PLANNING AND ZONING COMMISSION

MEETING AGENDA
July 28, 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.

MINUTES

1. Consider approval of the minutes of the June 23, 2021 meeting of the Bismarck Planning & Zoning Commission

CONSENT AGENDA
CONSIDERATION

The following item is a request for a public hearing.

2. **Frohlich Addition** (JW)……..……...……..……1

Major Subdivision Preliminary Plat | PPLT2021-006

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

3. **Hughes Addition** (Klee) ……9

PUD Amendment | PUDA2021-002

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

REGULAR AGENDA

PUBLIC HEARINGS

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

4. **Tree Top Addition** (JW)……17

Minor Subdivision Final Plat | MPLT2021-006

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

5. **Menards Addition First Replat** (WH)…… 24

Minor Subdivision Final Plat | MPLT2021-005

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

Lot 2, Block 1 - Special Use Permit (Drive-Through) | SUP2021-007

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

6. **Lot 1, Block 1, Memory Third Addition** (WH) …… 35

Special Use Permit (Drive-Through) | SUP2021-010

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

7. **Auditors Lots A & B of Lot 1, Block 29, Steins 4th Addition** (WH)…… 43

Special Use Permit (Child Care Center) | SUP2021-011

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

8. **Lot 10, Block 3, Boulder Ridge 6th Addition** (DN) …… 52

Special Use Permit (Accessory Dwelling Unit) | SUP2021-016

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

OTHER BUSINESS

9. **Other**

ADJOURNMENT

10. **Adjourn.** The next regular meeting date is scheduled for August 25, 2021.

Enclosures: Meeting Minutes of June 23, 2021
Building Permit Activity Month to Date Report for June 2021
Building Permit Activity Year to Date Report for June 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.

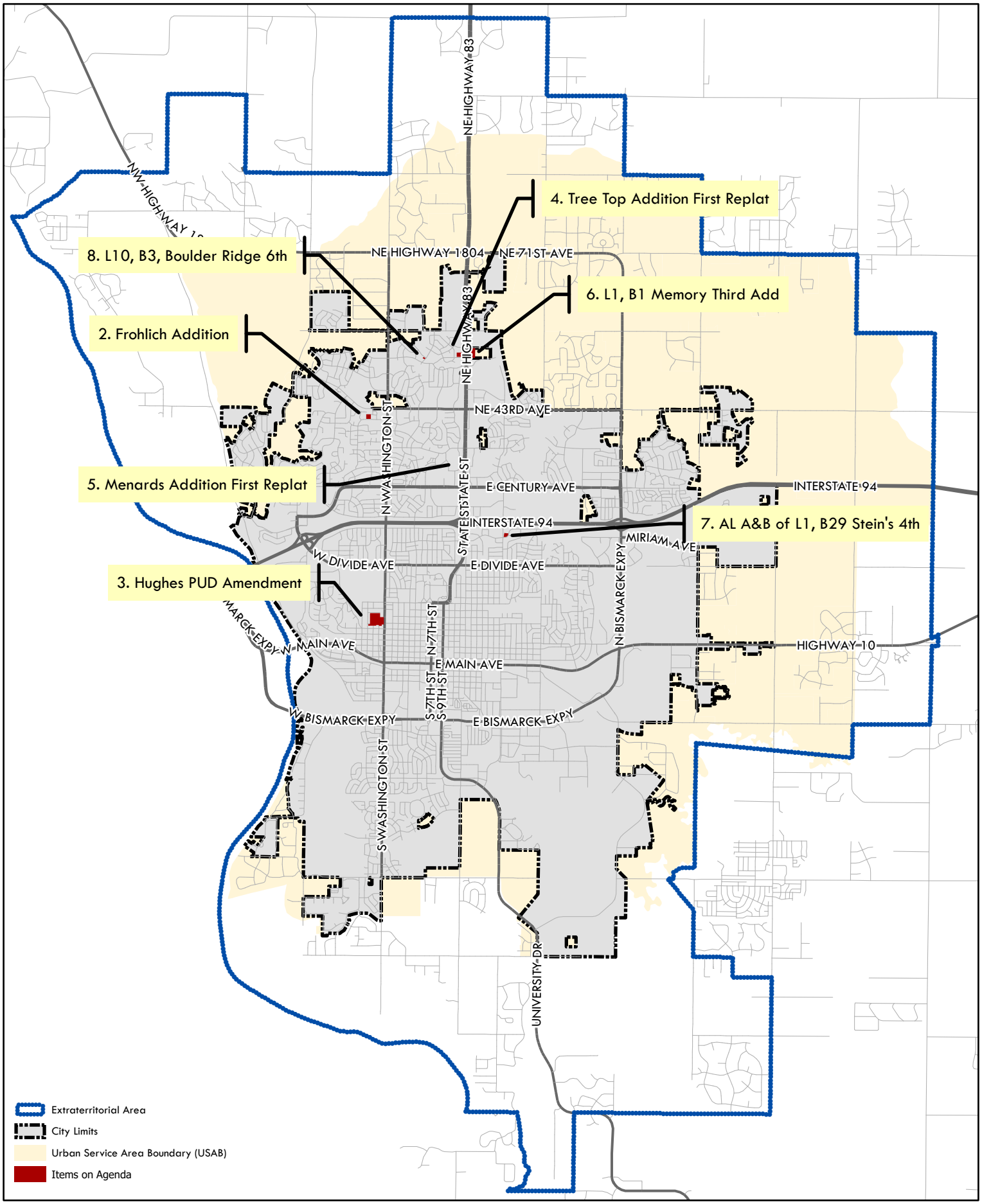
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions 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 and Zoning Meeting - July 28, 2021



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

0 1 2 4 6 Miles

N

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

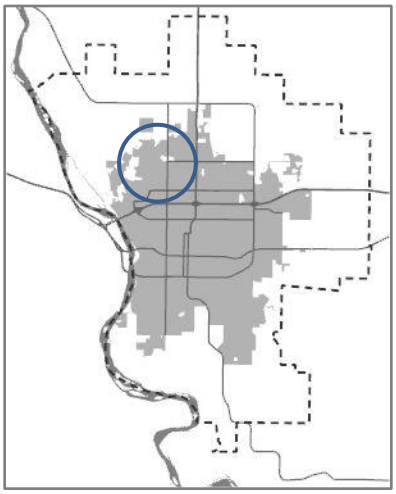
Agenda Item #2
July 28, 2021

Application for: **Major Subdivision Preliminary Plat**

Project ID: **PPLT2021-006**

Project Summary

Title:	Frohlich Addition
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Brian and Barbara Frohlich
Project Contact:	Landon Niemiller, Swenson, Hagen & Co.
Location:	In northwest Bismarck, south of Ash Coulee Drive and west of North Washington Street, along the north side of Colt Avenue (A replat of the East 314 feet of Lot 14, Block 4, KMK Second Subdivision)
Project Size:	2.5 acres
Request:	Replat property for single-family development and future roadway



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 parcel	*Number of Lots:*	3 lots in 1 block
Land Use:	Single-family residential	*Land Use:*	Single-family residential
Future Land Use:	Already zoned. Not in Future Land Use Plan	*Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	R5 – Residential	*Zoning:*	R5 – Residential
Uses Allowed:	R5 – Single-family residential	*Uses Allowed:*	R5 – Single-family residential
Max Density:	R5 – 5 units / acre	*Max Density:*	R5 – 5 units / acre

Property History

Zoned:	02/2016	*Platted:*	11/1969	*Annexed:*	07/2013

Staff Analysis

Brian and Brenda Frohlich are requesting approval of a major subdivision preliminary plat for Frohlich Addition. The property is zoned R5 - Residential and the proposed plat would allow for the development of two new single-family dwellings.

(continued)

Adjacent uses include existing single-family residential uses to the north, east, south across Colt Avenue and west.

Additional Information

The proposed plat consists of three lots in one block. There is an existing single-family dwelling on the proposed Lot 2 and an existing accessory building on the proposed Lot 3. The existing accessory building cannot be located on an urban lot without a principal building. The property owner intends to construct a single-family dwelling on Lot 3 after the plat has been recorded. The accessory building must be removed or relocated when the extension of Huron Drive is constructed, as it will not meet the required front yard building setback outlined in the zoning ordinance.

Lot 3 is large enough to be split into additional lots in the future. Approval of a minor subdivision final plat will be required if Lot 3 is further subdivided.

Transportation and Access

Right-of-way is proposed to be dedicated in the northeastern portion of the plat to provide for a future connection for Huron Drive from the east, in Evergreen Ridge Addition, to the west, in High Meadows 7th Addition. Planning staff anticipates this connection to be made if the property to the north of the proposed plat is redeveloped.

Utility Capital Charges

The creation 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. All technical requirements for consideration of a preliminary plat have been met;
2. The requirements of the neighborhood parks and open space policy have been waived by the Bismarck Parks and Recreation District;
3. 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;
4. A scoping sheet for a post-construction stormwater management permit (PCSMP) has been approved by the City Engineer;
5. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
6. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
7. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
10. The proposed subdivision would not adversely affect the public health, safety and general welfare.

(continued)

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the major subdivision preliminary plat for Frohlich Addition.

Attachments

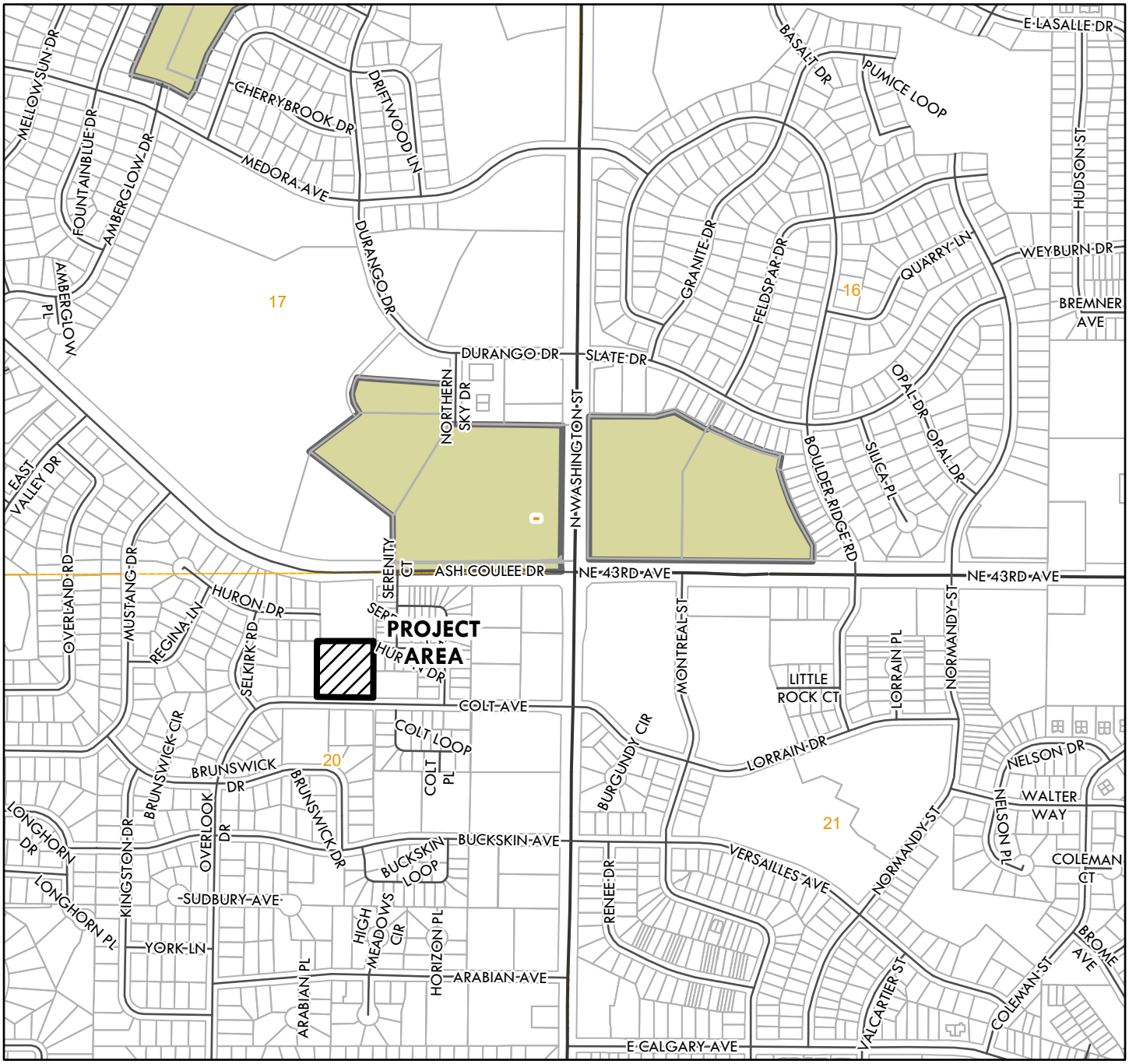
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Major Subdivision Preliminary Plat
5. Original Plat with Replatted Area Highlighted

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

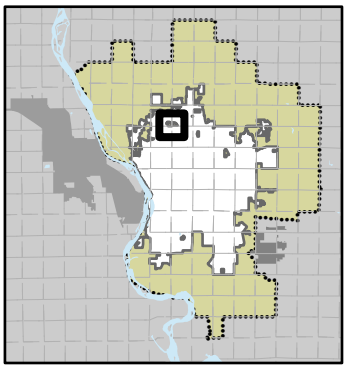
Location Map

FROHLICH ADDITION

PPLT2021-006



0 0.17 0.35 0.7 Miles



City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
June 28, 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

FROHLICH ADDITION

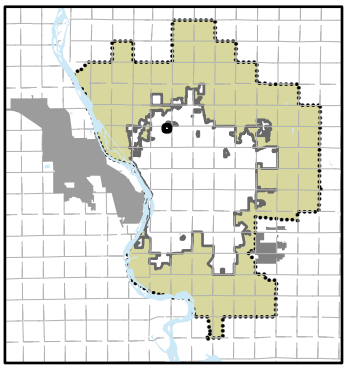
PPLT2021-006

0 0.02 0.04 0.09 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
July 7, 2021

Zoning and Plan Reference Map

FROHLICH ADDITION

PPLT2021-006

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

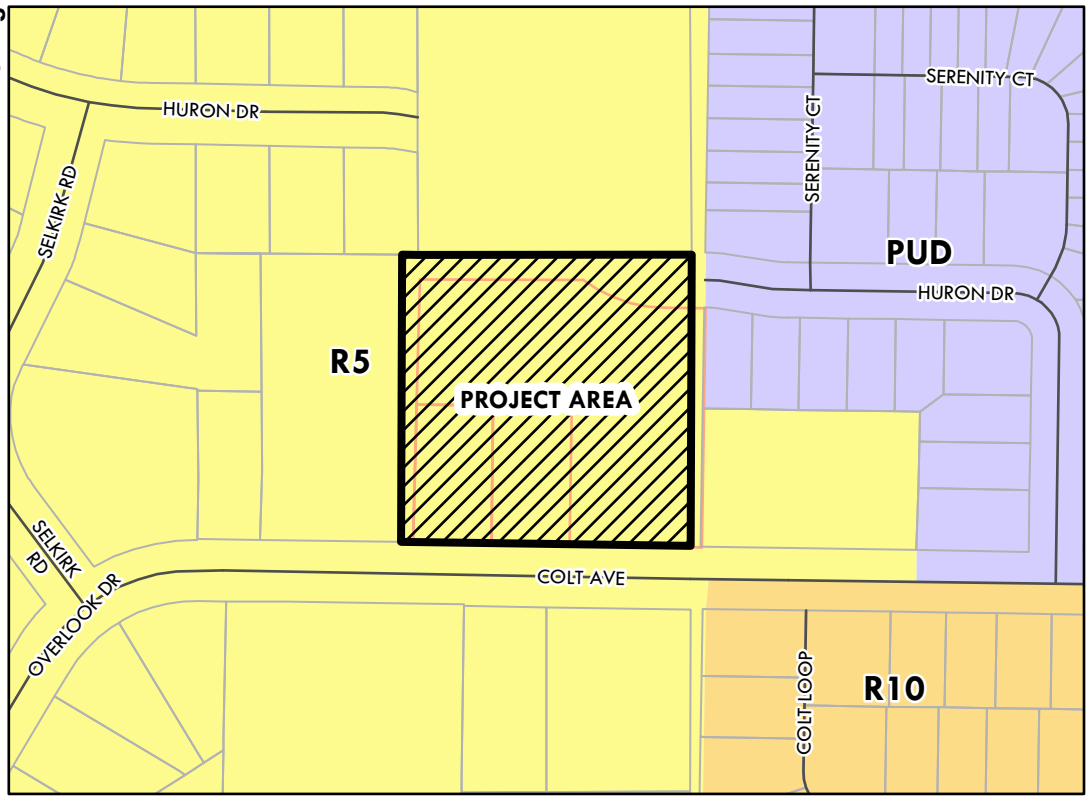
Future Land Use Plan

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

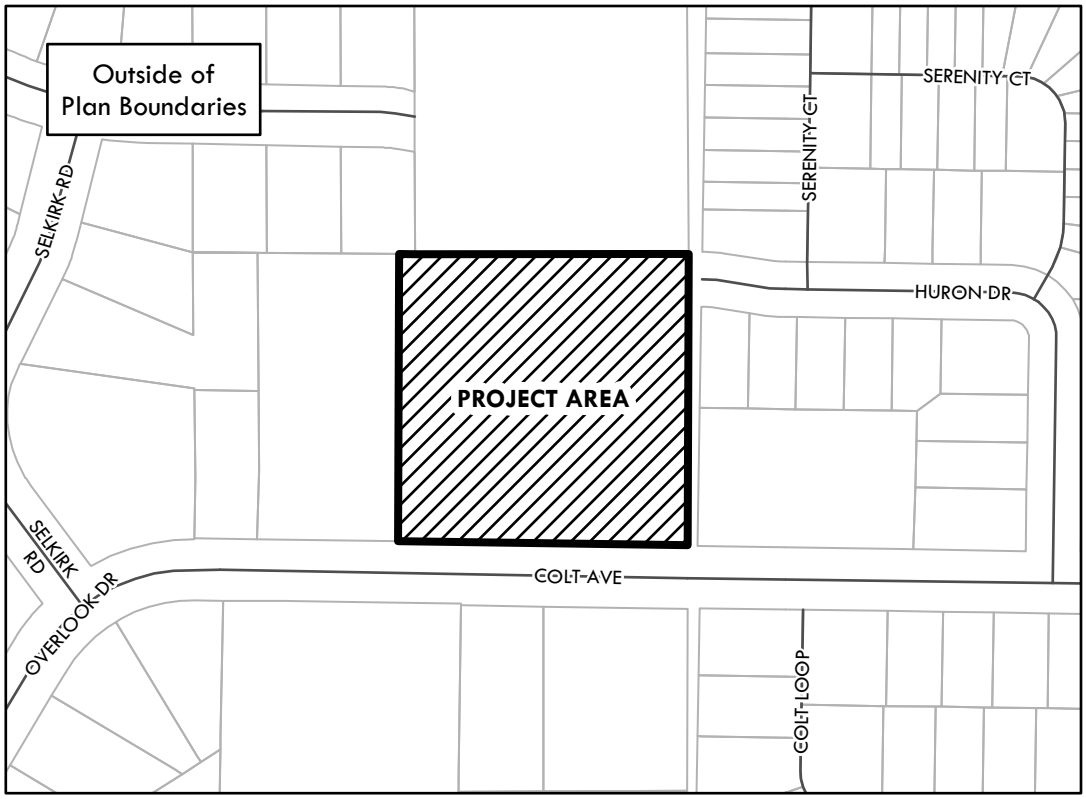
Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road

Zoning



Future Land Use Plan



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0 0.03 0.05 0.1 Miles

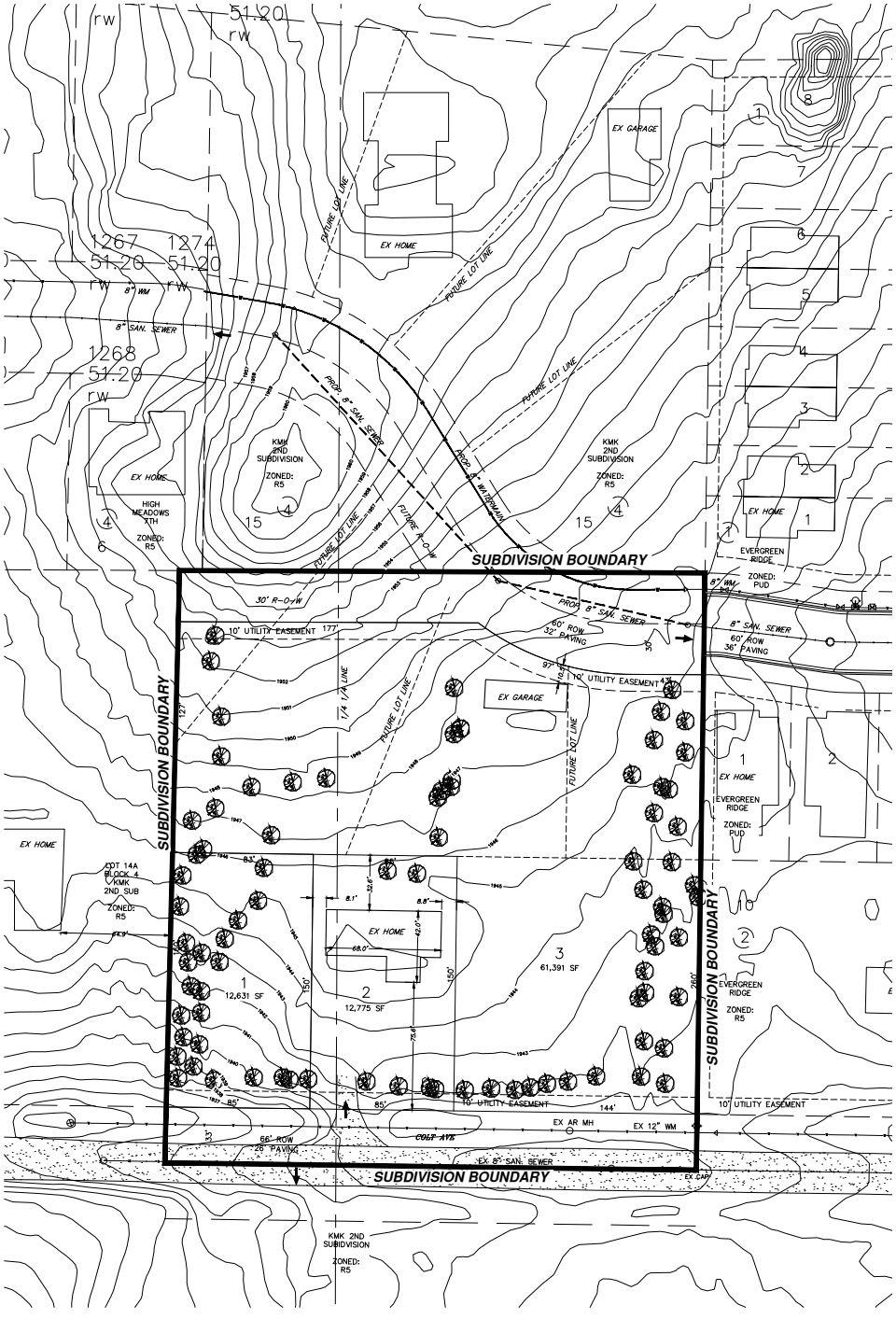
City of Bismarck
Community Development Dept.
Planning Division
July 7, 2021

FROHLICH ADDITION

REPLAT OF THE EAST 314' OF LOT 14 BLOCK 4
OF KMK ESTATES 2ND SUBDIVISION
OF SECTION 20, TOWNSHIP 139 NORTH, RANGE 80 WEST
OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

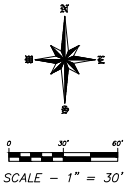
PRELIMINARY PLAT
UTILITY SERVICING PLAN
MASTERPLAN FOR HURON DRIVE EXTENSION



LOCATION MAP

2.5 ACRES
EXISTING ZONING: R5
3 LOTS

OWNERS: BRIAN & BARBARA FROHLICH
ADDRESS: 1800 CONTESSA PLACE
BISMARCK, ND 58503



SCALE – 1" = 30'

