams, tributaries, ditches, stormwater management facilities, storm drainage areas or stormwater easement that would allow fecal matter

to enter any storm drainage system or stream. Dumping of feces or manure in a storm drainage system is prohibited.

11. Chicken coops and runs:

a. Shall be located within the rear yard and must be obscured from view of any street, trail, public park, neighboring properties and other right-of-way by either placement behind the home, dense mature vegetation and/or with a six (6) foot tall opaque fence.

b. Shall be located no closer than fifty feet (50) feet from the rear property line, fifteen (15) feet from side property lines and no closer than one hundred-fifty (150) feet from an adjacent property dwelling.

Section 5: Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent remaining portions of this ordinance.

Section 6. Effective Date. This ordinance shall take effect after final passage, adoption and publication.

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BACKYARD CHICKENS

Peer Community Research

Sample of Communities Allowing Chickens

Jurisdiction	Approval Process	Maximum Number	Setbacks	Enforcement	Annual Permit Volume	Annual Complaint Volume	Notes
Fargo	Administrative Permit	4	3' from property	Environmental Health/ Police	23	1 (no permit)	
Grand Forks*	Administrative Permit	No Limit*	No Setbacks*	Police/ Public Health	2	None	Neighbor permission required from all within 60'
Mandan	Administrative Permit	4	10' from property / 20' from neighboring residence	Code Enforcement/ Planning	10	Low	
Casselton	City Council	2	None	Nuisance Committee	1	None	Written approval required from all adjacent neighbors
Jamestown	Permit from City Council	Not Specified	100' from adjacent residence	Animal Control	2		Written approval from neighbors within 100' distance
Park River	Administrative Permit	8	5' in Rear Yard	Building Inspector/ Sheriff	1	Once prior (no permit)	Written approval from 75% of neighbors within 200' of Coop
Beach	Fowl allowed by right	No limit	None	Sheriff	N/A	Less than 1 every 3	If neighbors complain about smell/sound etc. can be removed

* Considering revisions to limit number and establish setbacks

City of Bismarck
Community Development Department
Phone: 701-355-1465 • FAX: 701-258-2073 ● TDD: 711
PO Box 5503 • Bismarck, ND 58506-5503
buildinginspections@bismarcknd.gov

Last Revised: 4/22/2021

URBAN BACKYARD CHICKEN PERMIT APPLICATION

PROPERTY INFORMATION			
Legal description: (Lot, Block, Addition/Subdivision)			
Street address of property:			
Property Size:		Zoning:	

APPLICANT INFORMATION			
Applicant Name:			
Applicant Mailing Address:			
Phone Number:		Email:	
PROPERTY OWNER INFORMATION (IF DIFFERENT THAN APPLICANT)			
Property Owner Name:			
Property Owner Address:			
Phone Number:		Email:	

ADDITIONAL SUBMITTALS

☐ Site plan illustrating:
- Location of coop and run
- Setbacks from property lines and neighboring residences
- Setbacks from any stream, tributary, ditch, and/or stormwater facility.
- Screening location and materials

☐ Construction drawings including at least one of the following:
- Material type and height of coop and run
- Diagram and illustration if provided in a prefabricated kit

☐ Photos of Coop and Run (if renewing)
☐ Signed Acknowledgment of Understanding of Requirements and Responsibilities
☐ Fee (non-refundable)
- New Application - $50
- Renewal Application - $25

☐ Optional: Completion of Backyard Chicken Keeping Training Program from NDSU Extension

By signing this application, I certify that all information and statements provided on this application and all other documents submitted along with this application are true and correct. I further certify that all work will be done in compliance with all applicable law, codes, and ordinances of the City of Bismarck.

Applicant Signature _____ Date _____

Property Owner Signature _____ Date _____

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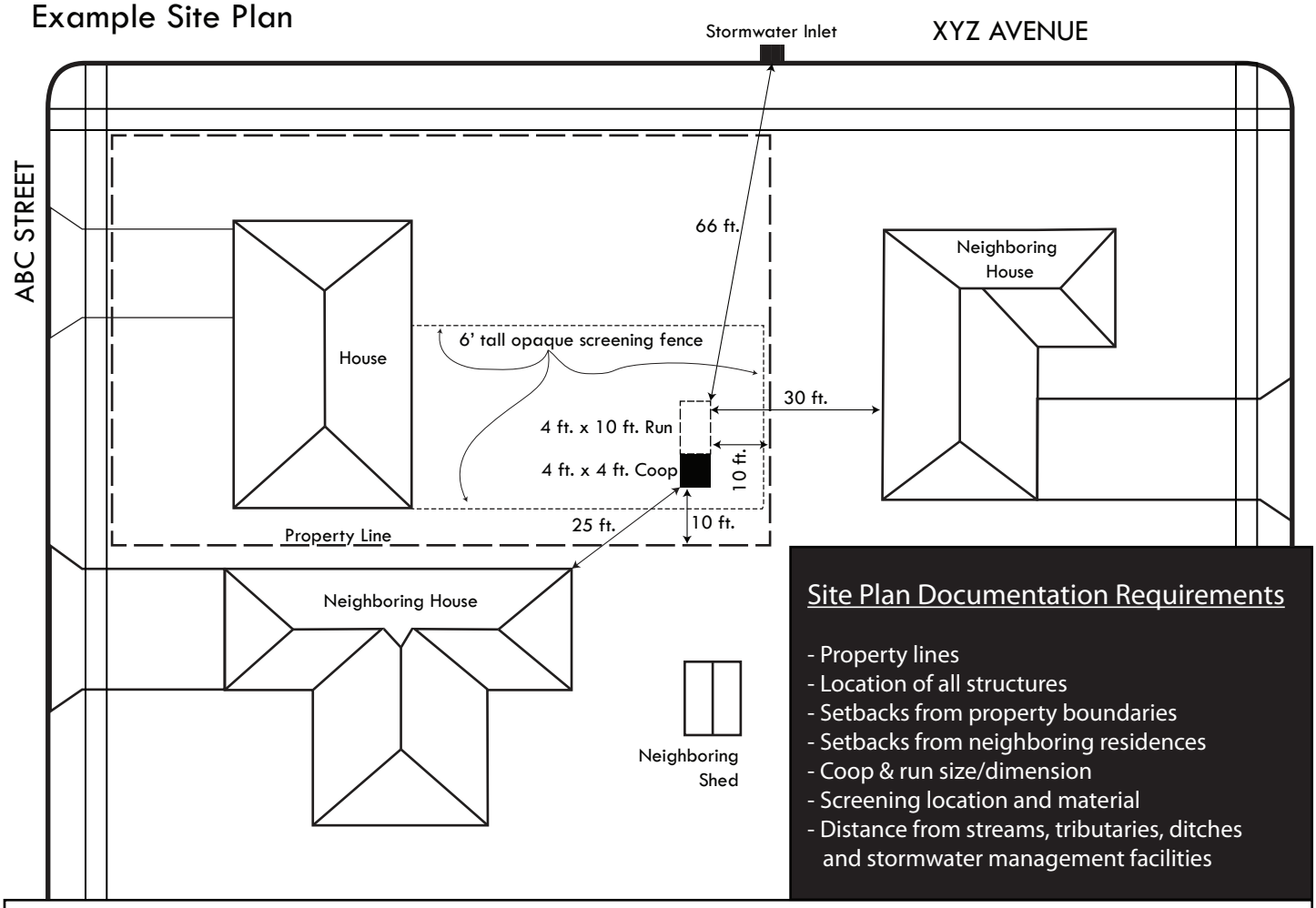
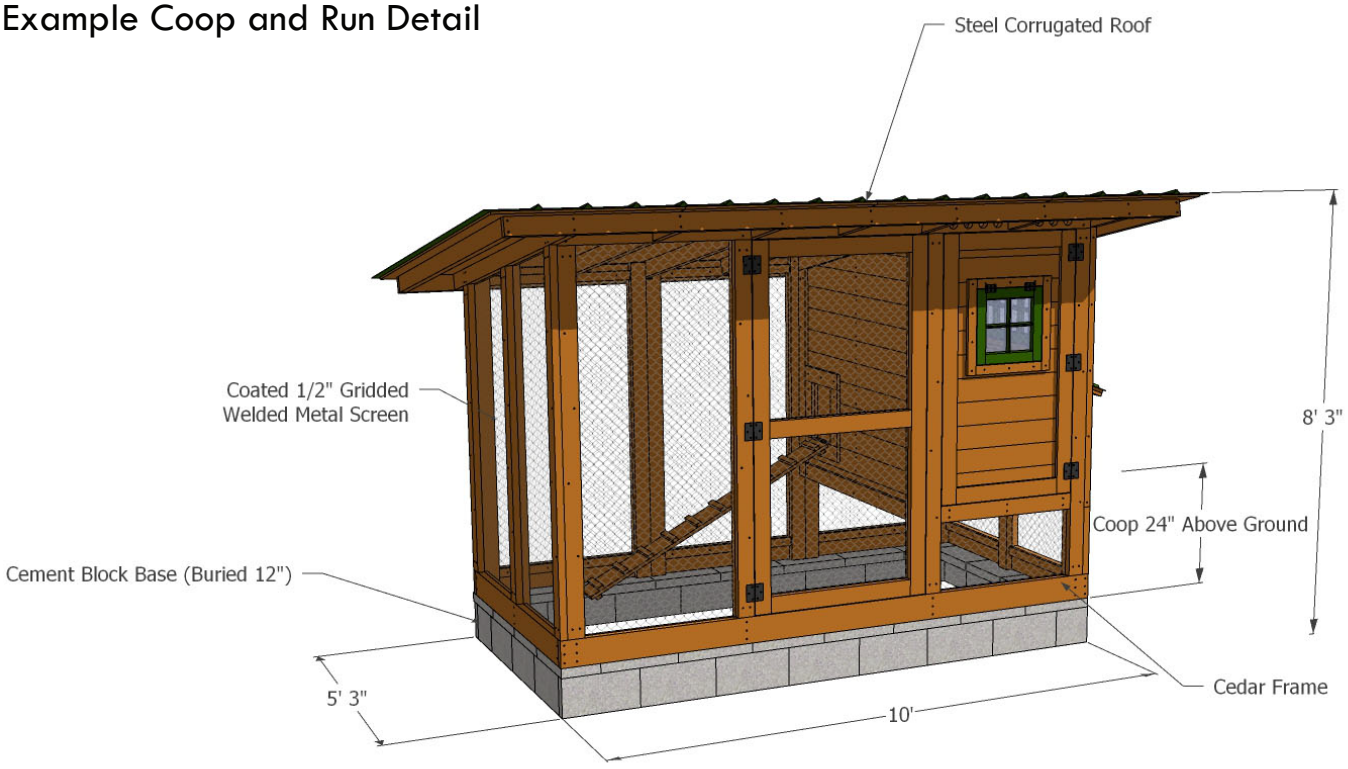
Example Site Plan