VERTICAL DATUM: NAVD 88

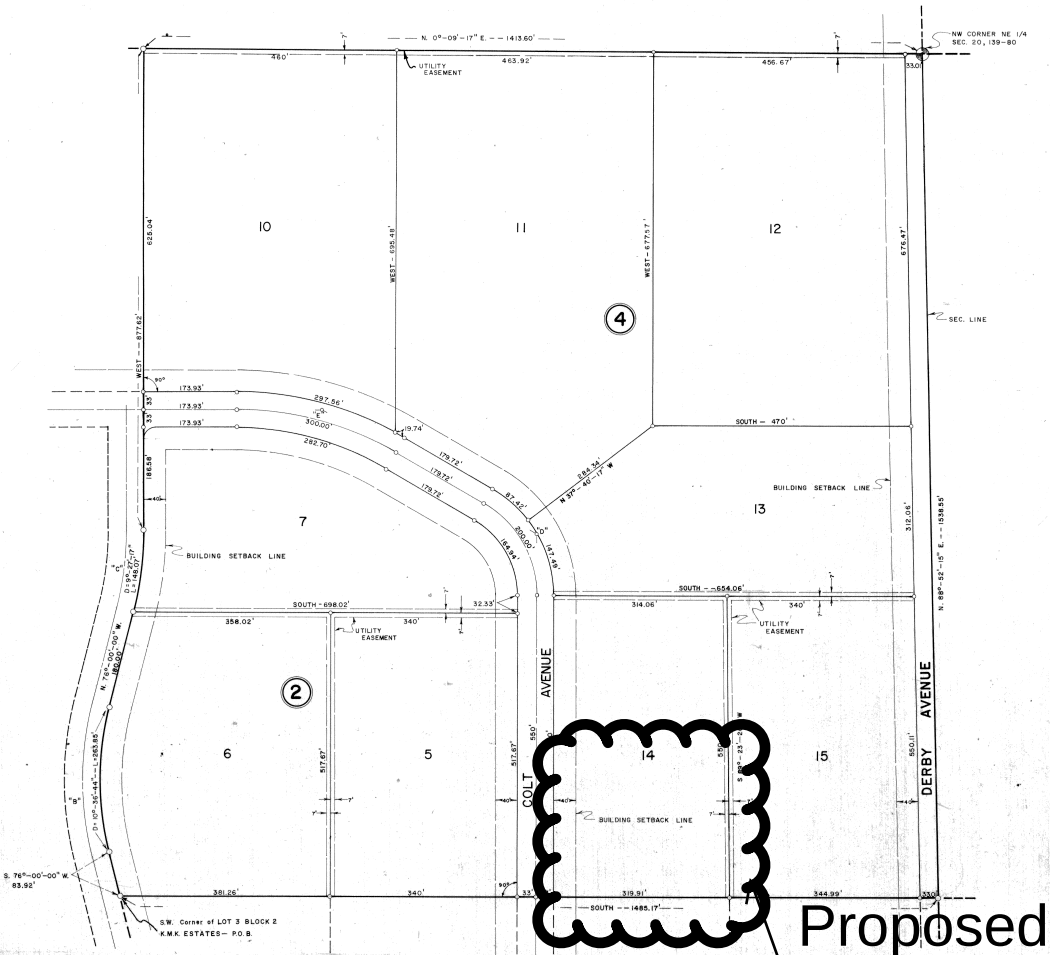
JULY 13, 2021

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

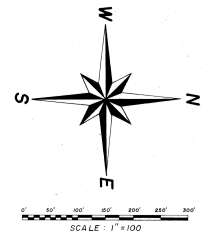
9911

K.M.K. ESTATES SECOND SUBDIVISION

BURLEIGH COUNTY, NORTH DAKOTA



Proposed Replat



DATE OF PLAT OCTOBER 2, 1969

DESCRIPTION

ALL THAT PART OF THE NORTHEAST QUARTER (N.E. ¼) OF SECTION TWENTY (20), TOWNSHIP ONE HUNDRED THIRTY-NINE NORTH (T. 139 N.), RANGE EIGHTY WEST (R. 80 W.) OF THE FIFTH PRINCIPAL MERIDIAN (5th. P.M.), BURLEIGH COUNTY, NORTH DAKOTA THAT LIES WITHIN AND IS BOUNDED BY THE FOLLOWING DESCRIBED TRAVERSE:

BEGINNING AT THE SOUTHWEST CORNER OF LOT THREE (3), BLOCK TWO (2) OF K.M.K. ESTATES, BURLEIGH COUNTY, NORTH DAKOTA; THENCE BEARING SOUTH SEVENTY-SIX DEGREES, ZERO MINUTES AND ZERO SECONDS WEST (S. 76°-00'-00" W.) A DISTANCE OF EIGHTY-THREE AND NINETY-TWO HUNDREDTHS (83.92) FEET; THENCE BEARING WESTERLY AND TO THE RIGHT ON A TEN DEGREE, THIRTY-SIX MINUTE AND FORTY-FOUR SECOND (10°-36'-44") CURVE A DISTANCE OF TWO HUNDRED SIXTY-THREE AND EIGHTY-FIVE HUNDREDTHS (263.85) FEET; THENCE BEARING NORTH SEVENTY-SIX DEGREES, ZERO MINUTES AND ZERO SECONDS WEST (N. 76°-00'-00" W.) A DISTANCE OF ONE HUNDRED EIGHTY (180.00) FEET; THENCE BEARING WESTERLY AND TO THE LEFT ON A NINE DEGREE, TWENTY-SEVEN MINUTE AND SEVENTEEN SECOND (9°-27'-17") CURVE A DISTANCE OF ONE HUNDRED FORTY-EIGHT AND SEVEN HUNDREDTHS (148.07) FEET; THENCE BEARING NORTH NINETY DEGREES, ZERO MINUTES AND ZERO SECONDS WEST (N. 90°-00'-00" W.) A DISTANCE OF EIGHT HUNDRED SEVENTY-SEVEN AND SIXTY-TWO HUNDREDTHS (877.62) FEET TO THE WEST LINE OF THE NORTHEAST QUARTER (N.E. ¼) OF SAID SECTION TWENTY (20); THENCE BEARING NORTH ZERO DEGREES, NINE MINUTES AND SEVENTEEN SECONDS EAST (N. 0°-09'-17" E.) ALONG THE WEST LINE OF SAID NORTHEAST QUARTER (N.E. ¼) OF SECTION TWENTY (20) A DISTANCE OF ONE THOUSAND FOUR HUNDRED THIRTEEN AND SIXTY HUNDREDTHS (1413.60) FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (N.E. ¼) OF SAID SECTION TWENTY (20); THENCE BEARING NORTH EIGHTY-EIGHT DEGREES, FIFTY-TWO MINUTES AND FIFTEEN SECONDS EAST (N. 88°-52'-15" E.) ALONG THE NORTH LINE OF SAID SECTION TWENTY (20) A DISTANCE OF ONE THOUSAND FIVE HUNDRED THIRTY-EIGHT AND FIFTY-FIVE HUNDREDTHS (1,538.55) FEET TO A NORTHWEST CORNER OF SAID K.M.K. ESTATES; THENCE BEARING SOUTH ZERO DEGREES, ZERO MINUTES AND ZERO SECONDS WEST (S. 0°-00'-00" W.) A DISTANCE OF ONE THOUSAND FOUR HUNDRED EIGHTY-FIVE AND SEVENTEEN HUNDREDTHS (1,485.17) FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS, FIFTY-ONE AND TWENTY-TWO HUNDREDTHS (51.22) ACRES, MORE OR LESS.

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THE K.M.K. CORPORATION, A NORTH DAKOTA CORPORATION IS THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN AND DESCRIBED ON THE ANNEXED PLAT AND HAVE CAUSED THE SAME TO BE SURVEYED AND PLATTED AS NOW SHOWN AS "K.M.K. ESTATES SECOND SUBDIVISION" AND DO HEREBY DEDICATE STREETS AS SHOWN HEREON, INCLUDING ALL SEWERS, CULVERTS, WATER DISTRIBUTION LINES, GAS DISTRIBUTION LINES, AND OTHER PUBLIC UTILITY LINES, WHETHER SHOWN HEREON OR NOT, TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS, TO RUN WITH THE LAND, FOR WATER, SEWER, GAS, ELECTRIC, TELEPHONE, OR OTHER PUBLIC UTILITY LINES OR SERVICES UNDER, ON, OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS "UTILITY EASEMENTS".

K.M.K. CORPORATION — CORPORATE SEAL

BY: Martha H. Kavaney
MARTHA H. KAVANEY, PRESIDENT

Ben Marcovitz
BEN MARCOVITZ, SECRETARY

STATE OF NORTH DAKOTA)
) SS
COUNTY OF BURLEIGH)

ON THIS 3rd DAY OF December, 1969, BEFORE ME PERSONALLY APPEARED MARTHA H. KAVANEY AND BEN MARCOVITZ, PRESIDENT AND SECRETARY OF K.M.K. CORPORATION AND THEY EXECUTED THE FOREGOING INSTRUMENT AND EACH AND SEVERALLY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR USES AND PURPOSES THEREIN EXPRESSED.

William T. Kavaney
WILLIAM T. KAVANEY
NOTARY PUBLIC, BURLEIGH COUNTY, N. DAK.
MY COMMISSION EXPIRES DECEMBER 11, 1970

CITY PLANNING COMMISSION APPROVAL

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK ON Dec 13 1969, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK, AND REGULATIONS ADOPTED BY SAID PLANNING COMMISSION. IN WITNESS THEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

Adrian C. Taylor
ADRIAN C. TAYLOR, CHAIRMAN

Tom Baskl
TOM BASKL, SECRETARY

COUNTY PLANNING COMMISSION APPROVAL

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF BURLEIGH COUNTY ON Oct 6, 1969 IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA.

Erwin Bourgois
ERVIN BOURGOIS, CHAIRMAN

Kathryn Kern
KATHRYN KERN, SECRETARY

APPROVAL OF BOARD OF COUNTY COMMISSIONERS

THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON AND HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT OF THE MASTER PLAN OF BURLEIGH COUNTY.

THE FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE 6th DAY OF December, 1969.

Theo Klein
THEO. KLEIN, CHAIRMAN

ATTEST: Kathryn Kern
KATHRYN KERN, COUNTY AUDITOR

CURVE DATA

CURVE	Δ	D	T	L	R
B	28°-00'	10°-00'	143.04	280.00	573.69
C	14°-00'	10°-00'	70.44	140.00	573.69
D	60°-00'	30°-00'	111.54	200.00	193.19
E	30°-00'	10°-00'	153.72	300.00	573.69

NOTES

1. DENOTES IRON PIPE MONUMENT.
2. ALL CURVE DATA ON PLAT IS BASED ON CHORD DEFINITION.
3. PROPERTY CORNERS AT STREET INTERSECTIONS ARE ROUNDED BY 10' RADIUS.

SURVEYOR'S CERTIFICATE

I, HARLEY SWENSON, A REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THIS PLAT IS A TRUE AND COMPLETE SURVEY MADE BY ME AND UNDER MY SUPERVISION COMPLETED ON AUGUST 14, 1969, THAT ALL DIMENSIONS AND ANGLES ARE CORRECT AS SHOWN AND THAT ALL MONUMENTS ARE TO BE SET AS SHOWN.

Harley Swenson
HARLEY SWENSON
REGISTERED PROFESSIONAL ENGINEER
AND LAND SURVEYOR, REG. NO. 951

STATE OF NORTH DAKOTA)
) SS
COUNTY OF BURLEIGH)

ON THIS 3rd DAY OF December, 1969, BEFORE ME PERSONALLY APPEARED HARLEY SWENSON, KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE FOREGOING ENGINEER'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME OF HIS OWN FREE WILL AND DEED.

Edward W. Hagen
EDWARD W. HAGEN, NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES, JULY 9, 1975

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

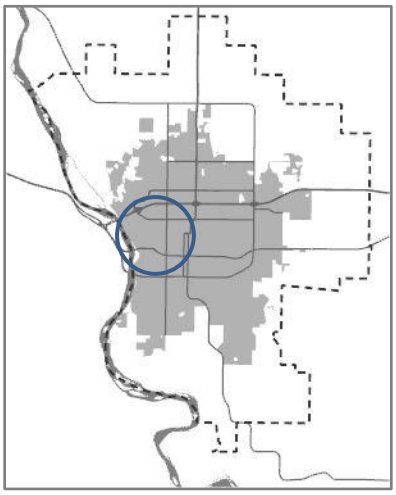
Agenda Item #3
July 28, 2021

Application for: **PUD Amendment**

Project ID: **PUDA2021-002**

Project Summary

Title:	Hughes Addition PUD
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Bismarck Public Schools
Project Contact:	Darin Scherr, PE, Business and Operations Manager
Location:	Central Bismarck, along the west side of North Washington Street between West Avenue C and West Boulevard Avenue (806 North Washington Street).
Project Size:	14.7 acres, more or less, exclusive of rights-of-way
Request:	Amend PUD for the Hughes Addition to update the identified uses in the building, include language regarding the free-standing pole sign on the property and clarify provisions for future signage



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	*Number of Lots:*	1 lot in 1 block
Land Use:	School district administration building	*Land Use:*	School district administration building
Future Land Use:	Already zoned. Not in Future Land Use Plan	*Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	PUD – Planned Unit Development	*Zoning:*	PUD – Planned Unit Development
Uses Allowed:	PUD – Uses specified in PUD	*Uses Allowed:*	PUD – Uses specified in PUD
Max Density:	PUD – Density specified in PUD	*Max Density:*	PUD – Density specified in PUD

Property History

Zoned:	08/2000	*Platted:*	08/2000	*Annexed:*	Pre-1980

(continued)

Staff Analysis

Bismarck Public Schools is requesting approval of an amendment to the existing PUD for Hughes Addition.

Adjacent uses include single-family residential to the north, east, south and west across Anderson Street.

To allow the adaptive reuse of the former Hughes junior high building as offices for Bismarck Public Schools, the property was rezoned to PUD in 2000. The PUD allowed school district administrative offices, technology and printing facilities, storage, South Central High School and Adult Learning Center facilities, and Park District indoor and outdoor recreational facilities. A PUD amendment in 2002 added on-site day care and life education uses in conjunction with the Adult Learning Center use.

Bismarck Public Schools would like to replace the existing free-standing pole sign along North Washington Street with a new free-standing pole sign that includes an electronic message center (EMC). Since that change would require an amendment to the PUD, it also presented an opportunity to document any changes to the use of the property since 2002 and create a PUD amendment document.

The proposed free-standing pole sign that includes an EMC is still to be evaluated. Additional information will be provided at the time of the public hearing on the proposed PUD amendment.

Required Findings of Fact **(relating to land use)**

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed amendment 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 proposed amendment at the time the property is developed;
4. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
5. The character and nature of the amended 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;
6. The amended planned unit development would preserve the natural features of the site insomuch as possible, including the preservation of trees and natural drainage ways;
7. The internal roadway circulation system within the amended planned unit development has been adequately designed for the type of traffic that would be generated;
8. Adequate buffer areas have been provided between the amended planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
9. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice; and

(continued)

11. The proposed amendment 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 PUD amendment for Lot 1, Block 1, Hughes Addition, as outlined in the attached draft PUD amendment document.

Attachments

1. Draft PUD Amendment Document
2. Location Map
3. Aerial Map
4. Zoning and Plan Reference Map

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

HUGHES ADMINISTRATION BUILDING PLANNED UNIT DEVELOPMENT
ORDINANCE NO. 5069 (Adopted August 22, 2000)
MAJOR PUD AMENDEMNT (Adopted March 27, 2002)
MAJOR PUD AMENDMENT (Adopted _____)

WHEREAS, Ordinance No. 5069 was adopted by the Board of City Commissioners on August 22, 2000; and

WHEREAS, Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments) outlines the requirements for amending a PUD; and

WHEREAS, the PUD was amended on March 27, 2002 to add day care and life educations uses within the former Hughes Middle School; and

WHEREAS, Bismarck Public Schools has requested this amendment to allow the freestanding sign along North Washington Street to be replaced with a free-standing pole sign that includes an electronic message center; and

WHERAS, the uses within the Hughes Administration Building have changed since the last amendment in 2002.

NOW, THEREFORE, BE IT RESOLVED by the Bismarck Planning and Zoning Commission of the City of Bismarck, North Dakota, a municipal corporation, that the request to amend the Planned Unit Development for the following described property:

Hughes Addition

is hereby approved and this PUD is now subject to the following development standards:

1. *Uses Permitted.* Uses permitted include school district administrative offices and support services; Bismarck Public Schools Foundation offices and support services; ~~technology and printing facilities, storage, South Central High School and Adult Learning Center facilities; and Park District~~ life education program operations and activities, including on-site childcare for program participants; early childhood program support services; and indoor and outdoor recreational facilities ~~and offices~~. Any change in the proposed uses within the PUD from that indicated herein will require an amendment to this PUD.

2. *Parking.* A minimum of three hundred five (305) parking spaces shall be provided within the PUD.

3. *Signage.* One free-standing pole sign may be located along the North Washington Street frontage. Said pole sign shall not exceed 20 feet in height, may include a changeable copy area/electronic message center no greater than 32 square feet in area, and must be set back from the front property line at least the height of the sign. Additional signage for the property shall be allowed in accordance with the provisions of Chapter 14-03.1 of the City Code of Ordinances (Signs) for a property within the P-Public zoning district.

4. *Changes.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major

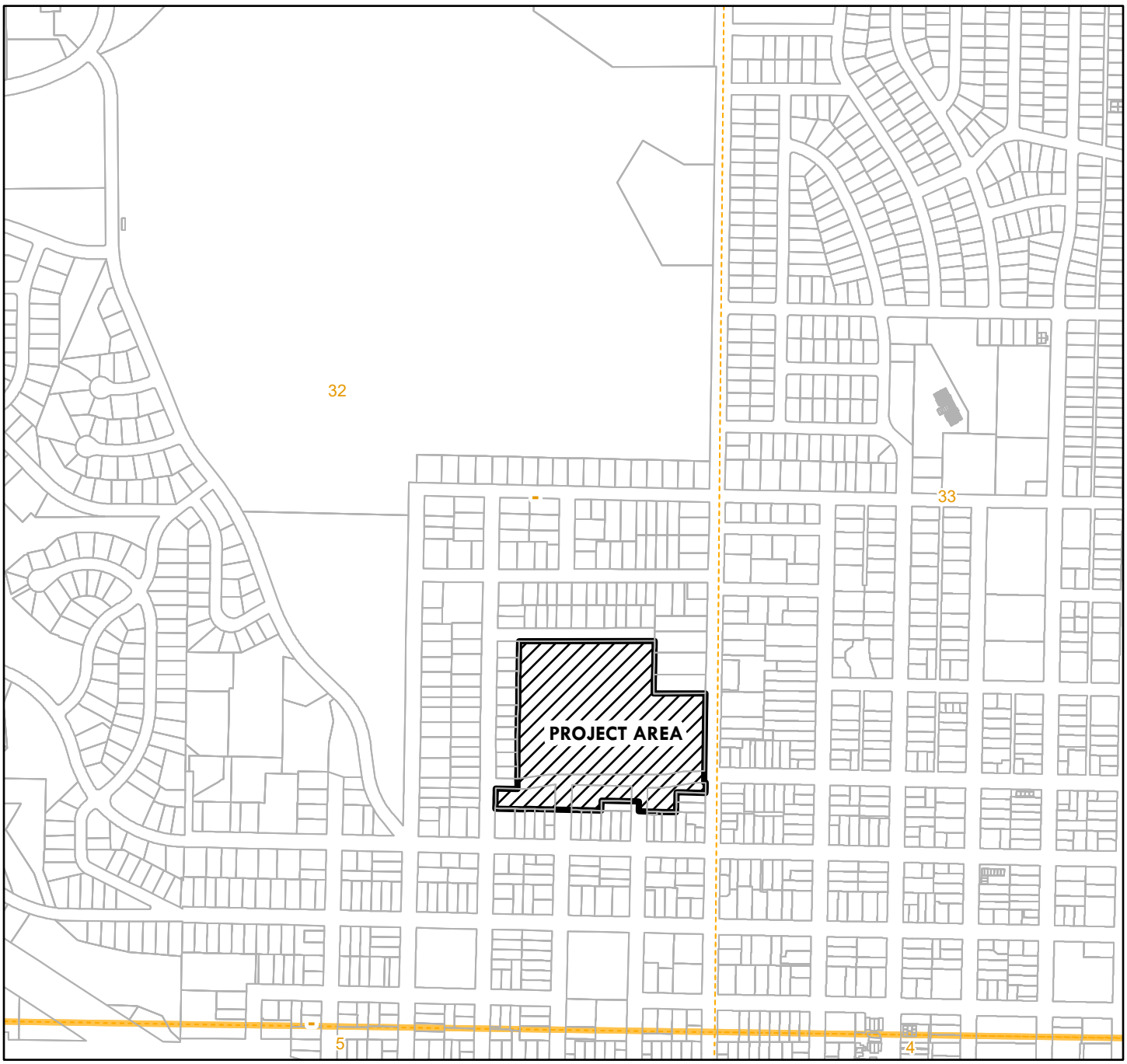
changes require a public hearing and a majority vote of the Bismarck Planning & Zoning Commission.