Site Plan Documentation Requirements

- Property lines
- Location of all structures
- Setbacks from property boundaries
- Setbacks from neighboring residences
- Coop & run size/dimension
- Screening location and material
- Distance from streams, tributaries, ditches and stormwater management facilities

Example Coop and Run Detail



BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
April 28, 2021

The Bismarck Planning & Zoning Commission met on April 28, 2021, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th 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, Vernon Laning, Paul Levchak, Kevin Martin, Gabe Schell, Mike Schwartz, Wendy Van Duyne, Trent Wangen and Paul Zent.

Commissioner Brian Bitner was absent.

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

MINUTES

Chair Schwartz called for consideration of the minutes of the March 24, 2021 meeting.

MOTION: Commissioner Bakken made a motion to approve the minutes of the March 24, 2021 meeting, as presented. Commissioner Zent seconded the motion and it was unanimously approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

CONSIDERATION

2. **BASIN ELECTRIC FOURTH ADDITION – PRELIMINARY PLAT**
3. **RBK VENTURES SECOND SUBDIVISION – ZONING CHANGE AND PRELIMINARY PLAT**
4. **LOTS 2-4, BLOCK 1, NORTHRIDGE ESTATES COMMERCIAL PARK – ZONING CHANGE**
5. **KEEPING OF CHICKENS – ZONING ORDINANCE TEXT AMENDMENT**

MOTION: Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve consent agenda items 2-5, granting tentative approval or calling for public hearings on the items as recommended by staff. Commissioner Bakken seconded the motion and it was unanimously approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT POTTER POINTE ADDITION

Chair Schwartz called for the public hearing on the minor subdivision final plat and the zoning change from the RR – Residential zoning district to the RR – Residential and R5 – Residential zoning districts for Potter Pointe Subdivision. The proposed plat is 5 lots in 1 block on 7.42 acres and is located south of Bismarck, between Mills Avenue and Larson Road along the west side of Langer Lane (a replat of part of Lot 2, Block 1, Replat of Lots 1A, Lot 2A and Part of Lot 3A of Mills First Subdivision).

Ms. Wollmuth gave an overview of the requests, including the following 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 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 then gave the findings related to land use for the minor plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.

2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) with written concurrence from the County Engineer.

3. The proposed subdivision is located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. However, the subdivision is proposed to be developed

according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands.

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

5. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

6. The proposed subdivision 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 RR – Residential zoning district to the RR – Residential zoning district for Lots 1, 2, and 5, Block , Potter Pointe Subdivision and the R5 – Residential zoning district for Lots 3 and 4, Block 1, Potter Pointe Subdivision and approval of the minor subdivision final plat for Potter Pointe Subdivision.

Commissioner Bakken asked what the square footage of the proposed Lots 3 and 4 is.

Ms. Wollmuth said they are each approximately 9,000 square feet.

Commissioner Bakken asked what the square footage of the existing surrounding lots is.

Ms. Wollmuth said they are each roughly 30,000 square feet.

Commissioner Bakken said these lots would not be similarly built then.

Ms. Wollmuth said based on the lot sizes and lot coverage requirements for properties zoned R5 – Residential a house with a footprint of approximately 1,700 square feet could be constructed on the proposed lots.

Commissioner Bakken asked if there are concerns of there being two driveways onto Langer Lane?

Ms. Wollmuth said no concerns of that nature have not been voiced by staff.

Commissioner Levchak asked if a summary could be provided of the written comments received on these requests.

Ms. Wollmuth said written comments received prior to the meeting were not favorable of the request.

Commissioner Levchak asked how services would be provided to the location.

Commissioner Schell said there are sewer services currently through Langer Lane and water extensions would be needed to the proposed Lots 3 and 4.

Commissioner Levchak said those lots within 200 feet would be required to connect such as the proposed Lot 1 and the extension of Lot 3.

Commissioner Van Duyne pointed out that what appears to be an extension of Lot 3 is actually a separate lot, Lot 5.

Commissioner Levchak said it does connect to Langer Lane though.

Commissioner Schell said the placement of the homes would have to be established and then the service connections could be determined.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson, Hagen & Co., said the area was originally zoned A-Agriculture and was heavily wooded before it was developed in 2009-2010. He said Whispering Bay and Whispering Pointe were developed at that time and rezoned to R5-Residential and the area has filled in steadily since then. He said the same zoning is being requested as what was approved in those subdivisions. He said the proposed homes on the proposed urban lots could still have a total building square footage of over 3,000 square feet and services could extend and connect to the area as well. He said they are working through the floodplain requirements also and are asking for what has already been done which created the surrounding subdivisions originally.

Commissioner Levchak asked if Lots 1 and 5 would remain zoned RR-Rural Residential.

Commissioner Levchak asked if there are concerns of the proximity to the river and if the location would have a septic system. Mr. Niemiller said the rural lots would have septic systems.

Commissioner Levchak asked if soil studies have or would be done to ensure there would not be infiltration from the septic system to the river.

Mr. Niemiller said any requirements would be followed related to the installation of a septic system and the home would go on what is now Lot 5, further away from the river.

Commissioner Levchak asked if access between the lots would be private. Mr. Niemiller said that access would only be for the RR-Rural Residential lots so it would remain private.

Commissioner Levchak asked about the configuration of Lot 5 and why there was a portion of Lot 5 adjacent to Langer Lane. Mr. Niemiller said that is a space reserved for landscaping for the proposed subdivision and would like it to be placed on Lot 5, the lot he intends to own so that he can maintain it.

Commissioner Eiseman asked why Lot 1 and 5 would be combined. Mr. Niemiller said it is more efficient to plat it as two separate lots and combine, then split again through the Rural Residential Split process which requires a public hearing and notification of adjacent property owners if the owner wishes to sell the lot in the future.

Commissioner Eiseman said the proposed urban lots are only 112 feet deep and have easements along the front as well.

Mr. Niemiller said that is correct, that there is a 10-foot utility easement as well as a 20-foot Burleigh County water easement that is to be relocated and released as the site develops.

Russ Arman, 3008 Whispering Drive, said the easements behind the property reduce the buildable area of Lots 3 and 4 and Lots 3 and 4 are not harmonious with Whispering Bay or Whispering Pointe Lots 3 and 4 which once sold would have to petition for annexation and determine utilities as well as benefit from street improvements that are already paid for. He said Lots 3 and 4 should be combined and accessed through the proposed private access instead of directly from Langer Lane.

Commissioner Eiseman said it sounds like there is more acceptance to the lots being larger and comparable to those surrounding.

Heidi Hilzendeger, 2533 Langer Lane, said she supports the development but the proposed Lots 3 and 4 do not fit the lot sizes for this area.

Justin Steinle, 2713 Langer Lane, said he has the same oppositions as others and he wants the lots sizes to be similar to what is there now.

Commissioner Zent asked what the average size of the surrounding lots in the area is. Ms. Wollmuth said they are each approximately half an acre.

Jessica Knutson, 2506 Langer Way, said she is not opposed to the development either but the small lot sizes of Lot 3 and 4 are concerning, as well as the proposed accessed off Langer Lane. She said the development does not seem ready at this time.

Mr. Niemiller said Whispering Pointe, a plat approved by the Planning and Zoning Commission in 2010, also had a private access road as part of the lots and easements were in place to avoid building around it.

Additional written comments in opposition of the requests are attached as Exhibits A-K.

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

Commissioner Laning said he has concerns with the smaller lot sizes and their potential impact on surrounding property values.

Commissioner Levchak said there is also the issue of how the other lots will be combined and then split again later.

Commissioner Eiseman said the neighborhood is ok with the development if the lot sizes are appropriate and he feels the developer has an opportunity to make those adjustments and bring the requests back.

MOTION: Commissioner Laning made a motion to deny the zoning change from the RR – Residential zoning district to the RR – Residential zoning district for Lots 1, 2, and 5, Block 1, Potter Pointe Subdivision and the R5 – Residential zoning district for Lots 3 and 4, Block 1, Potter Pointe Subdivision and approval of the minor subdivision final plat for Potter Pointe Subdivision, based on the size of the lots proposed to be zoned R5-Residential not being the same size as the adjacent R5-Residential lots and concerns that these smaller lot sizes could negatively affect the property value of adjacent lots. Commissioner Levchak seconded the motion and the motion was approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion. Commissioner Schell opposed the motion.

PUBLIC HEARING – ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT HAMILTON'S FIRST ADDITION FIRST REPLAT

Chair Schwartz called for the public hearing on the minor subdivision final plat and the zoning change from the RM15 – Residential and PUD-Planned Unit Development zoning district to the PUD-Planned Unit Development zoning district for Hamilton's First Addition First Replat. The proposed plat is 19 lots in 1 block on 7.12 acres and is located in northeast Bismarck, north of East Century Avenue and west of Centennial Road on the west side of Hamilton Street (a replat of part of the East 67 feet and the South 61 feet of Lot 1 and Lots 2-3, Block 1, Hamilton's First Addition).

Mr. Nairn gave an overview of the requests, including the following findings related to land use for the zoning change:

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan.

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 character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located.

7. The proposed planned unit development would preserve the natural features of the site insomuch as possible, including the preservation of trees and natural drainage ways.

8. The internal roadway circulation system within the planned unit development has been adequately designed for the type of traffic that would be generated.

9. Adequate buffer areas have been provided between the planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.

10. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.

11. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

12. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Nairn then gave the findings related to land use for the minor plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.

2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) with written concurrence from the County Engineer.

3. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

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

5. The proposed subdivision would not adversely affect the public health, safety and general welfare

Mr. Nairn said, based on the above findings, staff recommends approval of the zoning change from the RM15 – Residential and PUD – Planned Unit Development zoning districts to a new PUD – Planned Unit Development zoning district, as outlined in the draft PUD

ordinance attached to the staff report, and a minor subdivision final plat for Hamilton's First Addition First Replat, with the following conditions:

1. A Private Drive/Private Utility agreement for service of Lots 1-18, Block 1 is submitted prior to recordation of the plat.

2. Private roadway Hamilton Pointe is signed as "Fire Lane – No Parking"

Commissioner Levchak asked if, with the condos on the northwest side, would the new street be an extension of an existing street.

Mr. Nairn said a dedication of a piece of land is being worked on and the condo association has signed an access easement to allow that connection.

Commissioner Levchak asked if a response was provided by the school district.

Mr. Nairn said they are informed of these requests and they did not provide input on this one.

Chair Schwartz asked how much space would be required between the houses.

Mr. Nairn said they would need to be at least ten feet apart.

Chair Schwartz opened the public hearing.

Mr. Niemiller said with the north piece of this property an opportunity was seen for some affordable homes and a mixed-use area with the zoning option, in addition to an access loop in and out of the site.

Commissioner Bakken asked if Hamilton Street would connect to Jericho Road.

Mr. Nairn said there is not a plan for that at this time.

Commissioner Bakken asked what the benefit or disbenefit of that connection would be.

Commissioner Schell said the right-of-way would then not be platted on one side so the connection would be difficult to achieve and the need for it might not be there.

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 recommend approval of the zoning change from the RM15 – Residential and PUD – Planned Unit Development zoning district to a new PUD – Planned Unit Development zoning district, as outlined in the draft PUD ordinance attached to the staff report, and a minor subdivision final plat for Hamilton's First Addition First Replat, with the following conditions: 1. A Private Drive/Private Utility agreement for service of Lots 1-18, Block 1 is

submitted prior to recordation of the plat; and 2. Private roadway Hamilton Pointe is signed as "Fire Lane – No Parking". Commissioner Eiseman seconded the motion and the motion was unanimously approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE
LOT 2, BLOCK 1, J & L ADDITION

Chair Schwartz called for the public hearing on a zoning change from the MA – Industrial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, J & L Addition. The property is located in south Bismarck, south of East Bismarck Expressway between South 12th Street and Airport Road, along the southeast side of Park Avenue.

Ms. Wollmuth 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 character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located.

7. The proposed planned unit development would preserve the natural features of the site insomuch as possible, including the preservation of trees and natural drainage ways.