DRAFT

Location Map

HUGHES ADDITION

PUDA2021-002



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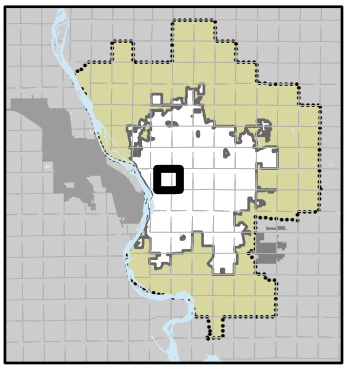


City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

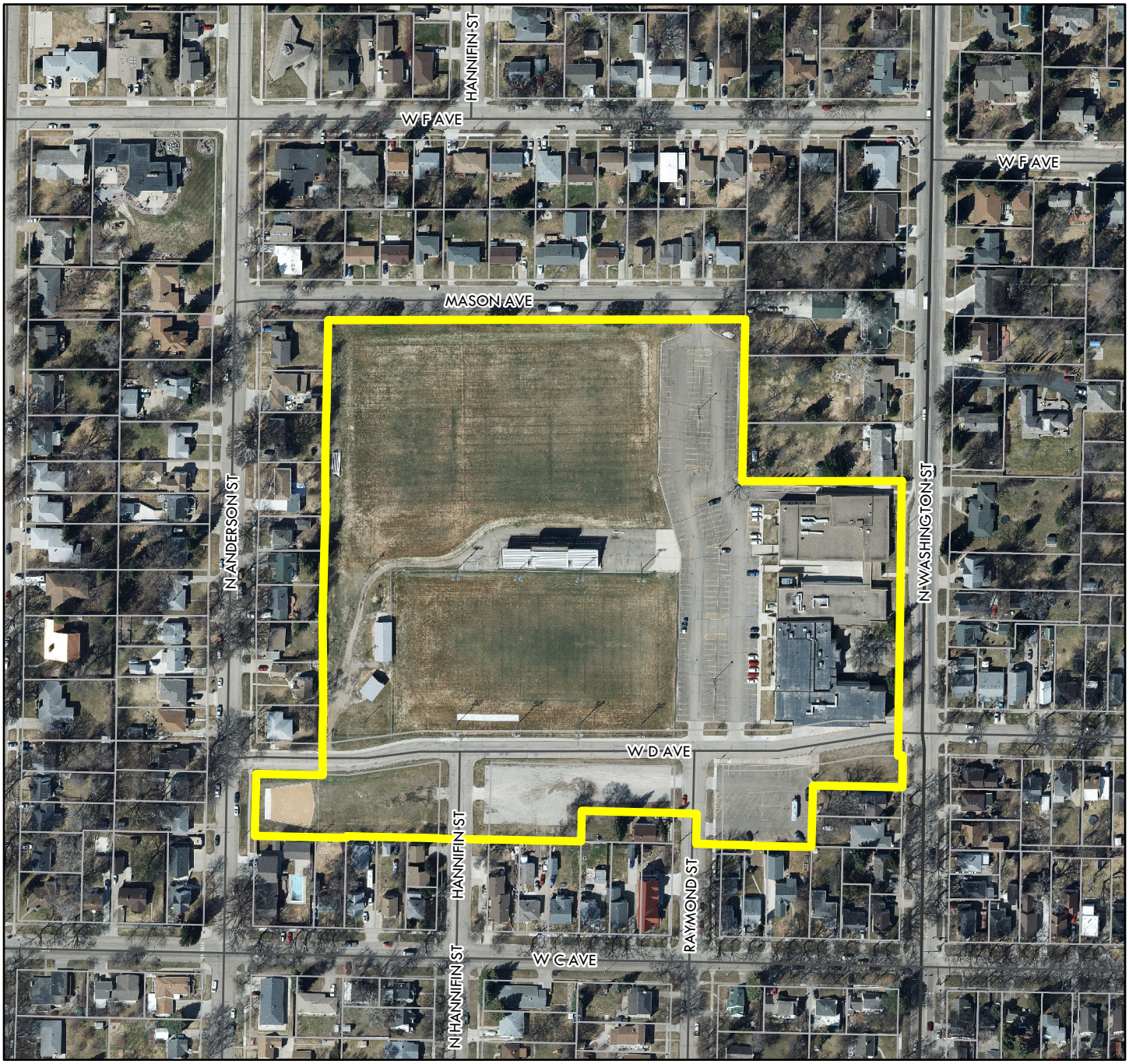
City of Bismarck
Community Development Department
Planning Division
July 23, 2021 (HLB)

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

HUGHES ADDITION

PUDA2021-002



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City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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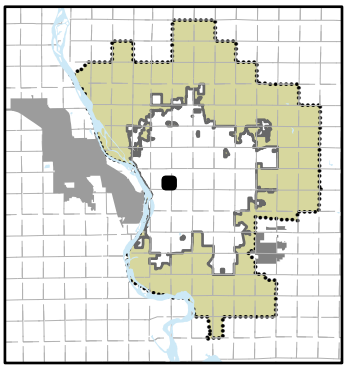


City of Bismarck
Community Development Department
Planning Division
July 23, 2021

Zoning and Plan Reference Map

HUGHES ADDITION

PUDA2021-002

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

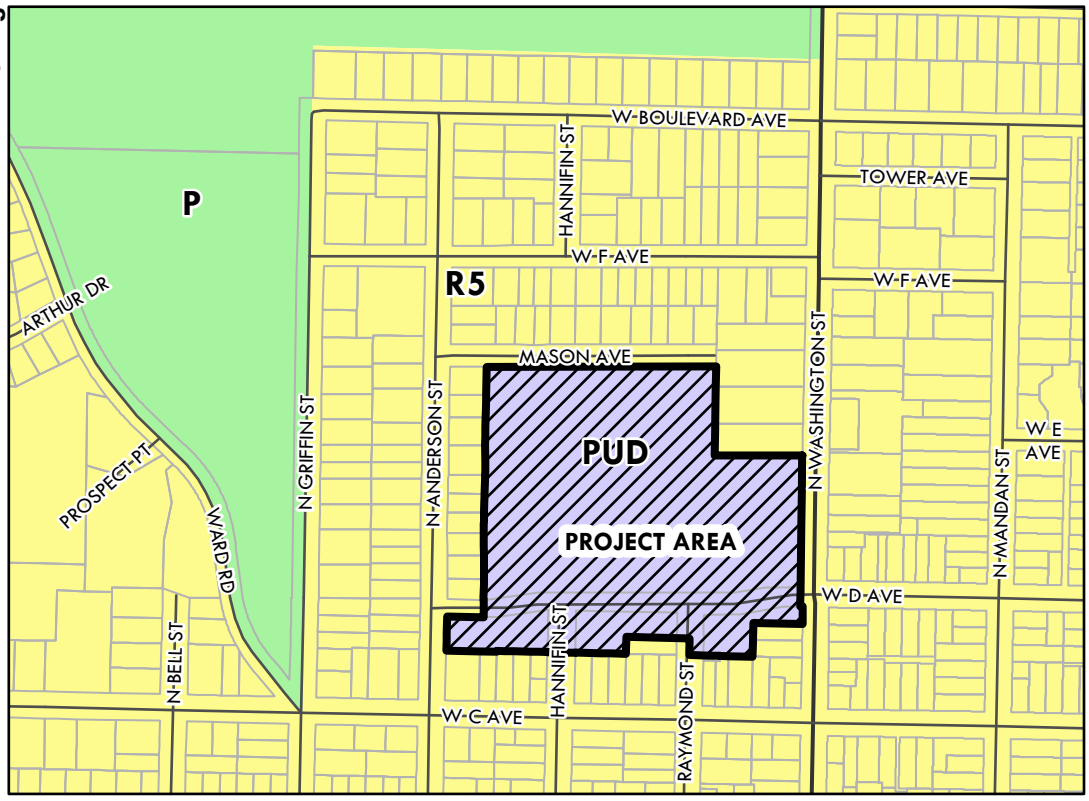
Future Land Use Plan

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

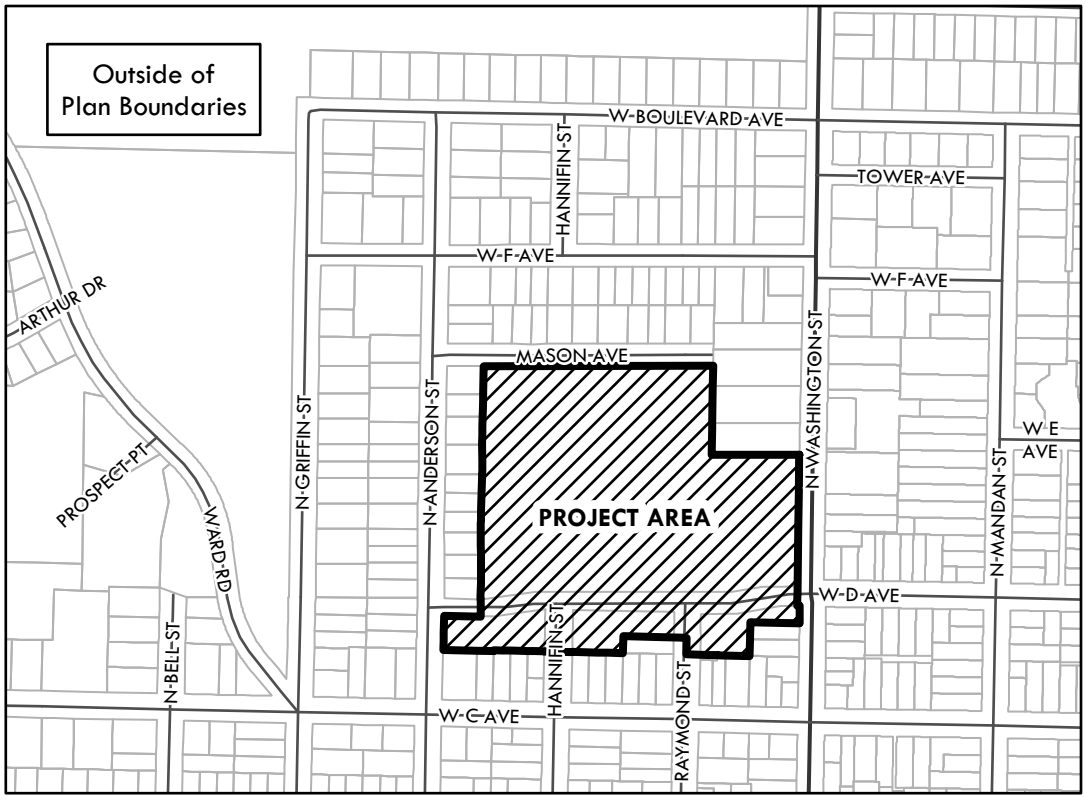
Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road

Zoning



Future Land Use Plan



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City of Bismarck
Community Development Dept.
Planning Division
July 23, 2021

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

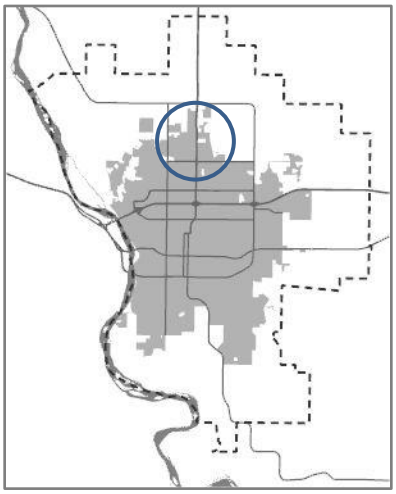
Agenda Item #4
July 28, 2021

Application for: **Minor Subdivision Final Plat**

Project ID: **MPLT2021-006**

Project Summary

Title:	Tree Top Addition First Replat
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Grey Wolf Properties II, LLC
Project Contact:	Landon Niemiller, Swenson, Hagen & Co.
Location:	In north Bismarck, west of US Highway 83/State Street and north of East LaSalle Drive, along the north side of Canada Avenue (a replat of Lot 2, Block 2, Tree Top Addition and the north half of Canada Avenue right-of-way)
Project Size:	3.54 acres
Request:	Replat property for future commercial development



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	*Number of Lots:*	3 lots in 1 block
Land Use:	Commercial	*Land Use:*	Commercial
Future Land Use:	Already zoned. Not in Future Land Use Plan	*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:	CG – 42 units / acre	*Max Density:*	CG – 42 units / acre

Property History

Zoned:	04/2005	*Platted:*	04/2005	*Annexed:*	04/2005

(continued)

Staff Analysis

Grey Wolf Properties II, LLC is requesting approval of a minor subdivision final plat for Tree Top Addition First Replat.

Background Information

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on July 16th and July 21st and 40 letters were mailed to the owners of nearby properties on July 21st.

The property is currently zoned CG – Commercial, and approval of the proposed plat would allow for the development of two additional commercial lots.

Adjacent uses include existing commercial uses to the north, developing commercial uses to the east across US Highway 83/State Street, a City owned stormwater and drainage parcel to the south across Canada Avenue, and existing single and two-family dwellings to the west.

Private Drive and Utilities

The proposed plat includes private access and utilities. A signed Private Drive and Private Utility Agreement with the City will need to be approved by the City Commission and recorded in conjunction with the final plat.

Utility Capital Charges

The creation 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. Utility capital charges will be required prior to the recordation of the plat.

Required Findings of Fact (relating to land use)

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);
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the minor subdivision final plat for Tree Top Addition First Replat, with the understanding that a Private Drive and Utility Agreement with the City will need to be approved by the City Commission and recorded in conjunction with the final plat.

Attachments

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Minor Plat
5. Original Plat with Replatted Area Highlighted

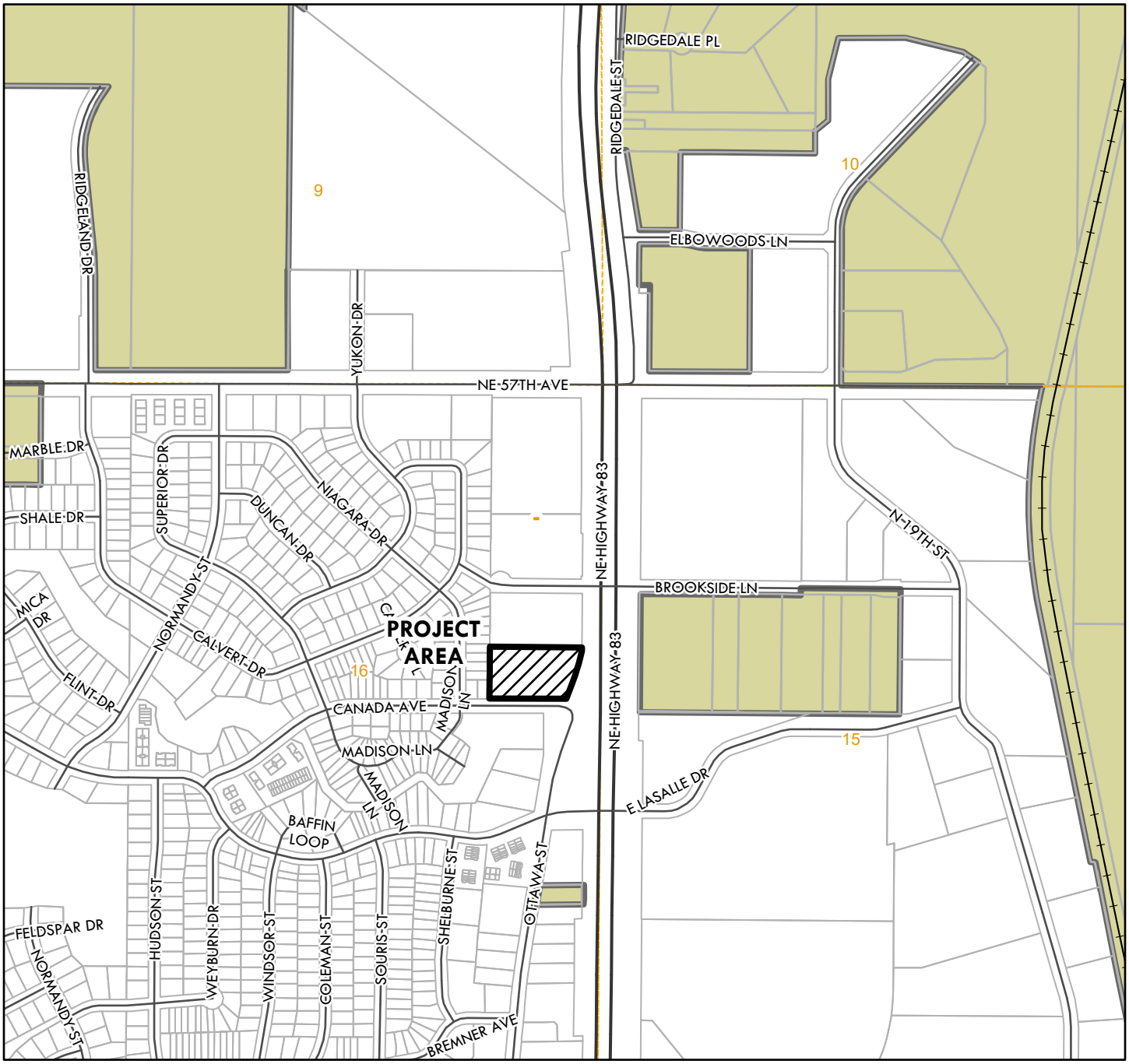
Staff report prepared by: Jenny Wollmuth, AICP, CFM, Senior Planner
701-355-1845 | jwollmuth@bismarcknd.gov

(continued)

Location Map

TREE TOP ADDITION FIRST REPLAT

MPLT2021-006



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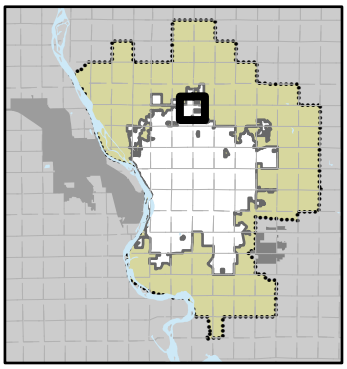
City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange



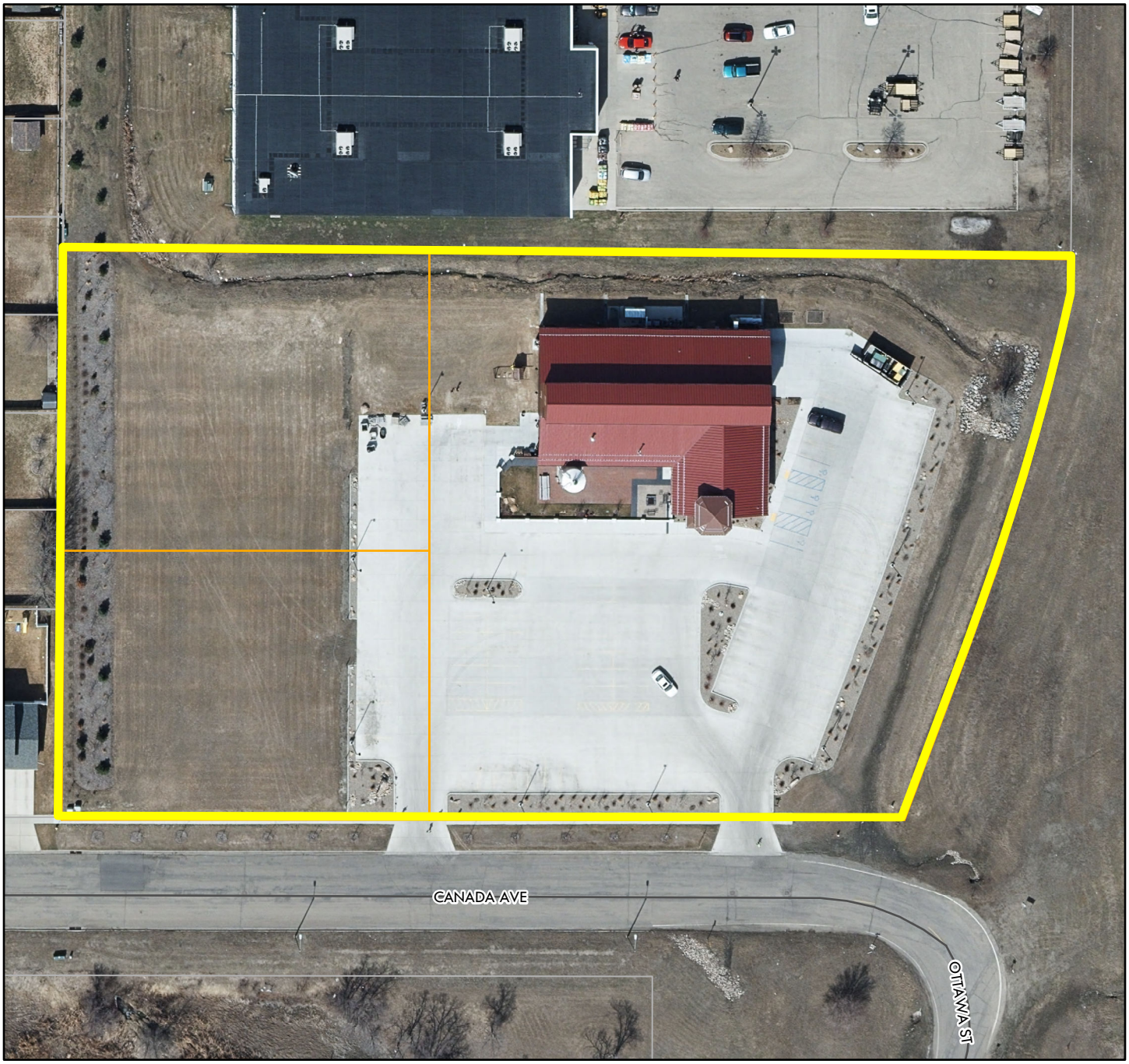
City of Bismarck
Community Development Department
Planning Division
June 28, 2021 (HLB)

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

TREE TOP ADDITION FIRST REPLAT

MPLT2021-006



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City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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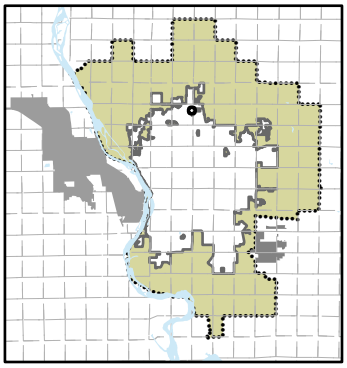

City of Bismarck
Community Development Department
Planning Division
July 7, 2021

Zoning and Plan Reference Map

TREE TOP ADDITION FIRST REPLAT

MPLT2021-006

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
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MDR	Medium Density Residential
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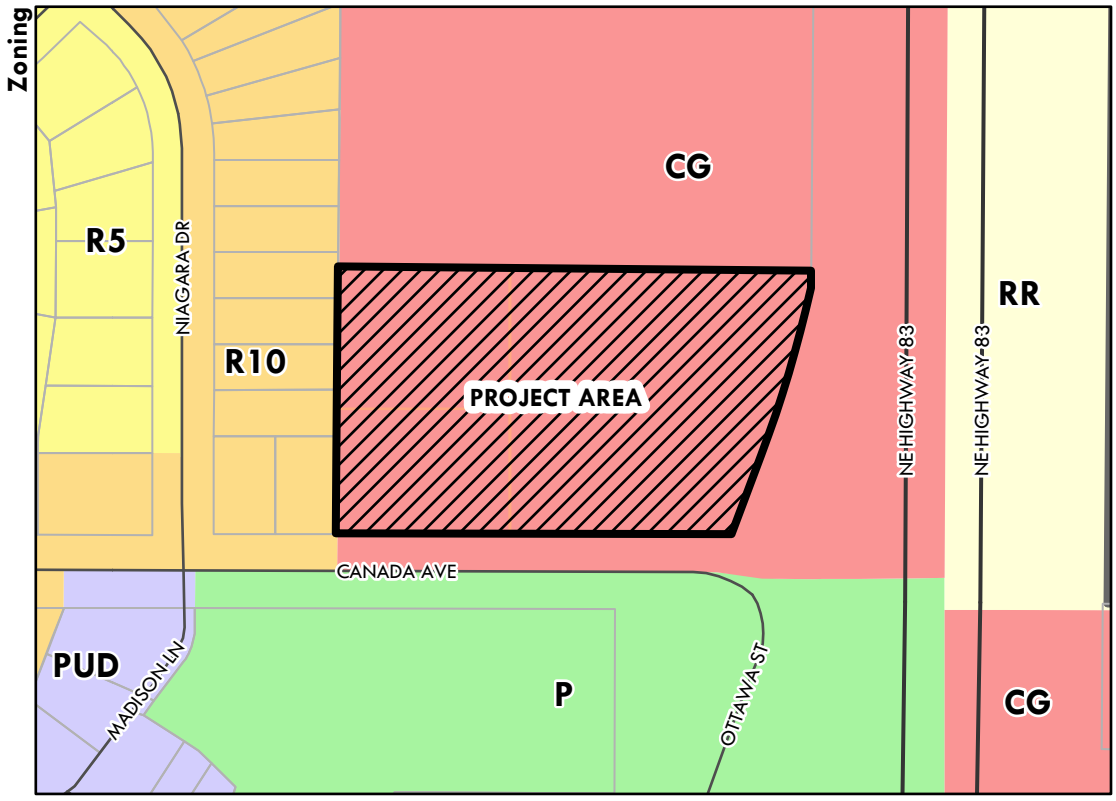
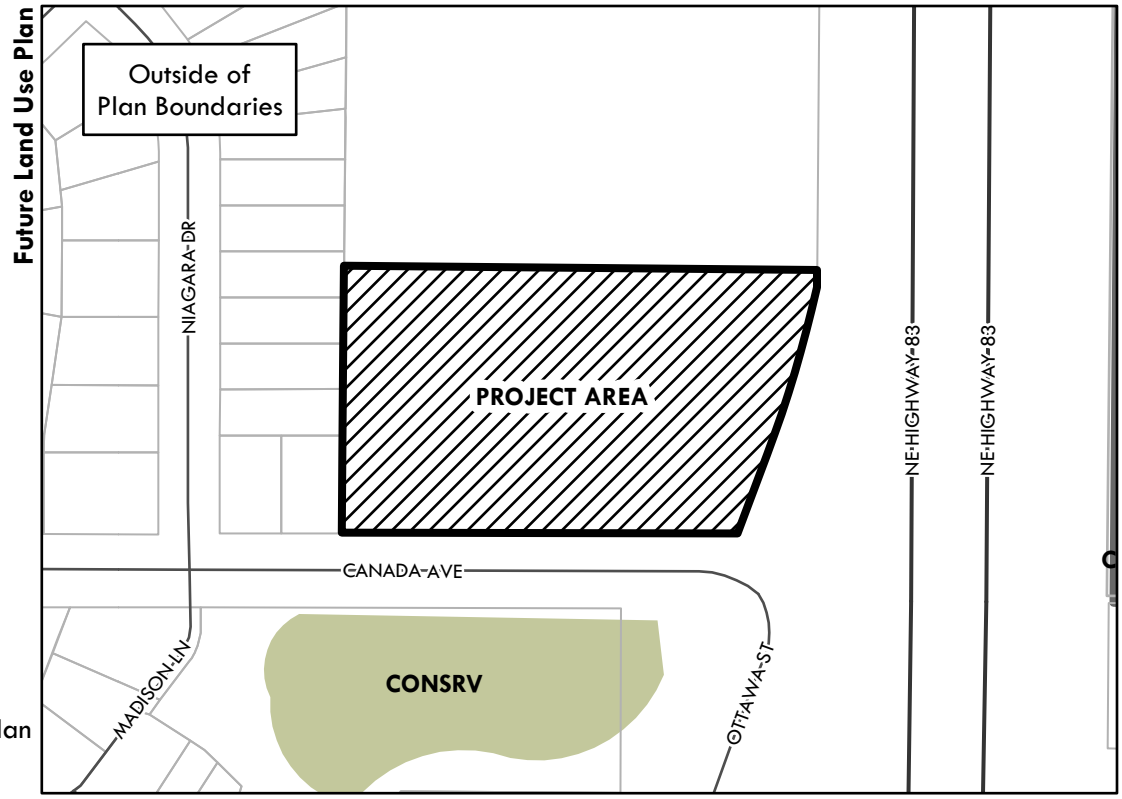
O/MU	Office/ Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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0 0.03 0.05 0.1 Miles

City of Bismarck
Community Development Dept.
Planning Division
July 7, 2021

TREE TOP ADDITION 1ST REPLAT

BEING A REPLAT OF LOT 2 BLOCK 2 TREE TOP ADDITION & PART OF THE NORTH 1/2 OF CANADA AVENUE RIGHT-OF-WAY OF THE NE 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIPTION

BEING A REPLAT OF LOT 2 BLOCK 2 TREE TOP ADDITION & PART OF THE NORTH 1/2 OF CANADA AVENUE RIGHT-OF-WAY OF THE NE 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE SOUTH 00 DEGREES 27 MINUTES 13 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 2 AND IT'S SOUTHERLY EXTENSION, A DISTANCE OF 329.92 TO THE CENTERLINE OF CANADA AVENUE RIGHT-OF-WAY; THENCE SOUTH 89 DEGREES 57 MINUTES 55 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 414.28 FEET TO THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 2; THENCE NORTH 20 DEGREES 34 MINUTES 16 SECONDS EAST, ALONG SAID SOUTHERLY EXTENSION AND SAID EAST LINE, A DISTANCE OF 133.75 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, CONTINUING ALONG SAID EAST LINE, ON A 1346.37 FOOT RADIUS CURVE, AN ARC LENGTH OF 189.69 FEET; THENCE NORTH 01 DEGREE 20 MINUTES 26 SECONDS EAST, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 18.72 FEET TO THE NORTH LINE OF SAID LOT 2; THENCE NORTH 89 DEGREES 29 MINUTES 41 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 513.07 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 154,293 SF OR 3.54 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, MATTHEW STERN, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THIS PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON _____, 2021. 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

_____
MATTHEW STERN
PROFESSIONAL LAND SURVEYOR
N.D. REGISTRATION NO. _____

APPROVAL OF PLANNING AND ZONING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT HAS BEEN APPROVED BY THE PLANNING AND ZONING 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 THIS PLAT, HAS ACCEPTED THE RE-DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE 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 "TREE TOP ADDITION FIRST REPLAT", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THIS PLAT.