8. Adequate buffer areas have been provided between the planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.

9. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.

10. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

11. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth said based on these findings, staff recommends approval of the zoning change from the MA – Industrial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, J & L Addition, as outlined in the draft PUD ordinance attached to the staff report.

Commissioner Levchak asked what the square footage of the proposed caretaker unit is.

Ms. Wollmuth said it is similar to an efficiency apartment with a bathroom and is located on the second floor of the building.

Chair Schwartz opened the continued public hearing.

Mr. Niemiller said mainly this change is needed to accommodate the proposed living unit because the current industrial zoning district does not allow that type of 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 zoning change from the MA – Industrial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, J & L Addition, as outlined in the draft PUD ordinance attached to the staff report. Commissioner Wangen seconded the motion and it was unanimously approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE
LOTS 23-24, BLOCK 23, STURGIS ADDITION

Chair Schwartz called for the public hearing on a zoning change from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lots 23-24, Block 23, Sturgis Addition. The property is located in central Bismarck, south of East Main Avenue, east of South 9th Street, along the east side of South 14th Street and the south side of East Sweet Avenue.

Mr. Hutchings 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 character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located.

7. The proposed planned unit development would preserve the natural features of the site insomuch as possible, including the preservation of trees and natural drainage ways.

8. The internal roadway circulation system within the planned unit development has been adequately designed for the type of traffic that would be generated/

9. Adequate buffer areas have been provided between the planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.

10. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.

11. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

12. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Hutchings said, based on these findings, staff recommends approval of the zoning change from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lots 23-24, Block 23, Sturgis Addition, as outlined in the draft PUD ordinance attached to the staff report, with the following conditions:

1. The building and site plan are revised to meet the 20-foot setback requirement in front of all overhead garage doors.

2. A landscape plan is provided indicating required buffer yard landscaping.

Commissioner Bakken asked if the units are intended to be rentals.

Mr. Hutchings said they would be condos for purchase.

Commissioner Levchak asked how far from the back of the building is it to the setback.

Mr. Hutchings said it is six feet and they worked to move that in order to have a twenty-foot setback in the front yard.

Chair Schwartz opened the public hearing.

Clint Dreyer, Parclin LLC, said the idea of the patio door where it is started with having a larger setback and as that changed it was determined there would not be patio doors but windows instead, so that part will look different once constructed. He said they regularly handle four-plex projects similar to this one and want to keep the curb appeal high.

Commissioner Levchak asked if there would be only one point of egress in each unit.

Mr. Dreyer said they did discuss that and will construct the property to the requirements. He said a patio door would make sense for exit needs purposes as well and they can make either one work.

Chair Schwartz asked what would be done with the remaining six feet. Mr. Dryer said they would infill with sod and shrubs and have discussed what would make the most sense and would also install whatever the City Forester recommends.

Commissioner Levchak said the door would not provide adequate fire exit either if it were placed up against the landscaping in the back.

Allison Grote, 305 South 14th Street, said she lives directly south of this property and has concerns regarding room in the back and if the proposed fence would just be a privacy fence.

Mr. Dreyer said yes, that is what has been discussed for installation.

Commissioner Bakken asked how far it is from Ms. Grote's property to the setback line.

Ms. Grote said she only very recently purchased the property so she is not sure. Mr. Hutchings shared that it is approximately fourteen feet from the new unit to her house and nine feet from the fence to her house.

Additional written comments in favor of the request are attached as Exhibit L.

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 zoning change from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lots 23-24, Block 23, Sturgis Addition, as outlined in the draft PUD ordinance

attached to the staff report. Commissioner Eiseman seconded the motion and it was unanimously approved with Commissioners Bakken, Eiseman, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT (OVERSIZED ACCESSORY BUILDING)
LOT 5, BLOCK 12, GRANDE PRAIRIE ESTATES THIRD SUBDIVISION (3539 HEARTLAND LOOP)

Chair Schwartz called for the public hearing on a special use permit to increase the total allowable square footage of accessory structures to 3,080 square feet on Lot 5, Block 12, Grande Prairie Estates Third Subdivision. The property is located north of Bismarck, west of Centennial Road and north of 43rd Avenue NE on the east side of Heartland Loop (3539 Heartland Loop).

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 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.

Mr. Nairn said, based on these findings, staff recommends approval of the special use permit to increase the total allowable square footage of accessory structures to 3,080 square feet on Lot 5, Block 12, Grande Prairie Estates Third Subdivision, with the following condition:

1. All accessory structures on the lot are for residential uses only, and not commercial uses.

Commissioner Bakken asked if this is a commercial venture for the applicant.

Mr. Nairn said the applicant has indicated it is not and noted commercial uses are currently not allowed at this location.

Commissioner Laning asked what the rights of the adjacent property owners might be if they do not agree with the request.

Mr. Nairn said any zoning code violations are enforceable by the Building Official and are generally complaint-based.

Commissioner Levchak said there is a lot of objects on the property now.

Mr. Nairn said the neighborhood has informed of the concern of the number of trailers on the property and the aerial picture shown in the staff report is from April 2020. He said he viewed the property recently and there are only a few trailers on site at this time, but not obviously a commercial use.

Commissioner Levchak asked if the building is intended for personal storage. Mr. Nairn said that is his understanding.

Commissioner Levchak asked if complaints have been received on this property of there being commercial uses happening. Mr. Nairn said neighbors have noted that trailer sales have occurred on this lot.

Chair Schwartz opened the public hearing.

Mr. Walker said he did have some rental trailers on his property but two of them that are there now belong to him and are for personal use. He said he would move all of them inside the accessory building if he can construct it.

Commissioner Levchak asked if this would be an addition to the existing accessory building.

Mr. Walker said that is correct and it would be landscaped as well.

Commissioner Zent asked if does own a trailer rental business. Mr. Walker said he does but all of his rental trailers are or will be at his French Street and Airport Road locations.

Chair Schwartz asked if all of the rental business would be operated from an alternate location from now on.

Mr. Walker said yes and he understands the concerns of his neighbors and has corrected them over the last two years.

Matt Sagaser, 4420 Hillsboro Drive, said on behalf of the Grande Prairie Estates Homeowners Association they are asking for consistency and request to not allow a property violation beyond what is normally allowed. He said Mr. Walker's yard looks great but please do not allow the creation of a new precedent.

Dennis Fuller, 3540 Heartland Loop, said he lives directly across the street from Mr. Walker and his home faces where the building addition would be constructed. He said it would be large and obstruct his view and he is not aware of any other buildings this large in the area. He said the commercial venture issue seems to have been remedied and the rental inventory has been moved but he is concerned it will return.

Chair Schwartz asked what the remedy might be to avoid an obstruction of their view. Mr. Fuller suggested the addition be constructed on the opposite side. He said he understands things happen and needs change, he just does not love the location of the building blocking his view. He said the previous issues are about 95% better, the noise is less and the traffic is less and he wants to see Mr. Walker's business be successful, just not in the neighborhood.

Additional written comments in opposition to the request are attached as Exhibits L-Q

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 recommend approval of the special use permit to increase the total allowable square footage of accessory structures to 3,080 square feet on Lot 5, Block 12, Grande Prairie Estates Third Subdivision, with the following condition: 1. All accessory structures on the lot are for residential uses only, and not commercial uses. Commissioner Laning seconded the motion and the motion was unanimously approved with Commissioners Bakken, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion. Commissioner Eiseman opposed the motion.

OTHER BUSINESS

CERTIFICATE OF APPRECATION – BRIAN EISEMAN

Chair Schwartz said Commissioner Eiseman is retiring from the Bismarck Planning and Zoning Commission and provided him with a resolution and certification of appreciation for his time of service.

Commissioner Eiseman thanked those present and said it has been a pleasure to serve in this capacity.

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 6:38 p.m. to meet again on May 26, 2021.
Respectfully submitted,

_____
Hilary Balzum
Recording Secretary

_____
Mike Schwartz
Chair

DRAFT

From:	Jenny Wollmuth
To:	Ben Ehreth; Kim Lee; Hilary Balzum; William Hutchings; Daniel Nairn
Subject:	FW: Potter Pointe Subdivision hearing 4-28-2021
Date:	Tuesday, April 27, 2021 3:46:35 PM

Jenny Wollmuth, AICP, CFM
Senior Planner | Planning Division
Community Development Department
701.355.1840-Department
701.355.1845- Direct
www.bismarcknd.gov

From: CODY K STROTHMAN < >
Sent: Tuesday, April 27, 2021 3:37 PM
To: Jenny Wollmuth <jwollmuth@bismarcknd.gov>
Subject: Potter Pointe Subdivision hearing 4-28-2021

External Email - Use caution clicking links or opening attachments
RE: Potter Pointe Subdivision hearing 4-28-2021

I am writing to express my opposition to the proposed R5 change on the Potter Pointe Subdivision by the P&Z committee on April 28,2021.
My name is Cody Strothman and I live a half block away on Langer Way where it intersects with Langer Lane. I have been here for 10 years.

The proposed R5 part of the proposal (for Lots 3 and 4 only) is not in harmony with the size and amenities of the lots and homes in neighboring Whispering Bay and Whispering Pointe Subdivisions. While the lot sizes may meet R5 requirements they are much smaller than the closest 68 other residential lots. The smallest lots in the area are on Langer Way and they are more than 13,000 sq ft each. A significant portion of the lots will not be level and the easement setback requirements further squeeze the buildable options even more.

The purchasers of the two subject R5 lots will need to be annexed at their expense and will seek ingress and egress to Langer Lane without having shared in the special assessments. Those of us on Langer Way paid for our private drive and maintain it.

I would prefer that the development remain all RR; but if the owner wants to have a another residence in front of his, he should create and sell off one large lot with private access on the same private driveway that he and the existing neighbor are already using.

I realize that P&Z has no interest or concern for provisions of future covenants, but starting with lots sizes that are not in harmony with rest of the residential area raises serious concerns that there will be additional issues to address with our neighbor if this subdivision is approved as presented at the April 28 hearing.

Additionally, the drainage culvert that serves these lots is plugged. It runs from the front left corner

of proposed lot 4, underneath Langer Way and my yard and opens into the bay channel beside the gangway on my dock.

Cody K Strothman
2301 Langer Way
Bismarck ND 58504

I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).

3. The rezoning process (from RR to R5) for Lots 3 and 4 would require the new owners to petition the city to annex the individual lot and develop access and utilities from Langer Lane, all without having invested in the street improvements.

Because of the items noted above I do not believe that the proposed changes meet the required findings for items 2, 5, & 8 from the Community Development Staff Report.

I am not opposed to development on the existing RR parcels, an alternate option would be to have Lots 3 and 4 combined into one larger RR lot with access from the private drive that the developer intends to use for access to lots 1,2 and 5.

Sincerely

Art & Dorothy Mariner
2913 Shoreline Circle
Bismarck, N.D. 58504

4-27-2021

Dorothy J Mariner 4-27-2021

I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).

3. The rezoning process (from RR to R5) for Lots 3 and 4 would require the new owners to petition the city to annex the individual lot and develop access and utilities from Langer Lane, all without having invested in the street improvements.

Because of the items noted above I do not believe that the proposed changes meet the required findings for items 2, 5, & 8 from the Community Development Staff Report.

I am not opposed to development on the existing RR parcels, an alternate option would be to have Lots 3 and 4 combined into one larger RR lot with access from the private drive that the developer intends to use for access to lots 1,2 and 5.

Sincerely

Kristy Mariner 4/27/2021

Greg Mariner 4/27/2021

Kristy + Greg Mariner
2515 Langer Lane
Bismarck ND 58504

From:	Planning - General Mailbox
To:	Hilary Balzum; Ben Ehreth; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Potter Pointe Subdivision Public Comments
Date:	Wednesday, April 28, 2021 1:10:44 PM

From: Daniel Keith < >
Sent: Tuesday, April 27, 2021 4:49 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Potter Pointe Subdivision Public Comments

External Email - Use caution clicking links or opening attachments
Dear Planning and Zoning Commission Members:

My name is Dr. Daniel Keith and I live at 2200 Larson Road (Bis, ND, 58504) in Whispering Bay. I am also a Whispering Bay HOA Board Member.

I am respectfully writing in opposition to the proposed Potter Pointe Subdivision within the Whispering Bay area. that is up for public comment at the commission meeting on 4/28/21.

I, along with the entirety of our Whispering Bay Homeowners Association, are not in favor of this for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.

2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision.

(The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).

3. The rezoning process (from RR to R5) for Lots 3 and 4 would require the new owners to petition the city to annex the individual lot and develop access and utilities from Langer Lane, all without having invested in the street improvements.

Because of the items noted above I do not believe that the proposed changes meet the required findings for items 2, 5, & 8 from the Community Development Staff Report. Thank you for allowing public comment and for your consideration. We all thank you for dedicated service to the city of Bismarck!

Sincerely,

Daniel J. Keith, DDS, MS

I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/ buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).

3. The rezoning process (from RR to R5) for Lots 3 and 4 would require the new owners to petition the city to annex the individual lot and develop access and utilities from Langer Lane, all without having invested in the street improvements.

Because of the items noted above I do not believe that the proposed changes meet the required findings for items 2, 5, & 8 from the Community Development Staff Report.

I am not opposed to development on the existing RR parcels, an alternate option would be to have Lots 3 and 4 combined into one larger RR lot with access from the private drive that the developer intends to use for access to lots 1,2 and 5.

Sincerely

Robert Burton
Lot #34
Whispering Bay

We own Lots 1 and 2 in Whispering Pointe. Our home is located on Lot 1. Our property is adjacent to the proposed rezoning. I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.

2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).

3. The rezoning process (from RR to R5) for Lots 3 and 4 would require the new owners to petition the city to annex the individual lot and develop access and utilities from Langer Lane, all without having invested in the street improvements.

Because of the items noted above I do not believe that the proposed changes meet the required findings for items 2, 5, & 8 from the Community Development Staff Report.

I am not opposed to development on the existing RR parcels, an alternate option would be to have Lots 3 and 4 combined into one larger RR lot with access from the private drive that the developer intends to use for access to lots 1,2 and 5.

Sincerely,

Tim Smith
2404 Langer Way
Bismarck ND 58504

From: Planning - General Mailbox
To: Hilary Balzum; Ben Ehreth; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Potter Pointe Subdivision
Date: Wednesday, April 28, 2021 1:11:30 PM

-----Original Message-----
From: Steve Mariner >
Sent: Tuesday, April 27, 2021 3:34 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Cc: Shelly Mariner < >
Subject: Potter Pointe Subdivision

External Email - Use caution clicking links or opening attachments

Good Afternoon

We are opted to the potter pointe subdivision this property should have to meet the 65,000 sf minimum requirements.

Thanks
Steve Mariner

Sent from my iPhone

From:	Planning - General Mailbox
To:	Ben Ehreth; Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: April 28th Planning Commission Testimony
Date:	Wednesday, April 28, 2021 2:38:24 PM

From: Brent < >
Sent: Wednesday, April 28, 2021 2:22 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: April 28th Planning Commission Testimony

External Email - Use caution clicking links or opening attachments

Brent Levinson
2830 Langer Way
Bismarck

Planning and Zoning Meeting April 28th, 2021

Members of the Planning & Zoning Commission thank you for your time and consideration of my testimony. My name is Brent Levinson. I live at 2830 Langer Way, a short distance from the proposed development.