_____
GABRIEL J. SCHELL
CITY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT GREY WOLF PROPERTIES II, LLC, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATED AS "TREE TOP ADDITION FIRST REPLAT", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE AND RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO 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 FURTHER DEDICATE EASEMENTS TO THE PUBLIC AS WATERMAIN, SANITARY SEWER, STORMWATER & DRAINAGE EASEMENTS TO RUN WITH THE LAND FOR THE PURPOSE OF AND THE RIGHT TO CONSTRUCT, OPERATE, MAINTAIN, AND REPAIR WATERMAIN, SANITARY SEWER, & STORMWATER FACILITIES ACROSS THOSE LANDS DESIGNATED AS SUCH.

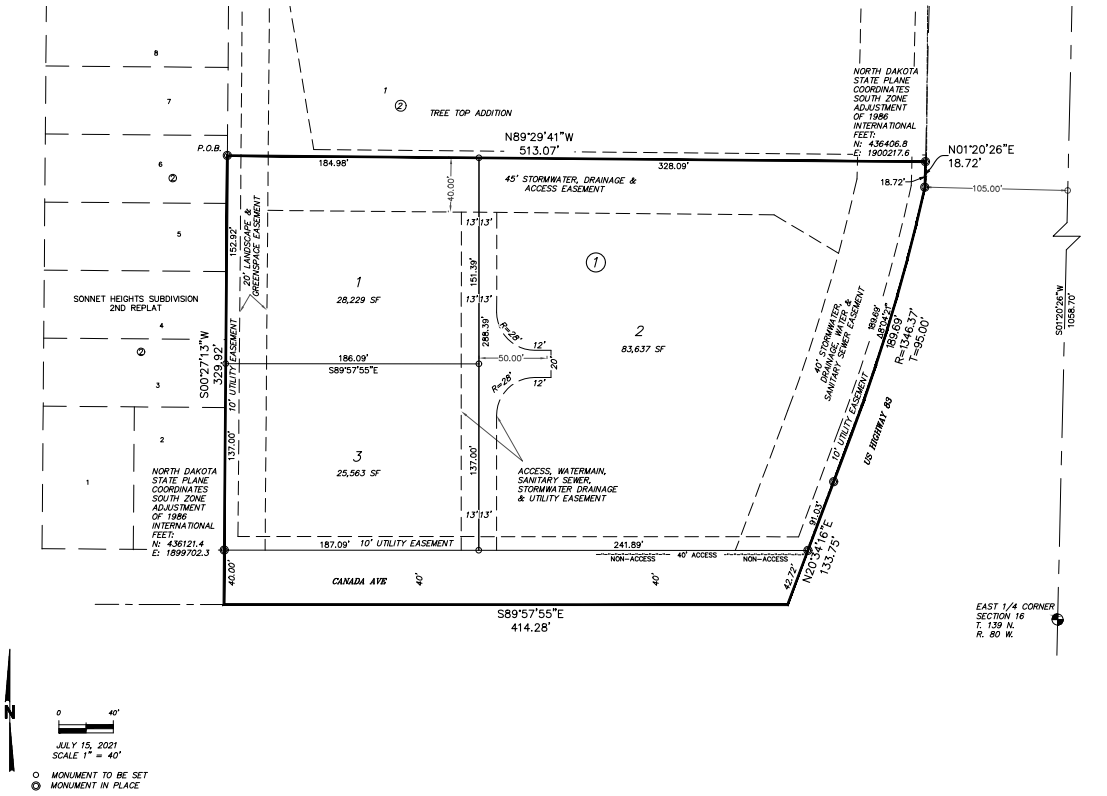
THEY ALSO DEDICATE AN ACCESS EASEMENT TO ALL ADJOINING LAND OWNERS WITHIN TREE TOP ADDITION FIRST REPLAT, AT ALL TIMES HEREAFTER, TO RUN WITH THE LAND. SAID EASEMENT TO INCLUDE THE FULL AND FREE RIGHT FOR SAID PARTIES, THEIR TENANTS, VISITORS, LICENSEES, AND POLICE/FIRE/MAINTENANCE TO PASS, AND REPASS ALONG SAID EASEMENT, AND THE RIGHT TO CONSTRUCT, REPAIR, AND ACCESS A PRIVATE DRIVEWAY ACROSS SAID EASEMENT.

STATE OF NORTH DAKOTA)
)
COUNTY OF _____)

_____
GREY WOLF PROPERTIES II, LLC
3920 RIDGE WAY
BISMARCK, ND 58503

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED _____, OF GREY WOLF PROPERTIES II, LLC, 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 _____



N

0 40'

JULY 15, 2021
SCALE 1" = 40'

○ MONUMENT TO BE SET
◎ MONUMENT IN PLACE

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:
HYD #2563 LOCATED ON OTTAWA ST AND CANADA DR
ELEV. 1813.38 (NGVD 29)

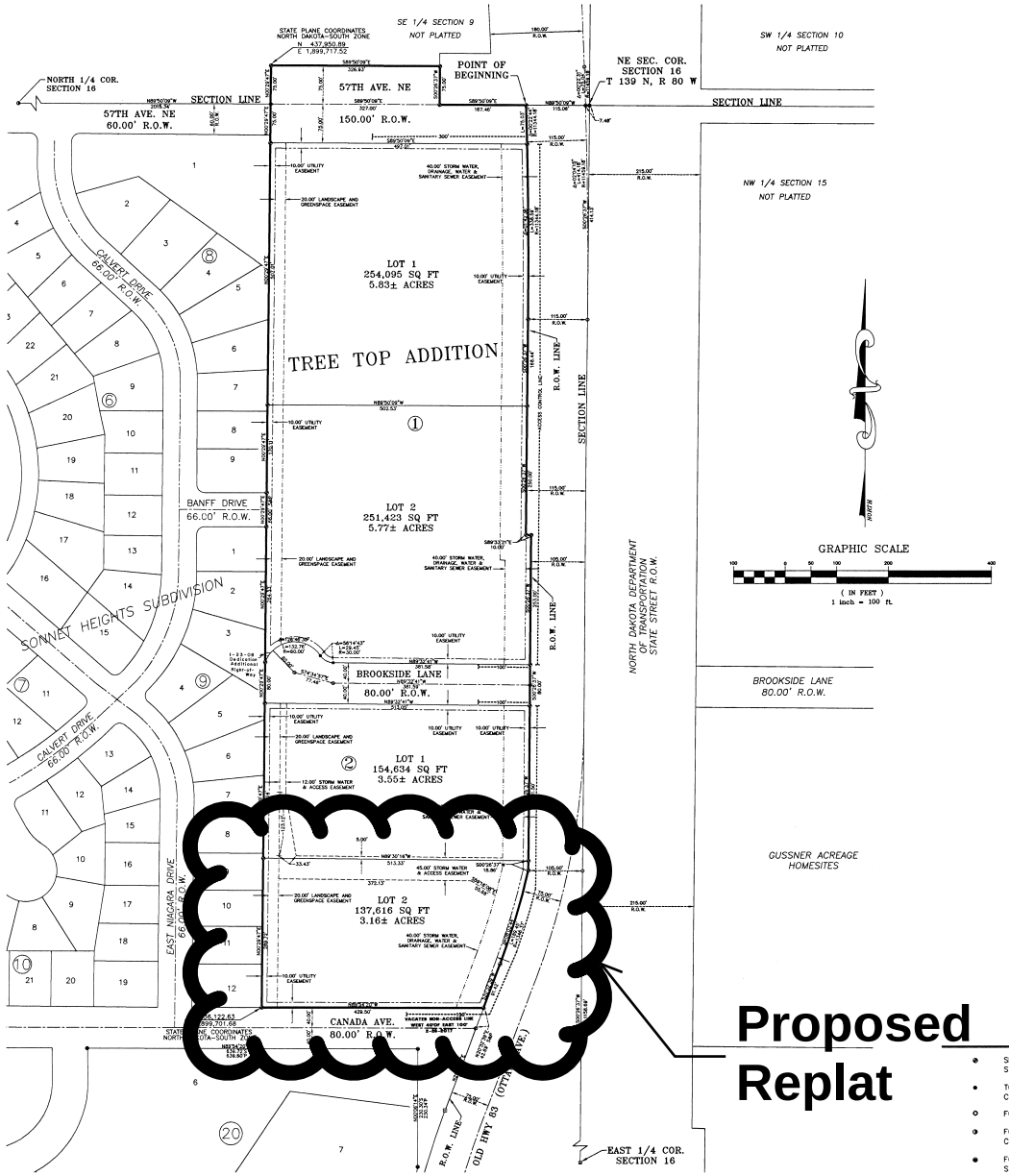
AREA DATA

LOTS	137,428 S.F.	3.15 ACRES
STREETS	16,865 S.F.	0.39 ACRES
TOTAL	154,293 S.F.	3.54 ACRES

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

TREE TOP ADDITION

A PLAT OF LOTS 1 & 2, BLOCK 1 AND LOTS 1 & 2, BLOCK 2 OF TREE TOP ADDITION TO THE CITY OF BISMARCK, LYING IN THE NORTHEAST QUARTER (NE 1/4) OF SECTION 16 AND IN THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 9, ALL IN TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH P.M., BURLEIGH COUNTY, NORTH DAKOTA.



Proposed Replat

BASIS OF BEARINGS

BEARINGS SHOWN ARE GRID BEARINGS BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM, NAD 83, SOUTH ZONE, REFERENCED FROM THE CITY OF BISMARCK GPS CONTROL MONUMENTS "B 4–21" AND "B 36–10".

TOTAL ACREAGE WITHIN PLAT

20.75± ACRES

ACREAGE OF LOTS
18.31± ACRES

ACREAGE OF STREETS
2.44± ACRES

NOTE:

THE LANDSCAPE BUFFER YARD IS REQUIRED TO BE PLANTED IN CONJUNCTION WITH THE SITE DEVELOPMENT.

OWNERS

TREES INVESTORS L.L.P. SECTION 16
555 HWY 1804 NE
BISMARCK, ND 58503
&
TPR PARTNERSHIP SECTION 9

23

OWNER'S DEDICATION

I, the undersigned, hereby certify that I am the owner of the land which is included in this plat, this plat being entitled: A Plat of Lots 1 & 2, Block 1 and Lots 1 & 2, Block 2 of Tree Top Addition to the City of Bismarck, lying in the Northeast Quarter (NE 1/4) of Section 16 and in the Southeast Quarter (SE 1/4) of Section 9, all in Township 139 North, Range 80 West of the 5th P.M., Burleigh County, North Dakota, that the plat has been made at my request and under my direction, for the purpose of defining and describing the property as shown by this plat.

I hereby dedicate to the public, for public use forever as such, the streets, utility easements, storm water and drainage easements, water and sanitary sewer easements, access easements, landscape and greenspace easements, as shown and marked on this plat, including the sewer, culverts, water and other public utility lines.

In witness whereof I have hereunto set my hand this 13 day of May 05.

Trees Investors, L.L.P.
By Michael Todd
Title Owner

CORPORATION ACKNOWLEDGEMENT

STATE OF NORTH DAKOTA } SS
COUNTY OF BURLEIGH }

On this, the 13 day of May 05, before me, the undersigned officer, personally appeared Michael Todd of Trees Investors, L.L.P. a corporation and that he, as such being authorized to do so, executed the foregoing Owner's Dedication by signing the name of the corporation by himself as Michael Todd.

By
Title Owner

STATE OF NORTH DAKOTA } SS
COUNTY OF BURLEIGH }

On this, the 13 day of May 05, before me, the undersigned, a Notary Public, personally appeared Michael Todd known to me to be the person whose name is subscribed to the foregoing instrument, and I hereby acknowledge that he/she executed the foregoing instrument.

In witness whereof, I hereunto set my hand and official seal.

My commission expires 1/6/11

ERIC BRENDEN
Notary Public
State of North Dakota
My Commission Expires Jan. 6, 2011

Notary Public

OWNER'S DEDICATION

I, the undersigned, hereby certify that I am the owner of the land which is included in this plat, this plat being entitled: A Plat of Lots 1 & 2, Block 1 and Lots 1 & 2, Block 2 of Tree Top Addition to the City of Bismarck, lying in the Northeast Quarter (NE 1/4) of Section 16 and in the Southeast Quarter (SE 1/4) of Section 9, all in Township 139 North, Range 80 West of the 5th P.M., Burleigh County, North Dakota, that the plat has been made at my request and under my direction, for the purpose of defining and describing the property as shown by this plat.

I hereby dedicate to the public, for public use forever as such, the streets, as shown and marked on this plat, including the sewer, culverts, water and other public utility lines.

In witness whereof I have hereunto set my hand this 13 day of May 05.

T.P.R. Partnership
By Ron Knutson
Title Owner

CORPORATION ACKNOWLEDGEMENT

STATE OF NORTH DAKOTA } SS
COUNTY OF BURLEIGH }

On this, the 13 day of May 05, before me, the undersigned officer, personally appeared Ron Knutson of T.P.R. Partnership, a corporation and that he, as such being authorized to do so, executed the foregoing Owner's Dedication by signing the name of the corporation by himself as Ron Knutson.

By
Title Owner

STATE OF NORTH DAKOTA } SS
COUNTY OF BURLEIGH }

On this, the 13 day of May 05, before me, the undersigned, a Notary Public, personally appeared Ron Knutson, known to me to be the person whose name is subscribed to the foregoing instrument, and I hereby acknowledge that he/she executed the foregoing instrument.

In witness whereof, I hereunto set my hand and official seal.

My commission expires 1/6/11

ERIC BRENDEN
Notary Public
State of North Dakota
My Commission Expires Jan. 6, 2011

Notary Public

APPROVAL OF CITY PLANNING COMMISSION

The subdivision of land as shown on this plat has been approved by the Planning Commission of the City of Bismarck, on the 29 day of March, 2005, in accordance with the laws of the State of North Dakota, ordinances of the City of Bismarck and regulations adopted by said Planning Commission. In witness whereof are set the hands and seals of the Chairman and the Secretary of the Planning Commission of the City of Bismarck.

David Blackstead
Chairman

Carl D. Hokenstad
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 this plat, has accepted the dedication of all streets shown thereon, has approved the grounds as shown on this plat as an amendment to the Master Plan to the City of Bismarck, North Dakota, and does hereby vacate any previous platting within the boundary of this plat.

The foregoing action of the Board of City Commissioners of Bismarck, North Dakota, was taken by resolution approved on the 26 day of April 2005.

W.C. Wocken
City Administrator

APPROVAL OF CITY ENGINEER

I, Melvin J. Bullinger, City Engineer of the City of Bismarck, North Dakota, hereby approve this plat of Tree Form Addition, as shown on this plat.

Dated this 20th day of May, 2005.

Melvin J. Bullinger, P.E.
City Engineer

MELVIN J. BULLINGER REGISTERED PROFESSIONAL ENGINEER NORTH DAKOTA
5/20/05

PERIMETER METES & BOUNDS DESCRIPTION

A Plat of Lots 1 & 2, Block 1 and Lots 1 & 2, Block 2 of Tree Top Addition to the City of Bismarck, lying in the Northeast Quarter (NE 1/4) of Section 16 and in the Southeast Quarter (SE 1/4) of Section 9, all in Township 139 North, Range 80 West of the 5th P.M., Burleigh County, North Dakota, and being more particularly described as follows:

Commencing at the Northeast Section corner of said Section 16; thence N89°50'09"W along the north section line of said Section 16, a distance of 122.54 feet to the west right-of-way line of State Street and the Point of Beginning; thence southerly along said right-of-way line and an arc of a curve to the right, having a central angle of 00°22'44" and a radius of 11,344.18 feet, a distance of 75.03 feet; thence southerly along said right-of-way line and an arc of a curve to the right, having a central angle of 01°42'36" and a radius of 11,344.18 feet, a distance of 338.59 feet; thence S00°26'37"W along said right-of-way line, a distance of 168.44 feet; thence S89°33'23"E along said right-of-way line, a distance of 10.00 feet; thence S00°26'37"W along said right-of-way line, a distance of 253.00 feet; thence S00°26'37"W along said right-of-way, a distance of 80.00 feet; thence S00°26'37"W along said right-of-way line, a distance of 301.50 feet; thence S00°26'37"W along said right-of-way line, a distance of 18.86 feet; thence southeasterly along said right-of-way line and an arc of a curve to the right, having a central angle of 08°03'44" and a radius of 1346.37 feet, a distance of 189.45 feet; thence S20°32'39"W along said right-of-way line, a distance of 91.42 feet to the north right-of-way line of Canada Ave.; thence N89°54'20"W along said north right-of-way line, a distance of 429.50 feet to the southeast corner of Block 9 of Sonnet Heights Subdivision; thence N00°29'47"E along the east line of said Block 9, a distance of 289.72 feet; thence N00°29'47"E along the east line of said Block 9, a distance of 301.14 feet; thence N00°29'47"E along the east line of said Block 9, a distance of 80.00 feet; thence N00°29'47"E along the east line of said Block 9, a distance of 54.33 feet to the northeast corner of said Block 9; thence N00°29'47"E along the east line of Banff Drive, a distance of 66.00 feet to the southeast corner of Block 8 of said Sonnet Heights Subdivision; thence N00°29'47"E along the east line of said Block 8, a distance of 170.11 feet; thence N00°29'47"E along the east line of said Block 8, a distance of 507.01 feet; thence N00°29'47"E, a distance of 75.00 feet to said north section line; thence N00°29'47"E, a distance of 75.00 feet; thence S89°50'09"E, a distance of 326.93 feet to said west right-of-way line; thence S00°26'37"W along said west right-of-way line, a distance of 75.00 feet to said north section line; thence S89°50'09"E along said north section line, a distance of 167.46 feet to the Point of Beginning, and containing 20.75 acres, more or less.

SURVEYOR'S CERTIFICATE

I, Bruce P. Zelmer, a Licensed Land Surveyor in and for the State of North Dakota, do hereby certify that at the request of Trees Investors, L.L.P. and T.P.R. Partnership, as owners and under their direction, did on or prior to May 2nd, 2005, survey the land described as follows: A Plat of Lots 1 & 2, Block 1 and Lots 1 & 2, Block 2 of Tree Top Addition to the City of Bismarck, lying in the Northeast Quarter (NE 1/4) of Section 16 and in the Southeast Quarter (SE 1/4) of Section 9, all in Township 139 North, Range 80 West of the 5th P.M., Burleigh County, North Dakota.

I also hereby certify that this Plat is a correct representation of the survey, that all distances are correct and monuments are placed in the ground as shown, and that the outside boundary lines are correctly designated on the Plat, and that this Plat is to the best of my knowledge and belief, in all respects, a true description of the same.

Dated this 12th day of MAY, 2005.

Bruce P. Zelmer, L.S. #3756

BRUCE P. ZELMER REGISTERED LAND SURVEYOR LS-3756 NORTH DAKOTA

STATE OF NORTH DAKOTA } SS
COUNTY OF BURLEIGH }

On this, the 12th day of May 2005, before me, the undersigned, a Notary Public, personally appeared Bruce P. Zelmer, a Licensed Land Surveyor in and for the State of North Dakota, known to me to be the person whose name is subscribed to the foregoing Surveyor's Certificate, and I hereby acknowledge that he executed the foregoing instrument.

In witness whereof, I hereunto set my hand and official seal.

My commission expires Dec 24 2009

Notary Public

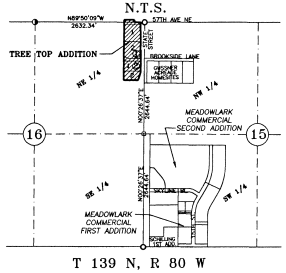
DARIN A. SCHAEFFER
Notary Public
State of North Dakota
My Commission Expires Dec. 24, 2009

LEGEND

- ⊕ SET, 5/8"x18" REBAR W/ L.S. CAP STAMPED "ZELMER #3756"
- • TO BE SET, 5/8"x18" REBAR W/ L.S. CAP STAMPED "ZELMER #3756"
- ○ FOUND P.K. NAIL
- ◑ FOUND IRON MONUMENT W/ ALUM L.S. CAP STAMPED "ULTEIG ENG. #1202"
- ● FOUND IRON MONUMENT W/ L.S. CAP STAMPED "SH & CO. #3595"
- ■ COMPUTED CORNER LOCATION
- ○ COMPUTED ROADWAY POINT
- ********** NON ACCESS LINE
- S SURVEYED DISTANCE
- P PLATTED DISTANCE

LOCATION MAP

N.T.S.



T 139 N, R 80 W

SURVEYOR

BRUCE P. ZELMER, LS
BARTLETT & WEST ENGINEERS, INC.
3456 EAST CENTURY AVE.
BISMARCK, ND 58501

DATE

May 13, 2005

Prepared By:
BARTLETT & WEST ENGINEERS
3456 E. Century Ave.
Bismarck, North Dakota 58503
701-258-1110
FAX 701-258-1111
www.bartwest.com

Bismarck COMMUNITY DEVELOPMENT

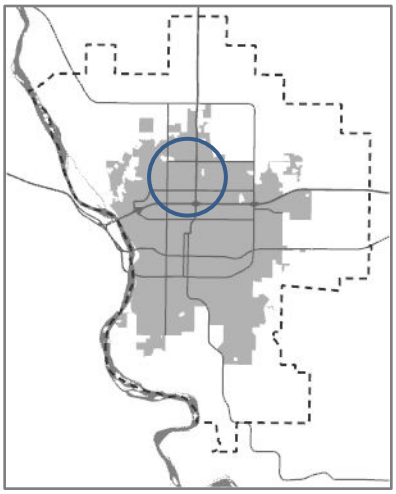
STAFF REPORT

Agenda Item #5
July 28, 2021

Application for: **Minor Subdivision Final Plat** Project ID: **MPLT2021-005**
Special Use Permit **SUP2021-007**

Project Summary

Title:	Menards Addition First Replat and Special Use Permit for Lot 2, Block 1, Menards Addition First Replat
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	First Community Credit Union
Project Contact:	Landon Niemiller, Swenson, Hagen & Co. Aaron Stenberg, Duemeland's Retail
Location:	In north Bismarck, north of Century Avenue and west of State Street, along the south and east side of Weiss Avenue (a replat of part of Lot 1, Block 2, Menards Addition)
Project Size:	1.38 acres
Request:	Replat property into two lots to allow for the development of a drive-through in conjunction with a coffee shop on Lot 2



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 parcel	*Number of Lots:*	2 lots in 1 block
Land Use:	Financial institution with drive-through	*Land Use:*	Financial Institution and coffee shop with drive-throughs
Future Land Use:	Already zoned. Not in Future Land Use Plan	*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:	CG – 42 units / acre	*Max Density:*	CG – 42 units / acre

Property History

Zoned:	06/1998	*Platted:*	02/1999	*Annexed:*	05/1998

(continued)

Staff Analysis

Background

First Community Credit Union and Duemelands Retail are requesting approval of a minor subdivision final plat for Menards Addition First Replat and approval of a special use permit to allow a drive-in/drive-through in conjunction with a coffee shop on Lot 2 of the proposed plat (the northern lot).