I am writing in support of concerns expressed by those property owners most affected by this development, Tim and Jodi Smith, Jessica Knutson, and many others on Langer Lane.

The smallest lots in the Whispering Pointe development are Lots 2,3 & 4 at 13,317 square feet. These lots abut the proposed development. Part of this 13,317 square feet is a road allowance, if you subtract the road allowance (68' x 14' or 952 sqft) from published lot area you have 12,365 of real property. Most lots in the Whispering Bay area are 19,000 to 20,000 sqft. The proposed replat of Potter Pointe indicates two lots with areas 9,287 sqft each, 33% smaller than 3 lots referenced above.

It is understandable that property owners whom have made significant investments in their land and homes would be concerned by an adjacent development that is not of similar scale and design.

I have talked with Dan Potter, and I understand that the current lot layout was swayed by the challenge of working around Potter Pointe Lot 5 easements (a 20' water easement and 10-20' utility easements). This is understandable. I support Dan's efforts to develop his property. I also support the interests of nearby and established property owners. Any new lots should be the same, or large area, than the smallest lots in the Whispering Pointe development. Further, the homes developed and the enforced covenants on those properties should make the final developed properties integrate to the overall accord of the Whispering Bay and Whispering Pointe developments.

Thank you,
Brent Levinson

From: Planning - General Mailbox
To: Hilary Balzum
Subject: FW: planning and zoning for Potter Pointe Subdivison
Date: Wednesday, April 28, 2021 4:05:37 PM

Thank you,

Allison Carlson
Office Assistant II
City of Bismarck Community Development
221 N 5th St
Bismarck, ND 58501
Office: (701) 355-1465
Fax: (701) 222-6450
Website: www.bismarcknd.gov

From: Cory Knutson < >
Sent: Wednesday, April 28, 2021 4:03 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: planning and zoning for Potter Pointe Subdivison

External Email - Use caution clicking links or opening attachments
This email is in regards to the proposed Potter Pointe Subdivision. I have some concerns with the proposed subdivision. This current land is zoned RR, by dividing a portion of this land to R5 off of Langer Lane is not consistent with the surrounding subdivision. These lots 3 and 4 are smaller than anything in the area. approx 9,000 sq. ft. current adjacent lots are closer to 13,000 sq. ft and are accessed off of a private drive. There are no other lots accessed off the west side of Langer ln. without a private dr. As current non private city Lots in the area are considerably larger around Whispering bay.
Another issue is these two lots 3 and 4 have not shared any cost of city improvement as there were no plans to annex this into the city that I am aware of . I am not opposed to proper development. This proposed development is not consistent with the current surroundings and lot sizes. Another option is to keep the zoning as RR and enter from a private Dr. Please consider this option before approval of the current proposed subdivision.

Thank you,

Cory Knutson

From:	Planning - General Mailbox
To:	Hilary Balzum; Ben Ehreth; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW:
Date:	Wednesday, April 28, 2021 1:10:09 PM

From: KENT FETZER < >
Sent: Tuesday, April 27, 2021 6:57 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject:

External Email - Use caution clicking links or opening attachments
I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).

3. The rezoning process (from RR to R5) for Lots 3 and 4 would require the new owners to petition the city to annex the individual lot and develop access and utilities from Langer Lane, all without having invested in the street improvements.

Because of the items noted above I do not believe that the proposed changes meet the required findings for items 2, 5, & 8 from the Community Development Staff Report.

I am not opposed to development on the existing RR parcels, an alternate option would be to have Lots 3 and 4 combined into one larger RR lot with access from the private drive that the developer intends to use for access to lots 1,2 and 5.

Sincerely

Kent Fetzer
2402 Sagramore Place
Cape Coral FL 33914

From:	Planning - General Mailbox
To:	Hilary Balzum; Ben Ehreth; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: letter Re: Potter Pointe
Date:	Wednesday, April 28, 2021 1:10:36 PM
Attachments:	image001.png Potter Pointe Subdivision concerns.docx

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From: Jessica Knutson < >
Sent: Tuesday, April 27, 2021 4:59 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: letter Re: Potter Pointe

External Email - Use caution clicking links or opening attachments
Attached is my letter opposing the rezoning of Potter Pointe from RR to R5.

Thanks.

Jessica Knutson

CCIM / Partner / Commercial REALTOR®

ASPEN GROUP LLP

Aspen Group LLP
424 South 3rd Street . Suite 2
Bismarck, ND 58504
701-223-2450 office
701-223-2322 fax
www.aspengrouprealestate.com

I am not in favor of the approval of the Potter Pointe Subdivision as proposed for the following reasons:

1. The easements behind the proposed lots and the limited lot size do not provide suitable/buildable space.
2. The proposed R5 subdivision part of this plan (Lots 3 and 4) is non-harmonious in lot size with the neighboring areas of Whispering Bay Subdivision and the Whispering Pointe Subdivision. (The patio home lots on Langer Way in Whispering Pointe are more than 13,000 square feet each, while the proposed R5 lots are closer to 9,000 square feet, reduced even further by the easement's noted above).

3. The rezoning process (from RR to R5) for Lots 3 and 4 would require the new owners to petition the city to annex the individual lot and develop access and utilities from Langer Lane, all without having invested in the street improvements.

Because of the items noted above I do not believe that the proposed changes meet the required findings for items 2, 5, & 8 from the Community Development Staff Report.

I am not opposed to development on the existing RR parcels, an alternate option would be to have Lots 3 and 4 combined into one larger RR lot with access from the private drive that the developer intends to use for access to lots 1,2 and 5.

Sincerely

Jessica Knutson

From:	Planning - General Mailbox
To:	Hilary Balzum; Ben Ehreth; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: PUD change 301 S. 14th Street
Date:	Wednesday, April 28, 2021 1:10:27 PM

From: CODY K STROTHMAN < >
Sent: Tuesday, April 27, 2021 5:03 PM
To: William Hutchings <whutchings@bismarcknd.gov>; Planning - General Mailbox <planning@bismarcknd.gov>
Subject: RE: PUD change 301 S. 14th Street

External Email - Use caution clicking links or opening attachments
Bighorn Properties, LLC is in favor of the zoning change from RM30 to PUD for the construction of a four unit rowhouse at 301 S. 14th Street.
The Vander Wal project will be an improvement to housing conditions within the 'machinist district'.

Cody K Strothman
Richard L Goodwin
Dba Bighorn Properties, LLC
2031 46th Ave SE
Mandan, ND

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: letter of comment, agenda item # 10, April 28, 2021 meeting
Date:	Monday, April 26, 2021 3:42:49 PM
Attachments:	GPEA Covenant Committee_GrievanceNotification_June2020 (1).docx

From:
Sent: Monday, April 26, 2021 1:36 PM
To: Daniel Nairn <dnairn@bismarcknd.gov>; Planning - General Mailbox <planning@bismarcknd.gov>
Cc:
Subject: letter of comment, agenda item # 10, April 28, 2021 meeting

External Email - Use caution clicking links or opening attachments

To: Bismarck Planning and Zoning Commission

From: Dennis Fuller

Subject: #10 for the April 28, 2021 Bismarck Planning and Zoning Commission meeting

Date: 26 April 2021

This letter concerns Agenda item #10 for the April 28, 2021 Bismarck Planning and Zoning Commission meeting. I see it identified as Project ID: Sup2021-003 for Lot 5, Block12, Grande Prairie Estates Third Subdivision owned by Troy Walker.

I, Dennis Fuller, am the owner of the property directly across Heartland Loop from the Troy Walker Property.