The public has been duly notified of these requests. A notice was published in the Bismarck Tribune on July 16th and July 23rd, and 11 letters were mailed to the owners of nearby properties on July 16th.

Adjacent uses include a mix of retail uses to the north across Weiss Avenue, east across US Highway 83/State Street, south and west across Weiss Avenue.

Minor Subdivision Final Plat

The minor subdivision final plat would replat an existing parcel to create two lots. The southern lot (Lot 1) is the site of the existing First Community Credit Union financial institution with a drive-through. The northern lot (Lot 2) would be developed as a coffee shop with a drive-through.

The proposed plat provides sufficient access easements across both of the proposed lots from the existing access point along Weiss Avenue. No other access points are proposed. Existing non-access lines along US Highway 83/State Street and the majority of Weiss Avenue are included on the proposed plat.

The creation 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.

Special Use Permit

The property is located in the CG -Commercial zoning district. A drive-in/drive-throughin conjunction with a coffee-shop may be permitted as a special use in the CG - Commercial zoning district provided certain criteria are met.

The following criteria from Section 14-03-08(3)(g) of the City Code of Ordinances (Special Uses/Drive-in/drive-through retail or service establishments) apply:

1. *"The lot area, lot width, front yard, side yards, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located."*

   The proposed coffee shop lot meets all dimensional standards for the CG – Commercial zoning district.

2. *"Access to and egress from a drive-in/drive-through establishment 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."*

   Access to and egress from the proposed drive-through is arranged to ensure the free flow of vehicles at all times. The site plan submitted with the application indicates the access easement to the coffee-shop will be striped and will be signed. The proposed access configuration and stacking spaces will not impede the existing stacking spaces for the financial institution once the ATM on the southernmost drive-through bay is removed or relocated. As a condition of approval, staff recommends that prior to approval of the site plan, the ATM on the

(continued)

southern most drive-through bay for the financial institution is removed and that adequate signage is provided to clearly denote the stacking spaces and queuing lane for the proposed coffee-shop.

3. *"Adequate off-street parking shall be provided in conformance with section 14-03-10 of this ordinance. 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."*

   The proposed coffee shop is a drive-through only. It is 580 square feet in size and will require 8 parking stalls. According to the site plan submitted 8 parking stalls are provided. The existing financial institution requires 13.5 stalls and 14 parking stalls are provided.

   The proposed coffee-shop drive-through requires 10 vehicle stacking spaces. According to the site plan submitted,10 stacking spaces are provided within a proposed access easement. The existing financial institution requires 4 stacking spaces for the first drive-through lane and 3 stacking spaces for each additional lane. According to the site plan submitted, sufficient stacking spaces are provided.

4. *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 street."*

   Access to both sites is from an existing access point on the southern portion of the proposed plat along Weiss Avenue. This access point is 154 feet from the intersection which meets this requirement.

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. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall comply with the standards established by the city engineer."*

   No changes to the existing access point are proposed. As constructed, the existing access point meets this requirement.

6. *"On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines."*

   The site plan submitted with the application does not fully detail the placement and types of landscaping that may be provided on site. The applicant has indicated the landscaping will meet and satisfy the requirements of Section 14-03-11 (Landscaping and Screening) of the City Code of Ordinances. During site plan review, staff will verify this provision is met.

Required Findings of Fact **(relating to land use)**

Minor Subdivision Final Plat

(continued)

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. The City Engineer has waived the requirement for a Post-Construction Stormwater Management Permit (PCSMP);
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Special Use Permit

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 minor subdivision final plat for Menards Addition First Replat and approval of the special use permit to allow a drive-in/drive-through in conjunction with a coffee shop on Lot 2, Block 1, Menards Addition First Replat with the following condition:

1. The site plan submitted must generally conform the site plan submitted for the special use permit.
2. The existing ATM on the southern most drive-through bay of the financial institution on Lot 1, Block 1, Menards Addition First Replat must be removed or relocated prior to approval of the site plan.
3. Adequate signage must be provided to clearly denote the stacking spaces and queuing lane for the proposed coffeeshop within Lot 2, Block 1, Menards Addition First Replat.

Attachments

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Minor Plat
5. Original Plat with Replatted Area Highlighted
6. Proposed Site Plan

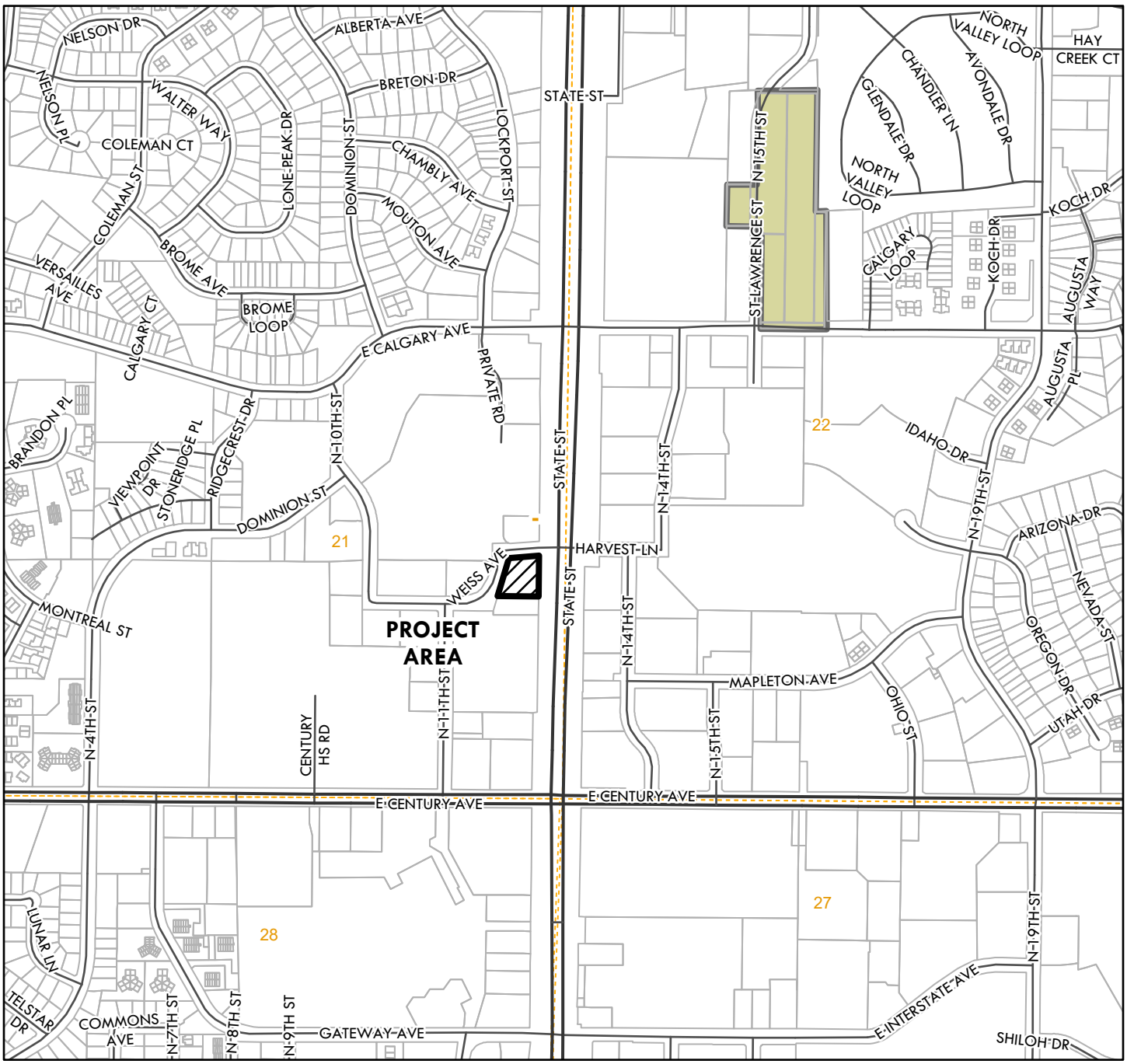
(continued)

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

Location Map

MENARDS ADDITION FIRST REPLAT

MPLT2021-005
SUP2021-007



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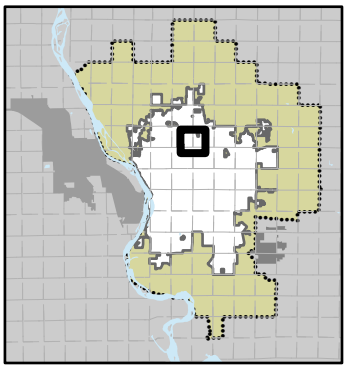


City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
June 15, 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.

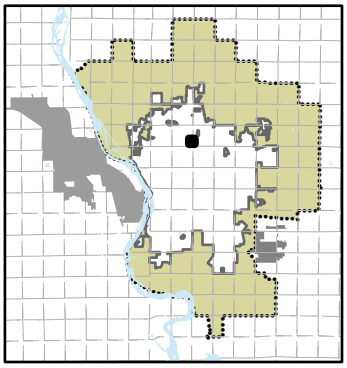
Aerial Map

MENARDS ADDITION FIRST REPLAT

MPLT2021-005
SUP2021-007

0 0.05 0.1 0.19 Miles

City Limits Bismarck ETA Jurisdiction



Aerial Imagery from April 2020

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

Zoning and Plan Reference Map

MENARDS ADDITION FIRST REPLAT

MPLT2021-005
SUP2021-007

Zoning Districts

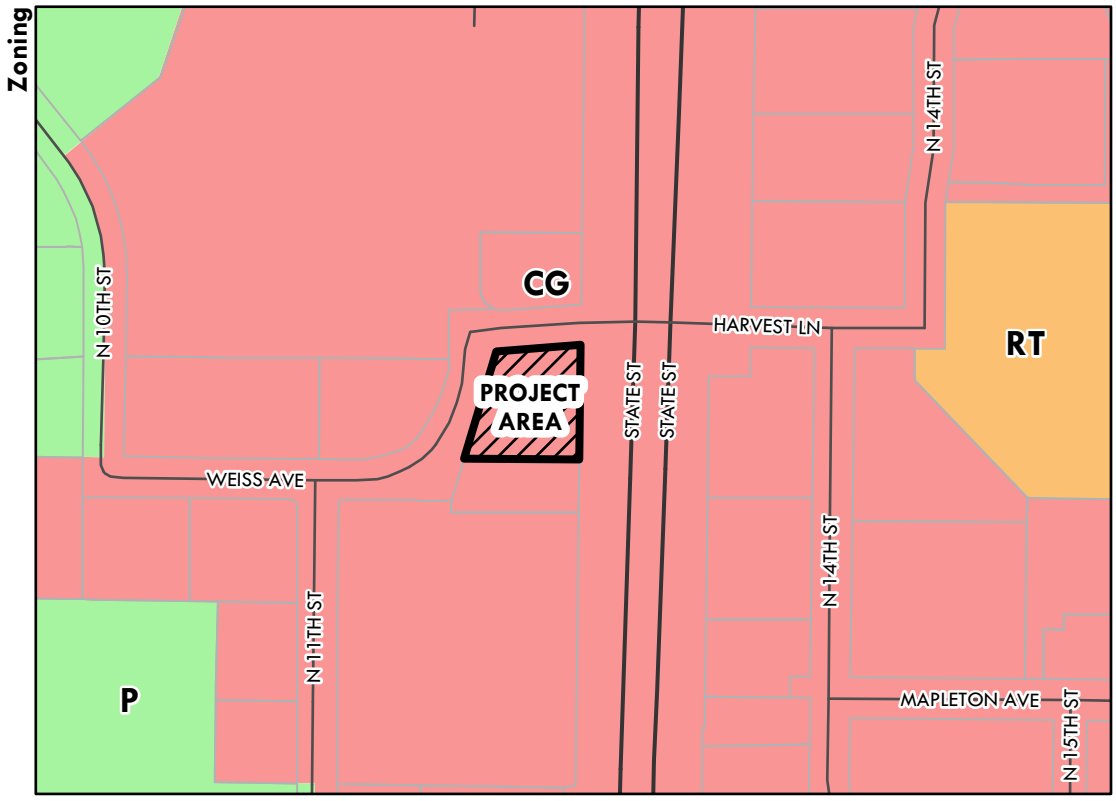
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

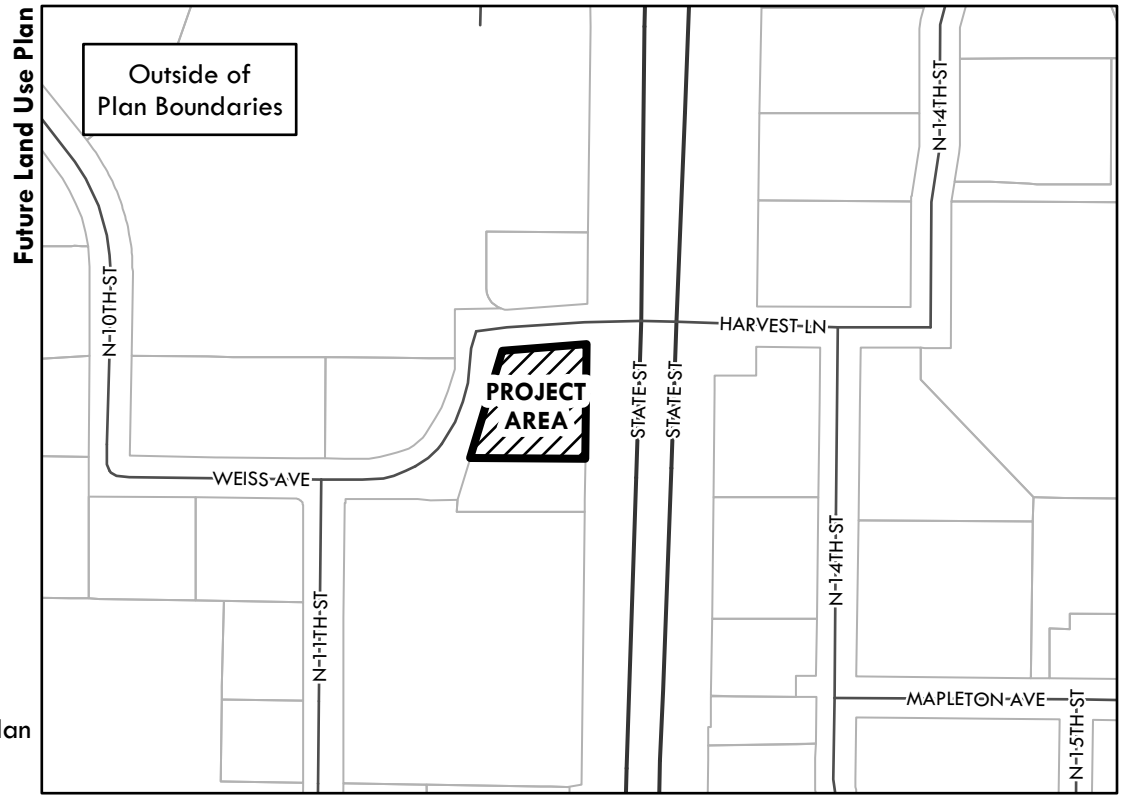
Future Land Use Plan

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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Miles
0 0.05 0.1 0.19

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

MENARDS ADDITION FIRST REPLAT

BEING A REPLAT OF PART OF LOT 1 BLOCK 2 MENARDS ADDITION AND PART OF WEISS AVENUE RIGHT-OF-WAY OF THE SE 1/4 OF SECTION 21, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIPTION

BEING A REPLAT OF PART OF LOT 1 BLOCK 2 MENARDS ADDITION AND PART OF WEISS AVENUE RIGHT-OF-WAY OF THE SE 1/4 OF SECTION 21, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 00 DEGREES 38 MINUTES 31 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 226.73 FEET; THENCE NORTH 89 DEGREES 35 MINUTES 23 SECONDS WEST, A DISTANCE OF 269.79 FEET TO THE CENTERLINE OF WEISS AVENUE RIGHT-OF-WAY; THENCE NORTH 16 DEGREES 38 MINUTES 20 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 260.16 FEET; THENCE NORTH 85 DEGREES 28 MINUTES 41 SECONDS EAST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 198.90 FEET TO THE NORTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 2; THENCE SOUTH 00 DEGREES 38 MINUTES 31 SECONDS WEST, ALONG SAID NORTHERLY EXTENSION, A DISTANCE OF 40.16 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 60,129 SF, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, MATTHEW STERN, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THIS PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON _____. 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

_____
MATTHEW STERN
PROFESSIONAL LAND SURVEYOR
N.D. REGISTRATION NO. _____

APPROVAL OF PLANNING AND ZONING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT HAS BEEN APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK, ON THE _____ 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 ATTIEST
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 THIS PLAT, HAS ACCEPTED THE RE-DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE 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.

_____
ATTIEST
KEITH J. HUNKE – CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "MENARDS ADDITION FIRST REPLAT", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THIS PLAT.

_____
GABRIEL J. SCHELL
CITY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT FIRST COMMUNITY CREDIT UNION, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "MENARDS ADDITION FIRST REPLAT", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO 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.

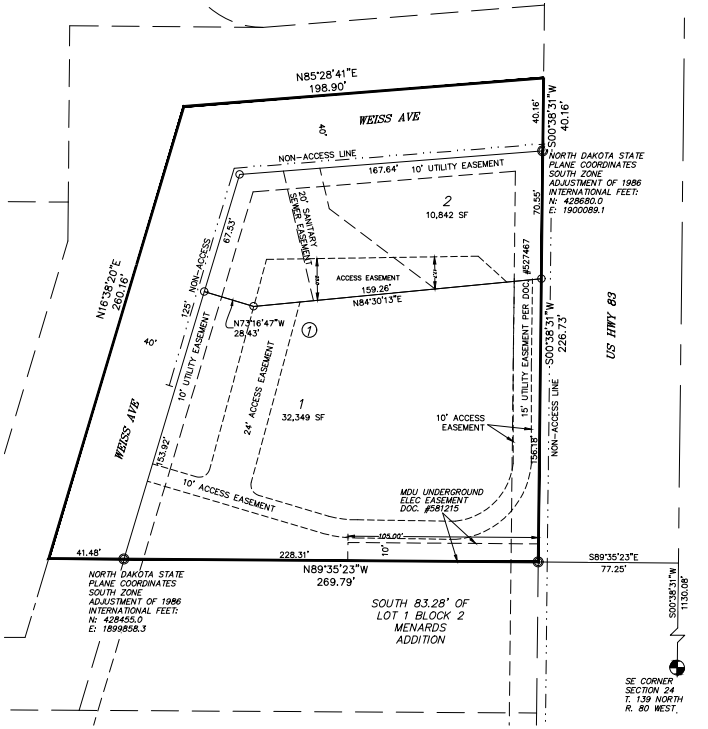
THEY ALSO DEDICATE AN ACCESS EASEMENT TO ALL LAND OWNING PARTIES FOR THE PURPOSES CONNECTED WITH THE USE OF THE OWNER, TO PASS, AND REPASS ALONG SAID EASEMENT, AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, ITS OFFICERS AND EMPLOYEES FOR ANY GOVERNMENTAL SE OR USES IT DEEMS NECESSARY OR ADVISABLE.

STATE OF NORTH DAKOTA)
)
COUNTY OF _____)

_____
FIRST COMMUNITY CREDIT UNION
111 SW 7TH ST
DICKINSON, ND 58401

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED _____ OF FIRST COMMUNITY CREDIT UNION, 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 _____



JUNE 17, 2021
SCALE 1" = 30'
NGVD 29

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 LOT 1 BLOCK 1
MENARDS ADDITION FIRST REPLAT
ELEV. 1814.35 (NGVD 29)

AREA DATA

LOTS	43,191 S.F.	0.99 ACRES
STREETS	16,938 S.F.	0.39 ACRES
TOTAL	60,129 S.F.	1.38 ACRES

SWENSON, HAGEN & COMPANY P.C.
909 Basin Avenue
Bismarck, North Dakota 58504
shrag@swensonhagen.com
Phone (701) 223 - 2690
Fax (701) 223 - 2696
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

1350

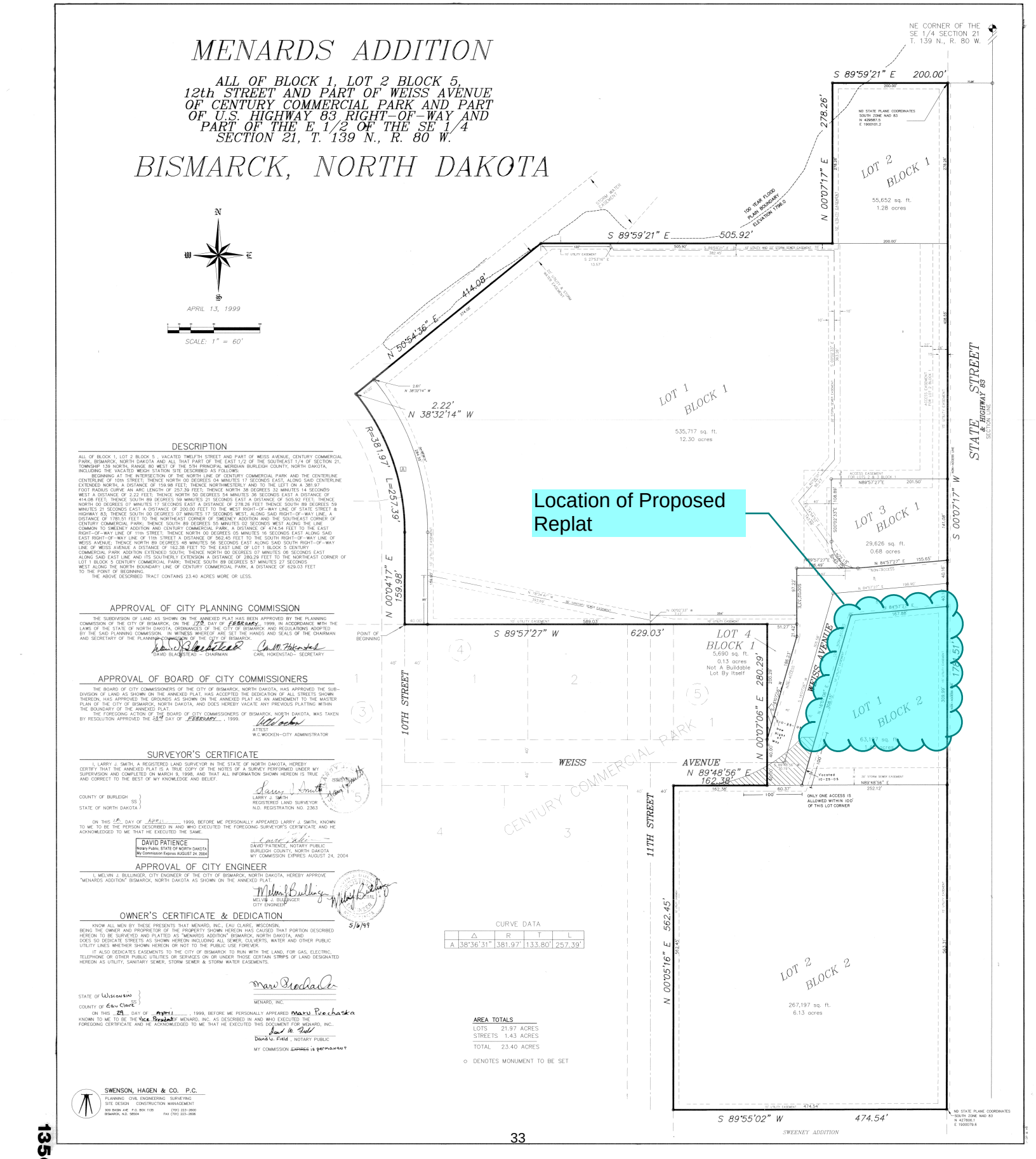
MENARDS ADDITION

ALL OF BLOCK 1, LOT 2 BLOCK 5, 12th STREET AND PART OF WEISS AVENUE OF CENTURY COMMERCIAL PARK AND PART OF U.S. HIGHWAY 83 RIGHT-OF-WAY AND PART OF THE E 1/2 OF THE SE 1/4 SECTION 21, T. 139 N., R. 80 W.

BISMARCK, NORTH DAKOTA

APRIL 13, 1999

SCALE: 1" = 60'



DESCRIPTION

ALL OF BLOCK 1, LOT 2 BLOCK 5 , VACATED TWELFTH STREET AND PART OF WEISS AVENUE, CENTURY COMMERCIAL PARK, BISMARCK, NORTH DAKOTA AND ALL THAT PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 21, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN BURLEIGH COUNTY, NORTH DAKOTA, INCLUDING THE VACATED WEIGH STATION SITE DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF CENTURY COMMERCIAL PARK AND THE CENTERLINE CENTERLINE OF 10th STREET; THENCE NORTH 00 DEGREES 04 MINUTES 17 SECONDS EAST, ALONG SAID CENTERLINE EXTENDED NORTH, A DISTANCE OF 159.98 FEET; THENCE NORTHWESTERLY AND TO THE LEFT ON A 381.97 FOOT RADIUS CURVE AN ARC LENGTH OF 257.39 FEET; THENCE NORTH 38 DEGREES 32 MINUTES 14 SECONDS WEST A DISTANCE OF 2.22 FEET; THENCE NORTH 50 DEGREES 54 MINUTES 36 SECONDS EAST A DISTANCE OF 414.08 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 21 SECONDS EAST A DISTANCE OF 505.92 FEET; THENCE NORTH 00 DEGREES 07 MINUTES 17 SECONDS EAST A DISTANCE OF 278.26 FEET THENCE SOUTH 89 DEGREES 59 MINUTES 21 SECONDS EAST A DISTANCE OF 200.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF STATE STREET & HIGHWAY 83; THENCE SOUTH 00 DEGREES 07 MINUTES 17 SECONDS WEST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1781.51 FEET TO THE NORTHEAST CORNER OF SWEENEY ADDITION AND THE SOUTHEAST CORNER OF CENTURY COMMERCIAL PARK; THENCE SOUTH 89 DEGREES 55 MINUTES 02 SECONDS WEST ALONG THE LINE COMMON TO SWEENEY ADDITION AND CENTURY COMMERCIAL PARK, A DISTANCE OF 474.54 FEET TO THE EAST RIGHT-OF-WAY LINE OF 11th STREET; THENCE NORTH 00 DEGREES 05 MINUTES 16 SECONDS EAST ALONG SAID EAST RIGHT-OF-WAY LINE OF 11th STREET A DISTANCE OF 562.45 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF WEISS AVENUE; THENCE NORTH 89 DEGREES 48 MINUTES 56 SECONDS EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE OF WEISS AVENUE A DISTANCE OF 162.38 FEET TO THE EAST LINE OF LOT 1 BLOCK 5 CENTURY COMMERCIAL PARK ADDITION EXTENDED SOUTH; THENCE NORTH 00 DEGREES 07 MINUTES 06 SECONDS EAST ALONG SAID EAST LINE AND ITS SOUTHERLY EXTENSION A DISTANCE OF 280.29 FEET TO THE NORTHEAST CORNER OF LOT 1 BLOCK 5 CENTURY COMMERCIAL PARK; THENCE SOUTH 89 DEGREES 57 MINUTES 27 SECONDS WEST ALONG THE NORTH BOUNDARY LINE OF CENTURY COMMERCIAL PARK, A DISTANCE OF 629.03 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 23.40 ACRES MORE OR LESS.

APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE 17th DAY OF FEBRUARY, 1999, IN ACCORDANCE WITH THE 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.

DAVID BLADSTEAD – CHAIRMAN

CARL HOKENSTAD– SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUB-DIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED 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 ANNEXED PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE 23rd DAY OF FEBRUARY, 1999.

ATTEST:
W.C.WOCKEN–CITY ADMINISTRATOR

SURVEYOR'S CERTIFICATE

I, LARRY J. SMITH, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON MARCH 9, 1998, AND THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

LARRY J. SMITH
REGISTERED LAND SURVEYOR
N.D. REGISTRATION NO. 2363

COUNTY OF BURLEIGH } SS
STATE OF NORTH DAKOTA }

ON THIS 28 DAY OF APRIL, 1999, BEFORE ME PERSONALLY APPEARED LARRY J. SMITH, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

DAVID PATIENCE
Notary Public STATE OF NORTH DAKOTA
My Commission Expires AUGUST 24, 2004

DAVID PATIENCE, NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES AUGUST 24, 2004

APPROVAL OF CITY ENGINEER

I, MELVIN J. BULLINGER, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "MENARDS ADDITION" BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

MELVIN J. BULLINGER
CITY ENGINEER

5/6/99

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT MENARD, INC., EAU CLAIRE, WISCONSIN, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "MENARDS ADDITION" BISMARCK, NORTH DAKOTA, AND DOES SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

IT ALSO DEDICATES 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, SANITARY SEWER, STORM SEWER & STORM WATER EASEMENTS.

MARV PRECHASKA
MENARD, INC.

STATE OF Wisconsin }
COUNTY OF Eau Claire }

ON THIS 29 DAY OF April, 1999, BEFORE ME PERSONALLY APPEARED Marv Prechaska KNOWN TO ME TO BE THE Vice President OF MENARD, INC. AS DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THIS DOCUMENT FOR MENARD, INC..

Dana W. Field, NOTARY PUBLIC

MY COMMISSION ~~EXPIRES~~ is permanent

CURVE DATA

	Δ	R	T	L
A	38°36'31"	381.97'	133.80'	257.39'

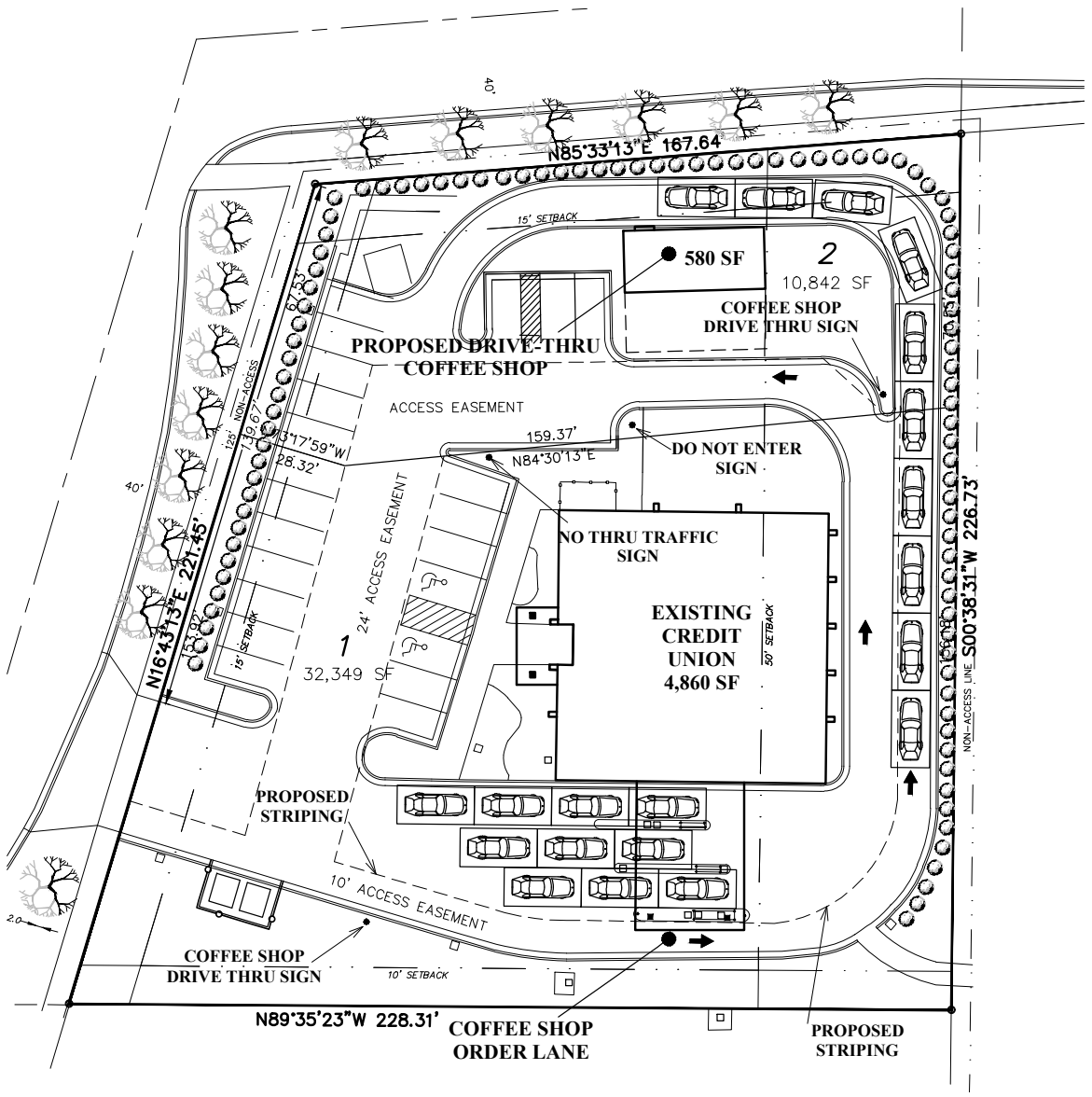
AREA TOTALS

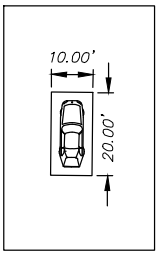
LOTS	21.97 ACRES
STREETS	1.43 ACRES
TOTAL	23.40 ACRES

○ DENOTES MONUMENT TO BE SET

SWENSON, HAGEN & CO. P.C.
PLANNING CIVIL ENGINEERING SURVEYING
SITE DESIGN CONSTRUCTION MANAGEMENT
909 BASIN AVE P.O. BOX 1135 (701) 223-2600
BISMARCK, N.D. 58504 FAX (701) 223-2606

1350





20 ' X 10' TYP. REQUIRED VEHICLE STACKING

PROPOSED COFFEE SHOP :

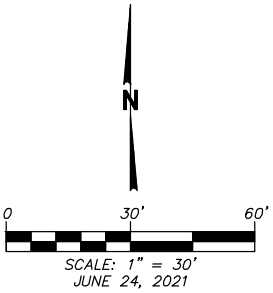
VEHICLE STACKING:
REQUIRED: 10 STACKING SPACES
PROVIDED: 10 + STACKING SPACES

PARKING:
REQUIRED: 580 SF / 240SF = 2.5 STALLS
PROVIDED: 8 STALLS

EXISTING CREDIT UNION:

VEHICLE STACKING:
REQUIRED: 4 SPACES FOR FIRST LANE
3 SPACES EACH ADDITIONAL LANE
PROVIDED: 10 STACKING SPACES

PARKING:
REQUIRED: 4860 SF / 360 SF = 13.5 STALLS
PROVIDED: 14 STALLS



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

EXHIBIT 1.0 - SPECIAL USE PERMIT
MENARDS ADDITION FIRST REPLAT

P:\Bismarck\Menards Add\Menards Add 1st Replat\SUP.dwg, 7/13/2021 12:36:59 PM, MadisonK, 1:1

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

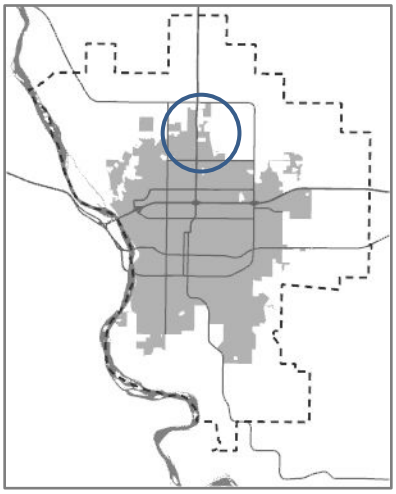
Agenda Item #6
July 28, 2021

Application for: **Special Use Permit**

Project ID: **SUP2021-010**

Project Summary

Title:	Lot 1, Block 1, Memory Third Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	TPR Partnership, LLC and Belfield Access Terminal, LLC
Project Contact:	CFT NV Developments, LLC
Location:	In north Bismarck, along the east side of US Highway 83/State Street and the south side of Brookside Lane
Project Size:	1.03 acres
Request:	Install a drive-through in conjunction with a new fast food restaurant



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	*Number of Lots:*	1 lot in 1 block
Land Use:	Vacant	*Land Use:*	Fast food restaurant
Future Land Use:	Already zoned. Not in Future Land Use Plan	*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:	CG – 42 units / acre	*Max Density:*	CG – 42 units / acre

Property History

Zoned:	07/2021	*Platted:*	07/2021	*Annexed:*	Pending

Staff Analysis

TPR Partnership, LLC, Belfield Access Terminal, LLC and CFT NV Developments, LLC are requesting approval of a special use permit to allow a drive-in/drive-through in conjunction with a fast food restaurant on Lot 1, Block 1, Memory Third Addition.

(continued)

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on July 16th and July 23rd, and 156 letters were mailed to the owners of nearby properties on July 16th.

Adjacent uses include a warehouse retail store to the north, rural residential to east, stormwater facilities and mixed commercial uses to the south, and mixed commercial uses to the west across US Highway 83/State Street.

The property is located in the CG - Commercial zoning district. A drive-in/drive-through retail or service establishment may be permitted as a special use in the CG – Commercial zoning district provided certain criteria are met.

The following criteria from Section 14-03-08(3)(g) of the City Code of Ordinances (Special Uses/Drive-in/drive-through retail or service establishments) apply:

1. *"The lot area, lot width, front yard, side yards, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located."*

   According to the site plan submitted with the application all dimensional requirements for a structure and appurtenances within the CG – Commercial zoning district will be met.

2. *"Access to and egress from a drive-in/drive-through establishment 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."*

   Access to the site and the drive-through will be from the east off of Brookside Place. The proposed establishment would be arranged for the free flow of vehicles at times.

3. *"Adequate off-street parking shall be provided in conformance with section 14-03-10 of this ordinance. 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."*

   The indicated 67 off-street parking on the submitted site plan exceeds the 18 parking spaces required for a fast food restaurant. The site plan indicates a total of 19 vehicle stacking spaces which exceeds the required 12 spaces required.

4. *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 street."*

   The ingress/egress point for the proposed establishment is 83 feet which exceeds the required 40 feet distance from the intersection of Brookside Lane and Brookside Place.

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. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall comply with*

(continued)

the standards established by the city engineer."

According to the site plan submitted with the application, this condition will be met.

6. *"On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines."*

   The site plan submitted with the application does not fully detail the placement and types of landscaping that may be provided on site. The applicant has indicated the landscaping will meet and satisfy the requirements of Section 14-03-11 (Landscaping and Screening) of the City Code of Ordinances. During site plan review, staff will verify this provision is met.

The plat of Memory Third Addition was recently recorded. At this time the developer has not installed Brookside Place and the associated utilities along the east side of the property, which will provide the required access and services to this site. A building permit will not be issued until water and sewer are either under contract or installed. Prior to issuance of a Certificate of Occupancy, staff will verify the street has been installed.

During the platting process, an access point was platted along the north side of this lot onto Brookside Lane that carried conditions for utilization, if requested. The applicant has indicated they do not have desire to exercise the option to utilize that access point. As a condition of site plan approval, a plat modification to remove the break in the non-access line will be required.

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 a drive-in/drive-through in conjunction with a fast food restaurant on Lot 1, Block 1, Memory Third Addition with the following condition:

(continued)

1. The site plan submitted must generally conform the site plan submitted for the special use permit

2. Aerial Map
3. Zoning and Plan Reference Map
4. Proposed Site Plan

Attachments

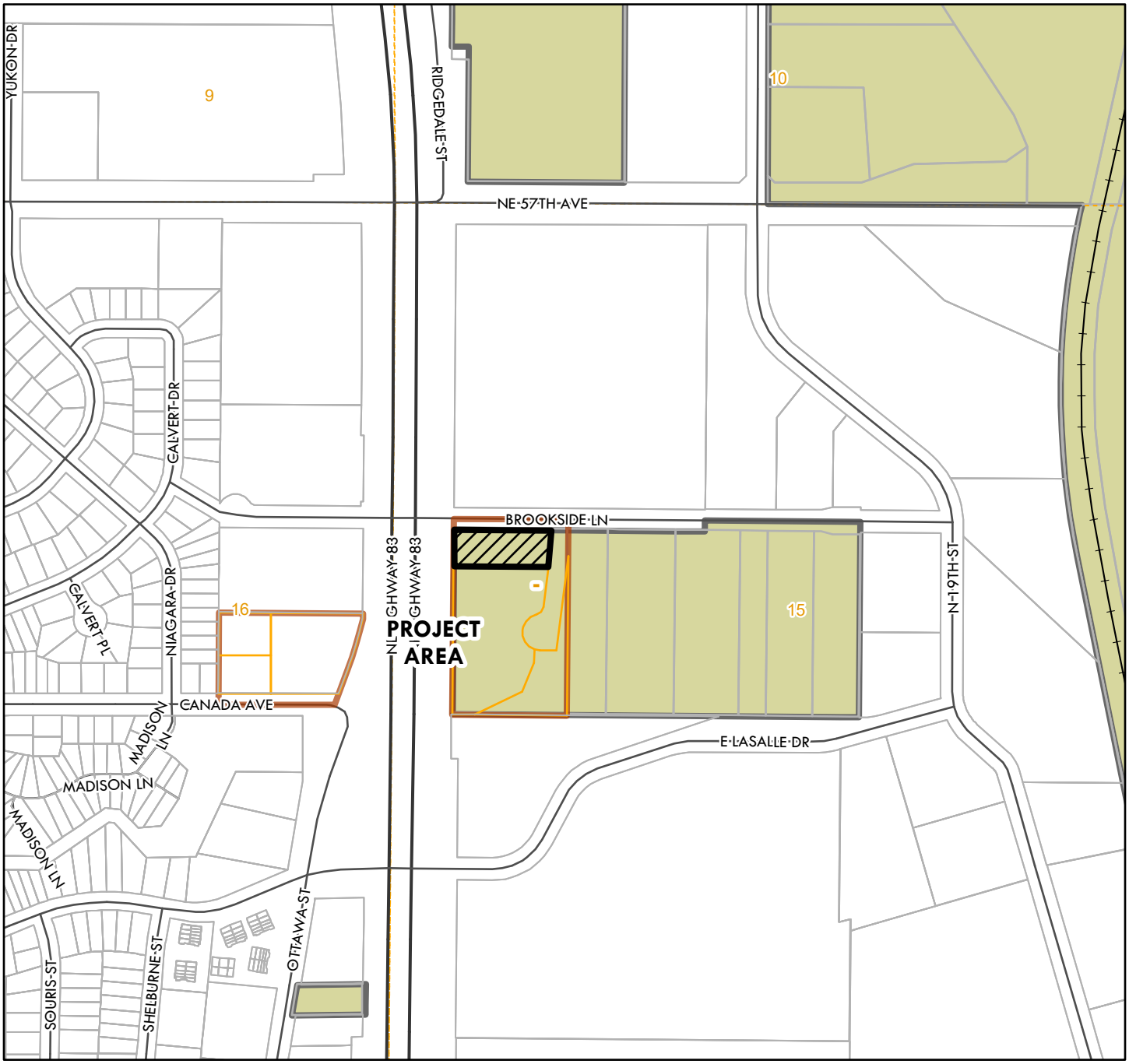
1. Location Map

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

Location Map

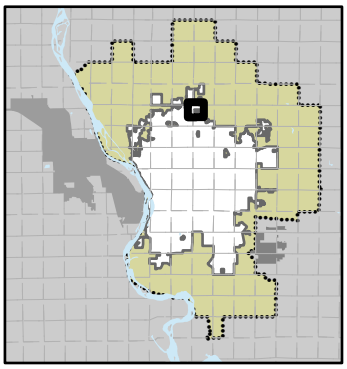
MEMORY THIRD ADDITION, L1, B1

SUP2021-010



0 0.1 0.2 0.4 Miles

N



City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Lots Pending Approval

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
July 20, 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

MEMORY THIRD ADDITION, L1, B1

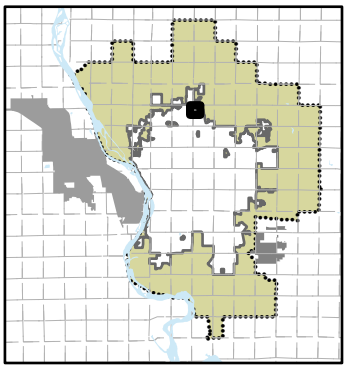
SUP2021-010

0 0.07 0.15 0.3 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
July 20, 2021