First my apologies for not responding sooner to a letter that may have been sent to my address concerning this special use permit. I am currently in Arizona and our mail was put on hold in the time period we were told the letter of notification was sent. I only became aware of the application for special use permit pertaining to Troy Walker this morning.

I strongly oppose this application based on my past experiences and disagreements with Troy Walker which I will explain.

Troy Walker has a utility trailer sales and rental business which he operated out of his home, the property described above, for a number of years. This goes back perhaps as many as 5 years. Troy operated trailer sales, rental, and storage on his property. Troy rented trailers to be used as storage for personal belongings. He stored these trailers on his property. Eventually trailers were in excess of 20 feet in length and there were as many as 12 in a row across the northeast corner of the property.

Sales, rentals, and related shop work grew to a 7 day per week operation. The pressure washing and noise created by repairs and reconditioning was fairly constant. Customer traffic dramatically increased over the past 2 years by Troy's customers and by him and his employee hauling trailers and equipment. On more than one occasion semi-trucks and trailers have also delivered products and parts to Troy's residence. Obviously the roads in our neighborhood are not designed for such traffic.

In addition he and his employee performed dealer preparation on new trailers along with repair and reconditioning of used trailers. Rental trailers were pressure washed. This work was done in Troy's driveway utilizing his current shop space.

About two years ago Troy rented property at French St. (near Greensboro Dr. and Centennial Rd.). I assumed it was for the purpose of expanding his inventory and getting the business out of his residence. There is little infrastructure there such as paved surfaces or shop space. So the work continued at his home property as before.

I had tried on several occasions to discuss the matter with Troy explaining, in addition to not being a good neighbor, he was violating county and city zoning as well as the Grand Prairie Estates Home Owners Association covenants. He explained he was working on an agreement with the business he was renting land from to build a shop but that never seemed to happen.

In early June 2020 the situation became more serious. One of Troy's customers ran me off the road on Heartland Loop just north of my property. I am sure it was not intentional but he appeared to be watching the trailer he was hauling and not the road ahead. I was very

shaken and upset. I contacted my lawyer and we discussed appropriate action. I first contacted the Grande Prairie Estates Homeowners Association who responded to my grievance with a letter to Troy. I also met Troy outside his residence and explained my complaints to him.

1. I had been run off the road by one of his customers and was out of patience with him running a business from his home.

2. I had spoken to other neighbors and they expressed their own discontent with the noise, traffic, and danger created by his home-based business. Children and adults routinely walk and bicycle on Heartland Loop.
3. I pointed out to Troy he was in violation of current zoning laws as well as our home owner's association covenants.

4. I had contacted my lawyer for advice.

5. I had contacted the homeowners association with my complaint.

6. I very much wanted to settle the issue between us and not officially get my lawyer, Burleigh County, or the City of Bismarck involved.

7. I asked that he stop doing business at his residence immediately to include rentals, storage, sales, repair, cleaning of rental trailers, and all customer traffic, and further to remove all trailer inventory from his property.

Troy responded with understanding during our meeting. I was left with the impression that he acknowledged all my concerns to be valid and true. Troy did receive notification from the Grande Prairie Estates Homeowners Association as well that he was in non-compliance.

Troy also did respond quickly to my request for action on his property. Inventory was moved from the property to his location on French St. The reduction in noise and traffic was immediate. The neighborhood returned to normal as far as noise and traffic.

It was my belief that we had resolved the issue. However given the past history with Troy, I am not convinced of his motive for his request to greatly increase the size of his shop. I suspect he intends to use it for commercial purposes. I am not sure if any zoning changes could be possible in addition to Troy's request for a larger shop but I am very concerned about his business returning to his Heartland Loop property.

In addition, the proposed plan for the building is directly across the street from the front view of our house. The shop addition will largely block an otherwise pleasant view. I feel the partial blocking of the view, plus such an unusually large building in the neighborhood, will affect my property value.

Finally, I communicated my concern to the president of the Grand Prairie Estates Homeowner's Association. He was unaware of the proposal and believed covenant approval was needed before city and county approval.

Attached is the letter sent to Troy from the Grand Prairie Estates Homeowners Association in June of 2022 stating he was in non-compliance at that time.

Regards,

Dennis Fuller

Grand Prairie Estates Association – Covenants Committee

6/12/2020	GPEA Covenants Committee. Covenant #470858, amended #486664

4420 Hillsboro Drive
*Subdivision's 1, 2, 3, 4

Dear GPE Landowner/Homeowner;

Re: Grievance of Protective Covenants – Notification, First Notice

In Grand Prairie Estates, our goal is for all of our landowners to live within our subdivisions in harmony and free from nuisances and risk of annexation to the City of Bismarck. Unfortunately, this isn't always possible and that requires action from the landowner and the committee.

NOTICE: It has been made known that your property is in violation of one or more GPE Protective Covenants. Protective Covenant in Violation: Covenant # 470858, Item 1.

> 1. No lot, lots or portions thereof may, at any time be used for commercial purposes, it being specifically prescribed that the lot located within said tract shall be used for residential purposes only, and no buildings shall be erected thereon except for residential purposes, except that accessory out buildings may be constructed to promote uses, and then only as the same shall comply with county zoning regulations.
>
> 15. No one owning or occupying any lot within Grande Prairie Estates shall create, permit, or maintain any nuisance on the premises, including but not limited to unsightly signs, refuse piles, unkept yards, poultry, livestock (except as herein provided), and unsightly and ugly fences, landscaping, and exterior paint color. Further, no noxious or offensive trade or activity shall be carried out upon any lot, nor shall anything be done thereon which may be or become any annoyance or a nuisance to the neighborhood.

GRIEVANCE:

- The operation of a commercial business within a property in Grand Prairie Estates 3rd Subdivision for the purpose of selling commercial items, such as trailers. This activity has created a nuisance and has been previously unresolved by good faith neighborly efforts.

ACTION STEPS REQUESTED:

- Cease any commercial activity on your property
- Eliminate any nuisance activities with relation to this activity

Thank you for your prompt attention to this matter.

If you have any questions or concerns with this notice or the action steps requested within, please contact one of the committee members listed below.

GPEA COVENANTS COMMITTEE:

Matt Sagaser, Chair

Dan Rouse, Steve Ellefson, Seth Sandness

cc:
Executive Committee
Melissa Sagaser, Secretary

*This is not a legal document. This is an attempt to resolve a dispute within the Grand Prairie Estates HOA Group.

APR 27 2021

Dear Bismarck Planning & Zoning Commission

We are the Saylers and we live on Rawhide Dr. just off Centennial rd. We are against the approval to increase the total allowable area of accessory building to 3, 200 sq ft. in grand Prairie Estates. The trailer traffic that goes by our property is already more than we'd like. If the city allows Troy Walker to build such a large building on his property the trailer traffic will increase considerably. This is a residential area and not suited for businesses Vote No

Cleaton & Ramona Sayler

Ramona Sayler
Cleaton Sayler

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Troy Walker Lot 5, Block 12, Grande Prairie Estates 3rd Subdivision
Date:	Tuesday, April 27, 2021 1:18:01 PM

-----Original Message-----
From: Wayne < >
Sent: Tuesday, April 27, 2021 10:58 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Troy Walker Lot 5, Block 12, Grande Prairie Estates 3rd Subdivision

External Email - Use caution clicking links or opening attachments

Hi,

I am happy with the current zoning laws we have in place out here at Grande Prairie Estates. I think they are sufficient for the majority of residents out here.

That said I am concerned about the potential use of the garage addition. We are worried there would be a potential for increased commercial trailer traffic past our house in case the addition was not used for residential purposes.

I work in the Williston area and see firsthand the result of no zoning laws every day I drive out to work and am happy our neighborhood here has not developed in such a way.