Zoning and Plan Reference Map

MEMORY THIRD ADDITION

SUP2021-010

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
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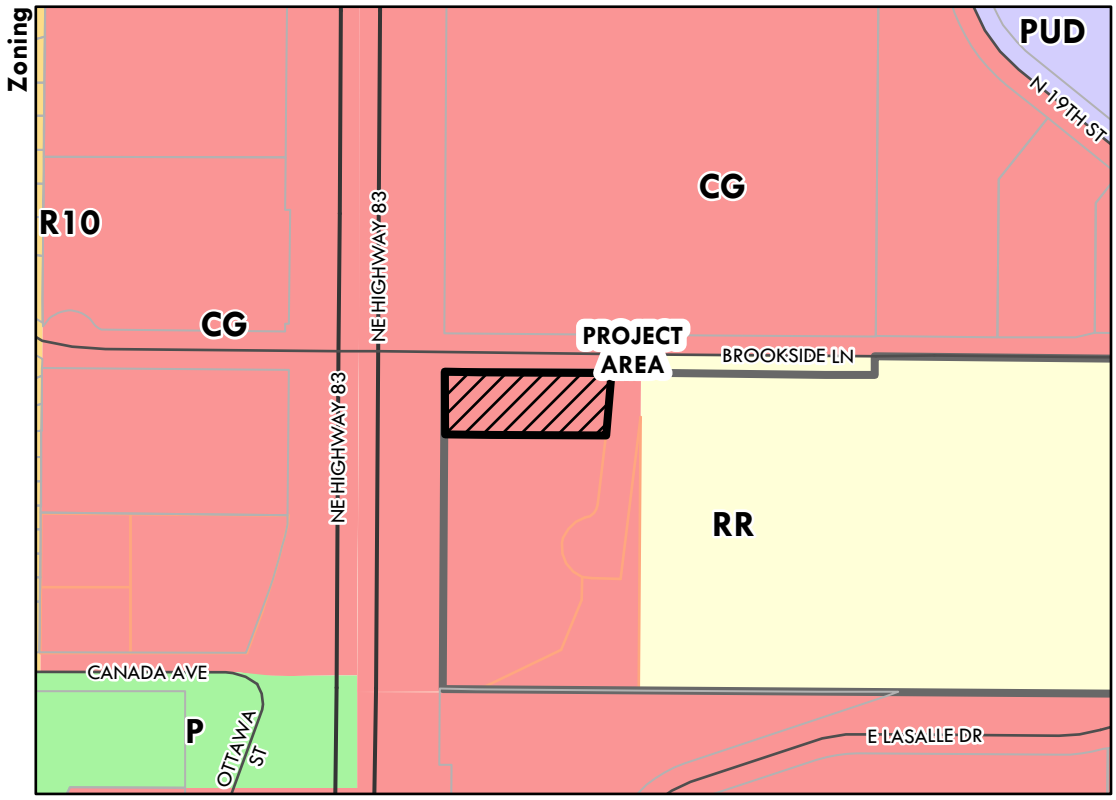
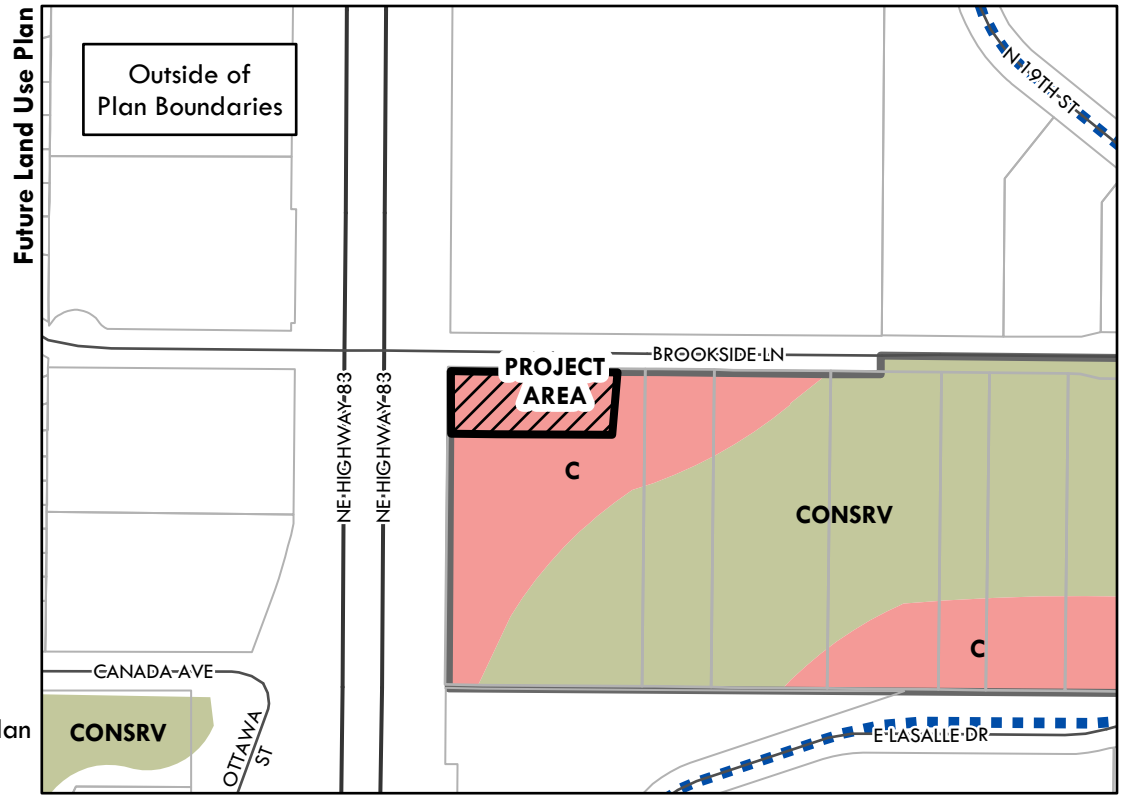
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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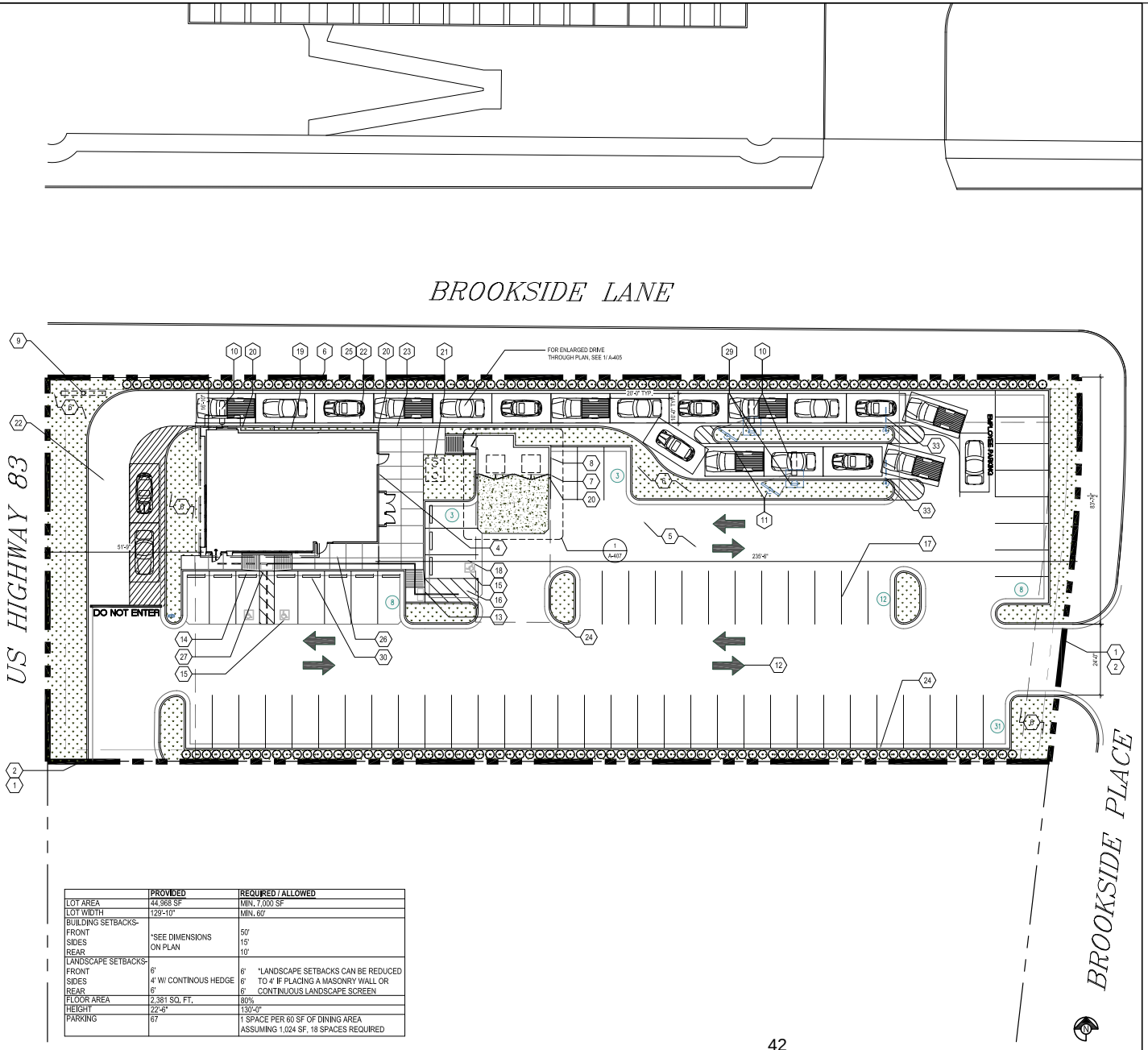
City of Bismarck
Community Development Dept.
Planning Division
July 20, 2021



	PROVIDED	REQUIRED / ALLOWED
LOT AREA	44,968 SF	MIN. 7,000 SF
LOT WIDTH	129'-10"	MIN. 60'
BUILDING SETBACKS-		
FRONT		50'
SIDES	*SEE DIMENSIONS ON PLAN	15'
REAR		10'
LANDSCAPE SETBACKS-		
FRONT	6'	6' *LANDSCAPE SETBACKS CAN BE REDUCED
SIDES	4' W/ CONTINOUS HEDGE	6' TO 4' IF PLACING A MASONRY WALL OR
REAR	6'	6' CONTINUOUS LANDSCAPE SCREEN
FLOOR AREA	2,381 SQ. FT.	80%
HEIGHT	22'-6"	130'-0"
PARKING	67	1 SPACE PER 60 SF OF DINING AREA ASSUMING 1,024 SF, 18 SPACES REQUIRED

DEMOLITION NOTE:
G.C. TO REMOVE ALL EXISTING ABOVE/UNDER GROUND STRUCTURAL WALLS, FOUNDATION, ASPHALT, CONC. CURBS AND DEBRIS PRIOR TO NEW CONSTRUCTION.

GENERAL NOTE:
1. G.C. TO VERIFY AND PROVIDE ALL UNDERGROUND WIRING AND CONDUIT(INSTALLED BY LOCAL UTILITY COMPANY) FROM TRANSFORMER TO ELECTRICAL MAIN SWITCHGEAR, DRIVE THRU, MENU BOARD, BY G.C., VERIFY WITH PANDA PM.
2. WATER METER FOR IRRIGATION SHALL BE A SEPARATE METER THAN MAIN WATER METER. G.C. TO REFERENCE CIVIL UTILITY PLAN FOR SIZE AND LOCATION.
3. PROVIDE & INSTALL CAGE AND COVER FOR THE BACK-FLOW PREVENTER AT 4" CONCRETE CURB IN LANDSCAPE AREA; GORILLA CAGE, MANUFACTURED BY HOUSTON IRRIGATION SERVICES SPRING, TEXAS (281-705-9701), PROVIDE INSULATED COVER, 'AQUA SHIELD' MODEL # BFP1-S FOR COLDER REGIONS OF US. COORDINATE WITH PANDA PM. REFER TO DETAIL 11/ A-407
4. FOR HORIZONTAL CONTROL PLAN REFER TO CIVIL DRAWINGS

1. LIMIT OF CONSTRUCTION
2. PROPERTY LINE
3. NOT USED
4. NEW SWITCHGEAR
5. PAVING - SEE CIVIL PLAN
6. IRRIGATED LANDSCAPING, REFER TO LANDSCAPE DRAWINGS
7. HEAVY DUTY CONCRETE APRON FOR DUMPSTER ENCLOSURE. REFERENCE CIVIL DRAWINGS FOR SPECIFICATIONS
8. TRASH ENCLOSURE, CONFIRM BIN SIZE WITH LOCAL WASTE MANAGEMENT COMPANY. (01/A-407)
9. GC TO COORDINATE LOCATION OF SIGN WITH SIGN CO.
10. DRIVE THRU LANE SENSOR LOOP. INSTALL/POSITION SO LOOP IS CENTERED ON ACTIVE PANEL OF DRIVE THROUGH WINDOW. SEE DETAIL (01/A-405)
11. DRIVE THROUGH MENU BOARD-INSTALLED BY SIGN COMPANY. VERIFY WITH PANDA PM (SEE GENERAL NOTE ABOVE)
12. DIRECTIONAL ARROW
13. ACCESSIBLE PATH OF TRAVEL
14. ACCESSIBLE PARKING POLE SIGN
15. INTERNATIONAL ACCESSIBILITY SYMBOL @ PARKING SPACE
16. ACCESSIBLE PARKING SPACE AND LOADING ZONE PAINT LOADING ZONE W/ 4" WIDE STRIPES @3'-0" O.C.
17. PAINT 4" WIDE SOLID PARKING STRIPING W/ TWO (2) COATS HIGHWAY WHITE PAINT
18. DESIGNATED HANDICAP PARKING SPACE
19. ROOF DRAIN AND OVERFLOW DRAIN FROM ROOF TO EXIT TO DAYLIGHT THRU FACE OF WALL. COLD CLIMATES WILL REQUIRE CONNECTION TO STORM SEWER. ARCHITECT TO VERIFY WITH LOCAL JURISDICTION. (15/C-107)
20. STEEL PIPE BOLLARD. BOLLARDS TO BE PAINTED SAFETY YELLOW PRIOR TO APPLICATION OF LDPE SLEEVE. (18/A-407)
21. UNDERGROUND GREASE INTERCEPTOR - SEE PLUMBING/CIVIL DRAWINGS
22. CONC. DRIVEWAY
23. EDGE OF SIDEWALK AT PLANTER
24. CONCRETE CURB AT LANDSCAPE AREA.
25. EXPANSION JOINT @ 20'-0" O.C. MAX.
26. TOOLED JOINTS @ 5'-0"X5'-0" O.C. EXPANSION JOINT @ 20'-0" O.C.
27. ACCESSIBLE RAMP
28. NOT USED
29. ORDER CONFIRMATION BOARD
30. RUBBER WHEEL STOP, REF. CIVIL DRAWINGS
31. OUTDOOR COVERED PATIO AND SEATING
32. SEALED CONC SIDEWALK. (AQUA MIX SEALER'S CHOICE GOLD). CONCRETE TO BE LIGHT BROOM TEXTURE FINISH. PROVIDE UNDER SLAB TREATMENT PER SOIL REPORT. PROVIDE POSITIVE DRAINAGE AWAY FROM BLDG.
33. CLEARANCE BAR/BASE INSTALLED BY SIGN VENDOR.
34. PATIO RAILING TO BE INSTALLED AROUND PATIO IF NO LANDSCAPE BUFFER IS PROVIDED (NOT APPLICABLE IN ALL LOCATIONS. COORDINATE WITH PANDA EXPRESS DESIGN MANAGER FOR SITE SPECIFIC CONFIGURATION).

SITE PLAN 1
Scale= 1/16" = 1'-0" A-100

KEY NOTES A
Scale=NTS A-100

PANDA EXPRESS, INC.
1683 Walnut Grove Ave,
Rosemead, California
91770
Telephone: 626.799.9898
Facsimile: 626.372.8288

All ideas, designs, arrangement and plans indicated or represented by this drawing are the property of Panda Express Inc. and were created for use on this specific project. None of these ideas, designs, arrangements or plans may be used by or disclosed to any person, firm, or corporation without the written permission of Panda Express Inc.

REVISIONS:

ISSUE DATE:

1ST	SUP SUBMITTAL	06-09-21
2ND	PERMIT/BID SET	06-16-21

DRAWN BY: KAB

PANDA PROJECT #: S8-22-D7567
PANDA STORE #: -
ARCH PROJECT #: 20044,027

hcklovercarchitect
8813 PENROSE LANE, SUITE 400
LENEXA, KS 66219
ph: 913.649.8181 • fx: 913.649.1275

PANDA EXPRESS
TRUE WARM & WELCOME
HWY 83 & BROOKSIDE LANE
BISMARCK, ND 58503

A-100
SITE PLAN
ARCHITECTURAL

PERMIT/BID SET 06-16-2021

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

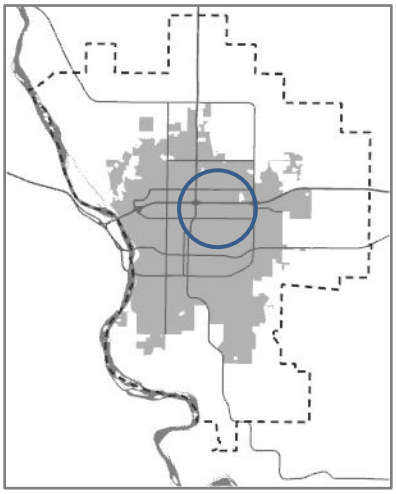
Agenda Item #7
July 28, 2021

Application for: **Special Use Permit**

Project ID: **SUP2021-011**

Project Summary

Title:	Auditor's Lots A & B of Lot 1, Block 29, Steins 4th Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Double A, LLC
Project Contact:	Steve & Michele Arnold, Double A, LLC
Location:	In east Bismarck, south of Interstate 94 and east of North 19th Street, along the north and west sides of East Capitol Avenue (1910 East Capitol Avenue)
Project Size:	63,187 square feet
Request:	Expansion of an existing child care center



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 parcel	*Number of Lots:*	1 parcel
Land Use:	Child care center / vacant	*Land Use:*	Child care center
Future Land Use:	Already zoned. Not in Future Land Use Plan	*Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	CA – Commercial	*Zoning:*	CA – Commercial
Uses Allowed:	CA – Neighborhood commercial	*Uses Allowed:*	CA – Neighborhood commercial
Max Density:	CA – 30 units / acre	*Max Density:*	CA – 30 units / acre

Property History

Zoned:	09/1976	*Platted:*	09/1976	*Annexed:*	09/1976

Staff Analysis

Steve and Michele Arnold, Double A, LLC are requesting approval of a special use permit to expand an existing child care center on Auditor's Lots A & B of Lot 1, Block 29, Steins 4th Addition.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on July 16th and July 23rd, and 50 letters were mailed to the owners of nearby properties on July 16th.

(continued)

Adjacent uses include an apartment complex to the north; a mix of residential single family, rowhomes and condos to the east and south across East Capitol Avenue; and an apartment complex to the west across North 19th Street.

The southern portion of this site is developed and currently operates as a child care center that was approved as a special use in March 2002. Since that time, the owners have acquired the undeveloped land to the north. A lot modification to combine these lots into one parcel was administratively approved in May 2021. Since the facility is proposed to be increased with a new building with increased capacity and on land not previously approved for a child care center, approval of a special use permit is necessary.

The property is zoned CA - Commercial. A child care center may be permitted as a special use in the CA – Commercial zoning district provided certain criteria are met.

The following criteria from Section 14-03-08(3)(q) of the City Code of Ordinances (Special Uses/Child Care Center) apply:

1) *"Each building shall provide not less than thirty-five (35) square feet of interior recreation area per child. Work areas, office areas, and other areas not designed for use of the children may not be counted in this computation."*

   According to a narrative provided by the applicant, the proposed expanded facility will provide child care for up to 98 children. The interior recreation area within the existing and proposed new building would be a total of 6828 square feet which provides 195 square feet per child. This requirement will be met.

2) *"Each lot shall provide an outdoor recreation area of not less than seventy-five (75) square feet per child. The recreation area shall be fenced, have a minimum width of twenty (20) feet, a minimum depth of twenty (20) feet, be located on the same lot or parcel of land as the facility it is intended to serve, and must be located behind the building setback lines."*

   The outdoor recreation area will be expanded to a total size of 14,027 square feet and would be fenced with four-foot tall chain link fencing. The applicant has indicated that child care would be provided for up to 98 children. The proposed size of the outdoor play area would provide 187 square feet of recreation area per child. This requirement will be met.

3) *"Adequate off street parking shall be provided at the following ratio: One space for each employee and one space for each ten (10) children."*

   The required parking for this expanded child care center is 33 spaces. According to the site plan submitted, 33 space will be provided. This requirement is met.

4) *"Child Care centers shall conform to all applicable requirements of the International Building Code and The International Fire Code as adopted by the City of Bismarck (Title 4 of the City Code of Ordinances – Building Regulations), and all requirements of the North Dakota Department of Human Services."*

   The applicant has provided written verification that the proposed child care center will meet all applicable requirements of the International Building Code, the International Fire Code, and all requirement of the North Dakota Department of Human Services.

5) *"Child care centers shall comply with all applicable requirements relating to health and sanitation that have been adopted by the City of Bismarck (Title 8 of the City Code of Ordinances – Health and Sanitation), and all requirements of the North Dakota Department of Health.*

(continued)

The applicant has provided written verification that the proposed child care center will comply with these requirements.

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 staff recommends approval of the special use permit to allow a expanded child care center on Auditor's Lots A & B of Lot 1, Block 29, Steins 4th Addition with the following condition:

1. The site plan for development must generally conform to the site plan submitted for the special use permit

Attachments

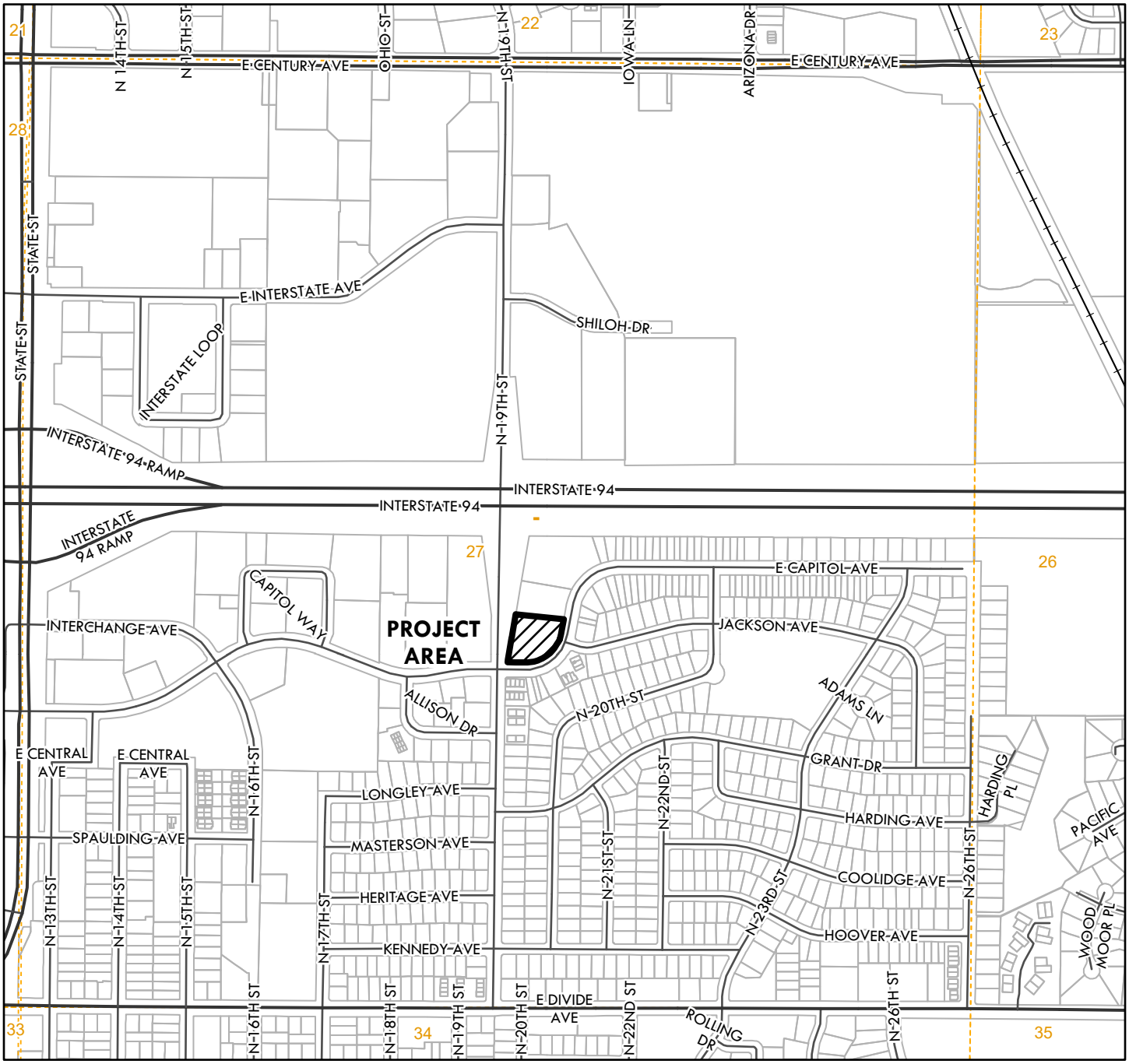
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Proposed Site Plan
5. Applicant Narrative

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

Location Map

STEINS 4TH ADDITION, PT L1, B29

SUP2021-011



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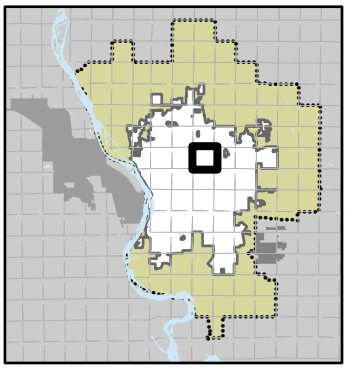


City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
June 28, 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.