My wife and I enjoy the peace and quiet out here, enjoy our neighbors, but are apprehensive on this special use permit. Please weigh the pros and cons in your decision. Most of us would love to have larger garages but, do abide by the zoning laws put in place.

Thank you,

Wayne Sellner

3507 Heartland Loop

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Troy Walker special use permit at 3539 Heartland Loop
Date:	Friday, April 23, 2021 8:34:53 AM

From: Dan Domagala < >
Sent: Friday, April 23, 2021 7:07 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Troy Walker special use permit at 3539 Heartland Loop

External Email - Use caution clicking links or opening attachments
Please deny this permit. There is a reason that we have rules. I am afraid it is for commercial use. Mr. Walker is already breaking the covenants by parking over a dozen trailers on his lot, as shown on photograph.

Thank you,
A Grand Prairie Neighbor

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 4/2021

	*******************City*******************				*******************ETA*******************			
	4/2021		**4/2020**		**4/2021**		**4/2020**	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	29	$7,823,981.80	17	$4,603,714.50	6	$1,999,730.15	8	$2,493,485.07
ROWHOUSE (2) 1-HR FIRE SEPARATION	14	$3,225,925.64	2	$372,923.86	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	3	$63,460.97	1	$198,000.00	1	$87,046.80	1	$96,707.52
DETACHED GARAGE	5	$66,300.00	5	$94,839.50	8	$339,740.00	5	$208,645.00
DECKS\PORCHES & COVERED PORCHES	14	$56,217.20	12	$93,412.00	3	$18,774.00	1	$0.00
SWIMMING POOLS	2	$223,000.00	3	$155,230.00	2	$146,221.00	0	$0.00
RESIDENTIAL ALTERATION/OTHER	4	$68,850.25	2	$143,502.00	0	$0.00	0	$0.00
HOME OCCUPATION	0	$0.00	0	$0.00	0	$0.00	1	$0.00
STORAGE SHED	2	$5,040.00	0	$0.00	0	$0.00	0	$0.00
BASEMENT FINISH	8	$241,574.00	6	$83,935.50	2	$28,853.00	1	$7,969.50
MISC TEMPORARY STRUCTURES	0	$0.00	5	$0.00	0	$0.00	0	$0.00
NEW SIGN PERMITS	5	$84,109.00	9	$59,250.00	0	$0.00	0	$0.00
SIGN ALTERATION	0	$0.00	1	$10,700.00	0	$0.00	0	$0.00
COMMERCIAL NEW CONSTRUCTION	4	$13,322,942.00	3	$1,908,806.00	1	$450,000.00	0	$0.00
COMMERCIAL ADDITION	1	$1,077,150.00	2	$323,868.00	0	$0.00	0	$0.00
COMMERCIAL ALTERATION	11	$1,895,422.00	10	$6,376,286.00	0	$0.00	0	$0.00
Total	**102**	**$28,153,972.86**	**78**	**$14,424,467.36**	**23**	**$3,070,364.95**	**17**	**$2,806,807.09**

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 4/2021

	*******************City*******************				*******************ETA*******************			
	4/2021		**4/2020**		**4/2021**		**4/2020**	
Trade Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	91	$1,800.00	76	$60,500.00	0	$0.00	0	$0.00
BUILDING MECHANICAL	95	$849,602.27	80	$571,572.34	7	$97,525.00	14	$259,816.00
BUILDING PLUMBING	50	$1,059,471.00	35	$546,500.00	16	$207,794.00	8	$110,200.00
BUILDING SEPTIC	0	$0.00	0	$0.00	3	$0.00	2	$0.00
Total	**236**	**$1,910,873.27**	**191**	**$1,178,572.34**	**26**	**$305,319.00**	**24**	**$370,016.00**

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 4/2021

	*******************City*******************		*******************ETA*******************	
	4/2021	**4/2020**	**4/2021**	**4/2020**
Living Units	**Units**	**Units**	**Units**	**Units**
Total	**0**	**0**	**0**	**0**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 4/2021

	**********City**********				**********ETA**********			
	4/2021		**4/2020**		**4/2021**		**4/2020**	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	60	$16,904,510.59	46	$10,883,351.57	17	$6,351,630.07	14	$4,366,015.58
ROWHOUSE (2) 1-HR FIRE SEPARATION	34	$6,955,506.89	9	$1,818,950.37	0	$0.00	2	$429,629.68
MANUFACTURED HOMES	0	$0.00	3	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	7	$223,471.57	3	$411,395.76	3	$334,046.80	3	$190,297.04
DETACHED GARAGE	8	$121,500.00	5	$94,839.50	18	$797,240.00	9	$373,810.00
DECKS\PORCHES & COVERED PORCHES	24	$91,056.20	18	$110,945.76	5	$29,358.00	1	$0.00
SWIMMING POOLS	2	$223,000.00	3	$155,230.00	2	$146,221.00	0	$0.00
RESIDENTIAL ALTERATION/OTHER	28	$928,051.25	12	$912,071.00	1	$38,000.00	5	$181,075.00
HOME OCCUPATION	1	$0.00	1	$0.00	1	$0.00	2	$0.00
STORAGE SHED	7	$22,980.00	0	$0.00	0	$0.00	0	$0.00
BASEMENT FINISH	46	$1,116,989.00	31	$384,079.50	5	$98,513.00	7	$107,159.50
RESIDENTIAL	4	$0.00	5	$0.00	0	$0.00	0	$0.00
NURSERY STOCK SALES	4	$0.00	0	$0.00	0	$0.00	0	$0.00
MISC TEMPORARY STRUCTURES	0	$0.00	5	$0.00	0	$0.00	0	$0.00
NEW SIGN PERMITS	21	$196,510.44	36	$373,075.00	0	$0.00	1	$600.00
SIGN ALTERATION	3	$64,417.00	6	$32,250.00	0	$0.00	0	$0.00
COMMERCIAL NEW CONSTRUCTION	10	$16,246,413.00	7	$62,223,806.00	1	$450,000.00	5	$0.00
COMMERCIAL ADDITION	2	$1,688,150.00	3	$531,206.00	0	$0.00	0	$0.00
COMMERCIAL ALTERATION	33	$12,341,399.00	50	$12,744,682.07	0	$0.00	0	$0.00
Total	**294**	**$57,123,954.94**	**243**	**$90,675,882.53**	**53**	**$8,245,008.87**	**49**	**$5,648,586.80**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 4/2021

	**********City**********				**********ETA**********			
	4/2021		**4/2020**		**4/2021**		**4/2020**	
Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	314	$36,300.00	283	$102,498.00	0	$0.00	0	$0.00
BUILDING MECHANICAL	439	$5,094,453.42	372	$8,314,137.98	41	$353,010.00	51	$892,871.00
BUILDING MECHANICAL FIREPLACE	0	$0.00	0	$0.00	0	$0.00	1	$3,000.00
BUILDING MECHANICAL NEW CONSTRUCTION	0	$0.00	1	$23,000.00	0	$0.00	0	$0.00
BUILDING PLUMBING	117	$4,227,437.00	98	$7,666,887.79	22	$323,294.00	20	$287,963.43
BUILDING SEPTIC	0	$0.00	0	$0.00	9	$24,000.00	4	$0.00
Total	**870**	**$9,358,190.42**	**754**	**$16,106,523.77**	**72**	**$700,304.00**	**76**	**$1,183,834.43**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 4/2021

	*******************City*******************		*******************ETA*******************	
	4/2021	**4/2020**	**4/2021**	**4/2020**
Living Units	**Units**	**Units**	**Units**	**Units**
MANUFACTURED HOMES	0	3	0	0
Total	**0**	**3**	**0**	**0**