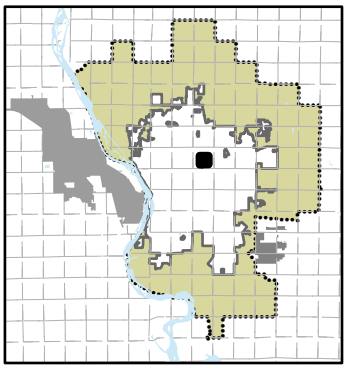
Aerial Map

STEINS 4TH ADDITION, PT L1, B29

SUP2021-011

0 0.07 0.15 0.3 Miles

City Limits Bismarck ETA Jurisdiction



Aerial Imagery from April 2020

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

Zoning and Plan Reference Map

STEINS 4TH ADDITION, PT L1, B29

SUP2021-011

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
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DC	Downtown Core
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Future Land Use Plan

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Fringe Area Road Master Plan

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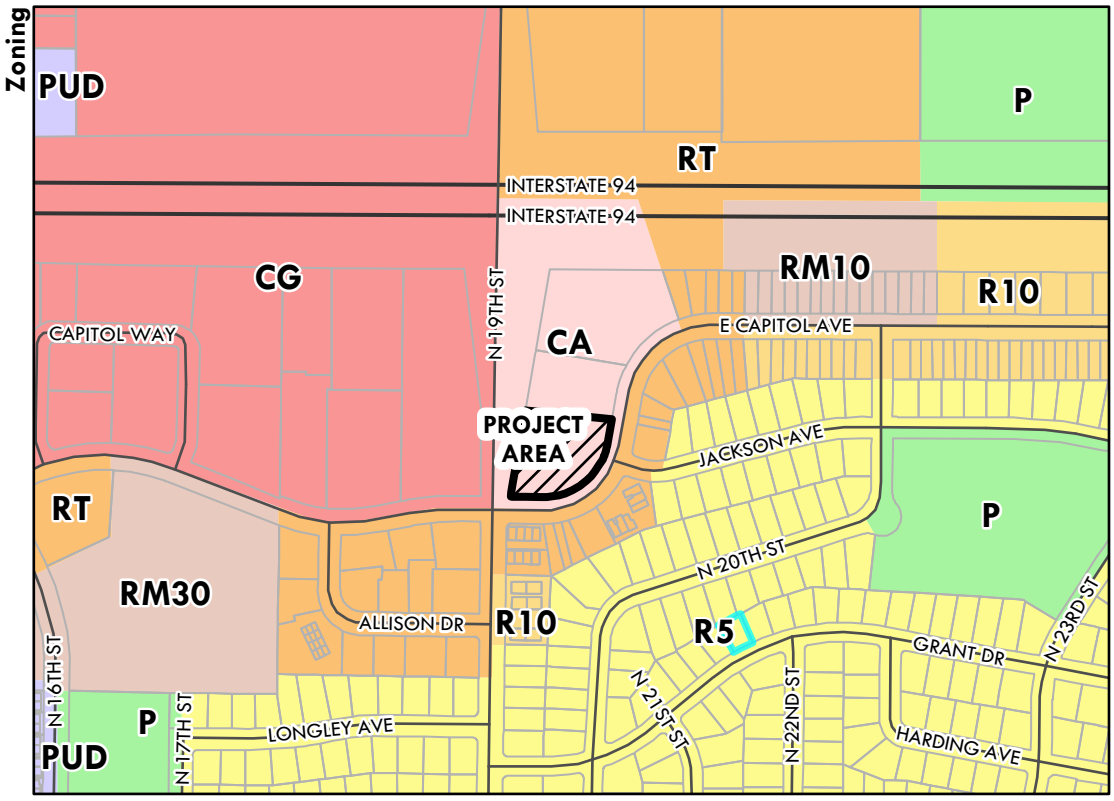

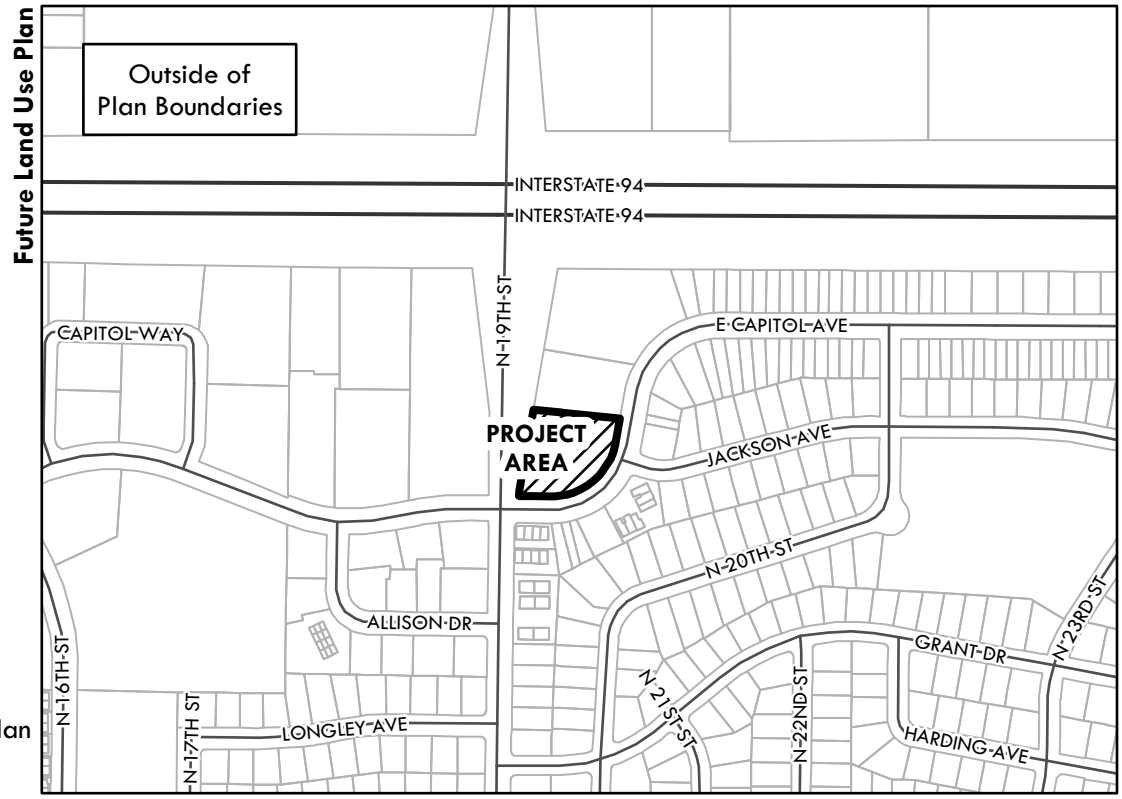

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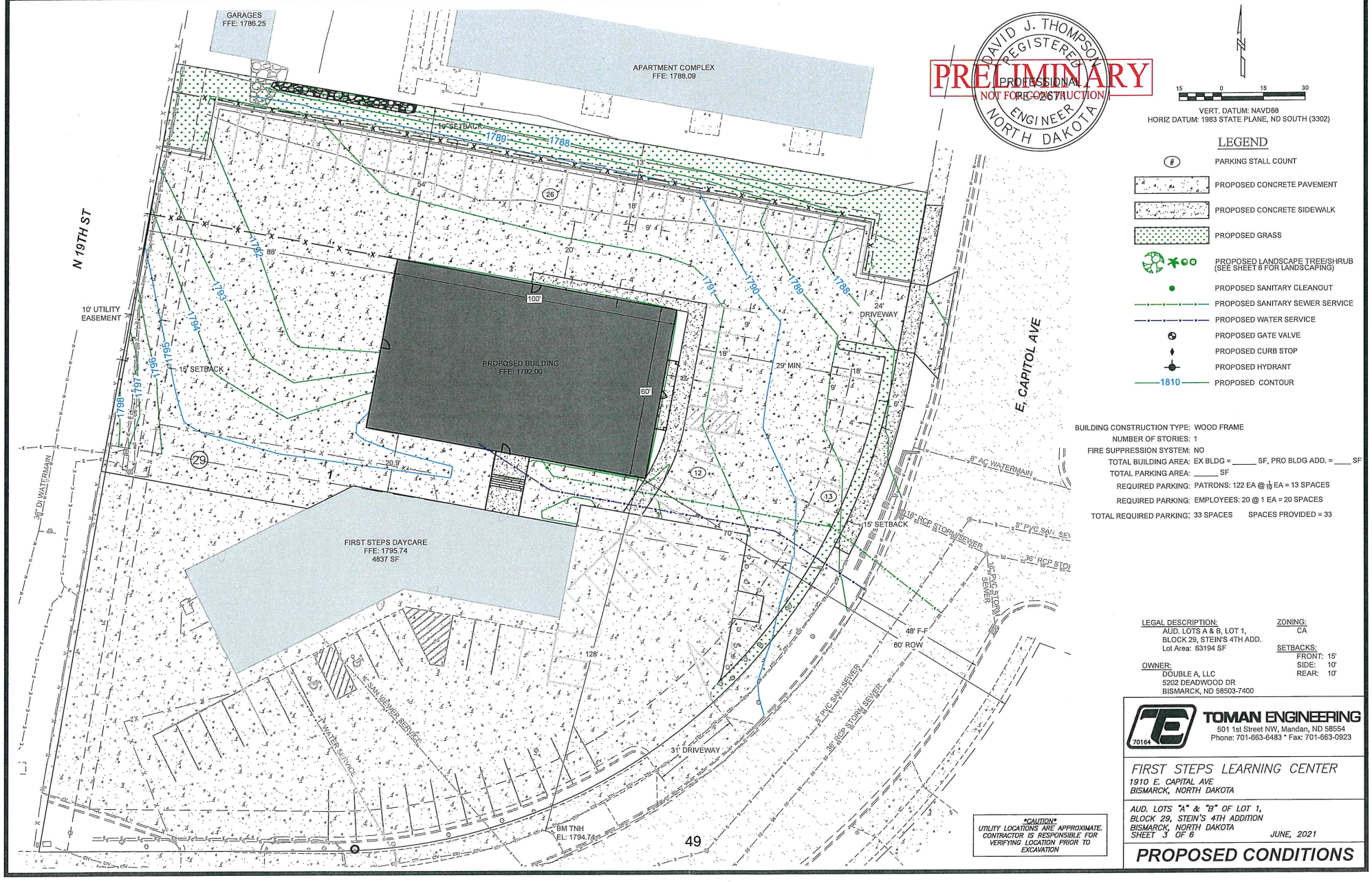
City of Bismarck
Community Development Dept.
Planning Division
July 21, 2021

JUL 15 2021



PRELIMINARY
NOT FOR CONSTRUCTION

DAVID J. THOMPSON
REGISTERED
PROFESSIONAL
ENGINEER
NORTH DAKOTA
PE-2677

15 0 15 30

VERT. DATUM: NAVD88
HORIZ DATUM: 1983 STATE PLANE, ND SOUTH (3302)

LEGEND

- (#) PARKING STALL COUNT
- PROPOSED CONCRETE PAVEMENT
- PROPOSED CONCRETE SIDEWALK
- PROPOSED GRASS
- PROPOSED LANDSCAPE TREE/SHRUB (SEE SHEET 6 FOR LANDSCAPING)
- PROPOSED SANITARY CLEANOUT
- PROPOSED SANITARY SEWER SERVICE
- PROPOSED WATER SERVICE
- PROPOSED GATE VALVE
- PROPOSED CURB STOP
- PROPOSED HYDRANT
- 1810 PROPOSED CONTOUR

BUILDING CONSTRUCTION TYPE: WOOD FRAME
NUMBER OF STORIES: 1
FIRE SUPPRESSION SYSTEM: NO
TOTAL BUILDING AREA: EX BLDG = _____ SF, PRO BLDG ADD. = ____ SF
TOTAL PARKING AREA: _____ SF
REQUIRED PARKING: PATRONS: 122 EA @ 1/9 EA = 13 SPACES
REQUIRED PARKING: EMPLOYEES: 20 @ 1 EA = 20 SPACES
TOTAL REQUIRED PARKING: 33 SPACES SPACES PROVIDED = 33

LEGAL DESCRIPTION:
AUD. LOTS A & B, LOT 1, BLOCK 29, STEIN'S 4TH ADD.
Lot Area: 63194 SF

OWNER:
DOUBLE A, LLC
5202 DEADWOOD DR
BISMARCK, ND 58503-7400

ZONING:
CA

SETBACKS:
FRONT: 15'
SIDE: 10'
REAR: 10'

CAUTION
UTILITY LOCATIONS ARE APPROXIMATE. CONTRACTOR IS RESPONSIBLE FOR VERIFYING LOCATION PRIOR TO EXCAVATION

70164
TOMAN ENGINEERING
501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923

FIRST STEPS LEARNING CENTER
1910 E. CAPITAL AVE
BISMARCK, NORTH DAKOTA

AUD. LOTS "A" & "B" OF LOT 1,
BLOCK 29, STEIN'S 4TH ADDITION
BISMARCK, NORTH DAKOTA
SHEET 3 OF 6 JUNE, 2021

PROPOSED CONDITIONS

H:\Projects\7000\70164 Redford Signature Homes - First Steps Daycare Extension\03 70164 Proposed Conditions.dwg, 7/13/2021 3:20:35 PM, Andra, 1:2

First Steps Learning Center was established in 1976 as one of the first formal daycare settings in Bismarck, North Dakota. The original establishment at 1235 South 12th Street was purchased by Steve Arnold in February 1987. The daycare was expanded to include First Steps Central at 1824 N 11th Street in Bismarck in August of 1991. The original location was sold in 2001 in order to open First Steps East at 1910 East Capitol Ave in Bismarck.

Under the direction of Steve and Michele Arnold the location on Capitol Avenue was expanded in 2018 to add additional square footage and increase their licensing capacity from 64 to 98 children.

In February 2021, Steve and Michele opened a North location at 2039 N Kavaney Dr in Bismarck. Licensed for 45 school age children. Ages 5 years to 12 years old.

First Steps Learning Centers have always served children ages 0-12. We have had an established school age program along with our infant, toddler and preschool care. Transportation is provided to and from school to both public and private schools in Bismarck.

The hours of operation are from 6:30 AM to 6:00 PM, Monday through Friday for all centers.

Recently our lease arrangement at 1824 N 11th St has deteriorated and so we are submitting a special use permit to build a new building adjacent to our 1910 E Capitol Ave location.

Central Playground Schedule

9:30 – 10:30 a.m.: 12 months to 3-year-old – 30 children

10:30 – 11:30 a.m.: 3 and 4-year-olds – 45 children

12:00 – 1:30 p.m.: 5-year-olds – 25 children

2:30 – 3:30 p.m.: 12 months to 3-year-old – 30 children

3:30 – 4:30 p.m.: 3 and 4-year-olds – 45 children

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

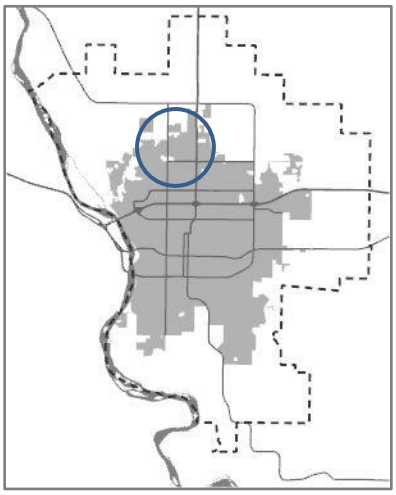
Agenda Item #8
July 28, 2021

Application for: **Special Use Permit**

Project ID: **SUP2021-016**

Project Summary

Title:	Lot 10, Block 3, Boulder Ridge 6th Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Ray Glasser
Project Contact:	Ray Glasser
Location:	In north Bismarck, south of 57th Avenue NE and east of North Washington Street, at the intersection of Normandy Street and Flint Drive (5118 Normandy Street)
Project Size:	715 square feet (ADU) 14,826 square feet (Lot size)
Request:	Install an accessory dwelling unit within a new single-family residence



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	*Number of Lots:*	1 lot in 1 block
Land Use:	Undeveloped	*Land Use:*	Single family residence with accessory dwelling unit
Future Land Use:	Already zoned. Not in Future Land Use Plan	*Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	R5 – Residential	*Zoning:*	R5 – Residential
Uses Allowed:	R5 – Single-family residential	*Uses Allowed:*	R5 – Single-family residential
Max Density:	R5 – 5 units / acre	*Max Density:*	R5 – 5 units / acre

Property History

Zoned:	02/2017	*Platted:*	02/2017	*Annexed:*	02/2017

(continued)

Staff Analysis

Ray Glasser is requesting approval of a special use permit to allow an accessory dwelling unit within construction of a new single-family home on Lot 10, Block 3, Boulder Ridge 6th Addition.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on July 9th and 16th, and 43 letters were mailed to the owners of nearby properties on July 16th.

Adjacent uses include developing single-family residential to the north, south, and west, and multifamily residential to the east across Normandy Street.

The following criteria from Section 14-03-08(y) of the City Code of Ordinances (Special Uses/Accessory Dwelling Units) apply:

1. *"No more than one accessory dwelling unit may be permitted on each lot or parcel."*

   One accessory dwelling unit is proposed.

2. *"An accessory dwelling unit must be contained completely within the principal structure on the lot or parcel, or contained within an accessory structure that meets all requirements of this Code, including size and setback requirements of the underlying zoning district. However, the height of any accessory dwelling unit may be up to twenty (20) feet or the height of the principal structure on the lot, whichever is less*."

   The unit would be contained completely within the principal structure.

3. *"The principal or accessory dwelling unit must be occupied by the owner of the subject parcel as a legal residence for more than six (6) months of any given year. The home may not be owned by a corporation, but the owner-occupant may be a benefited person in a private trust or life estate. The owner-occupancy requirement applies to the applicant as well as all subsequent owners of the property."*

   The applicant is aware of the owner-occupancy requirement.

4. *"At least one off-street parking space shall be provided for an accessory dwelling, in addition to any parking required for the principal dwelling unit on the lot."*

   A total of six off-street parking spaces would be provided on the site, including a 3-stall garage, which is sufficient for a single-family home with an accessory dwelling unit.

5. *"No accessory dwelling unit may include more than one (1) bedroom."*

   The proposed unit includes one bedroom.

6. "*Units within Principal Structure: The floor area of an accessory dwelling unit may not exceed forty percent (40%) of the gross floor area of the principal structure, excluding any attached garage, and may not be greater than 800 square feet or less than 300 square feet*."

   The proposed unit is 715 square feet in size, which comprises approximately 28% of the total floor area of the building.

7. *"An accessory dwelling unit must be connected to public utilities if available on the lot or parcel. If the lot is serviced by an on-site sewage treatment facility, the applicant must show that sufficient sewage treatment capacity will be available to meet anticipated needs."*

   The internal accessory dwelling unit would utilize services provided to the principal structure.

(continued)

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 for an accessory dwelling unit within a new single-family residence being constructed on Lot 10, Block 3, Boulder Ridge 6th Addition.

Attachments

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan

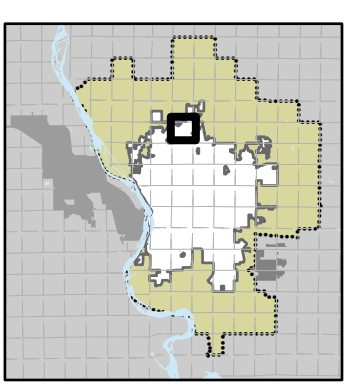
Staff report prepared by: Daniel Nairn, AICP, Senior Planner
701-355-1854 | dnairn@bismarcknd.gov

Location Map

BOULDER RIDGE 6TH ADDITION, L10, B3

SUP2021-016

0 0.17 0.35 0.7 Miles



City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
June 28, 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

BOULDER RIDGE 6TH ADDITION, L10, B3

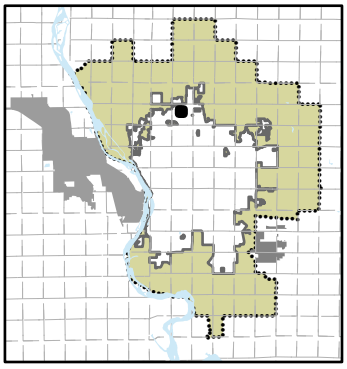
SUP2021-016

0 0.04 0.09 0.17 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
July 20, 2021

Zoning and Plan Reference Map

BOULDER RIDGE 6TH ADDITION, L10, B3

SUP2021-016

Zoning Districts

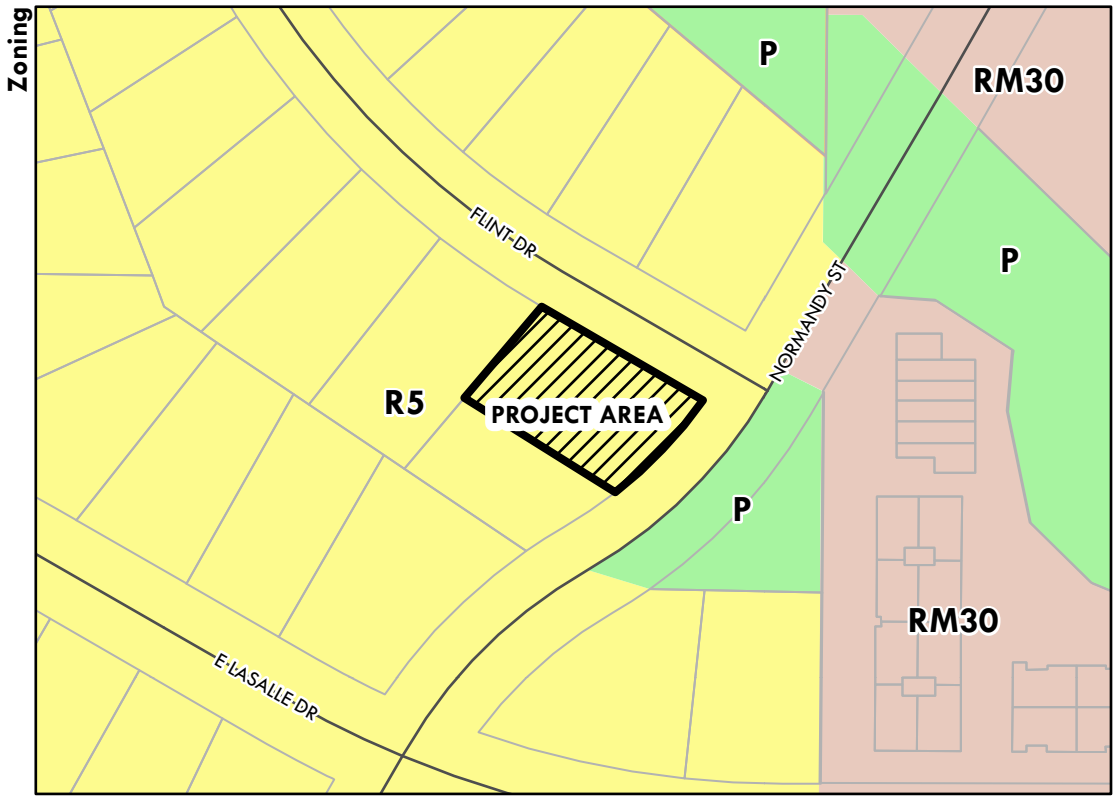
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

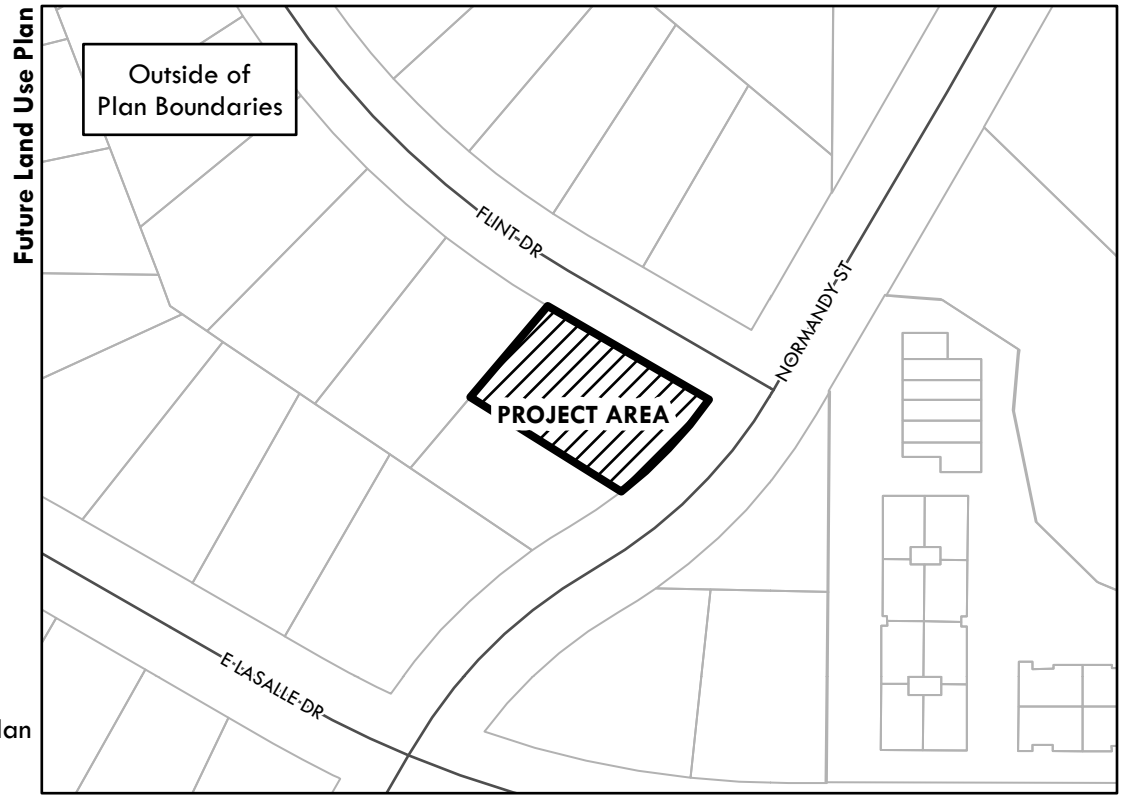
Future Land Use Plan

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





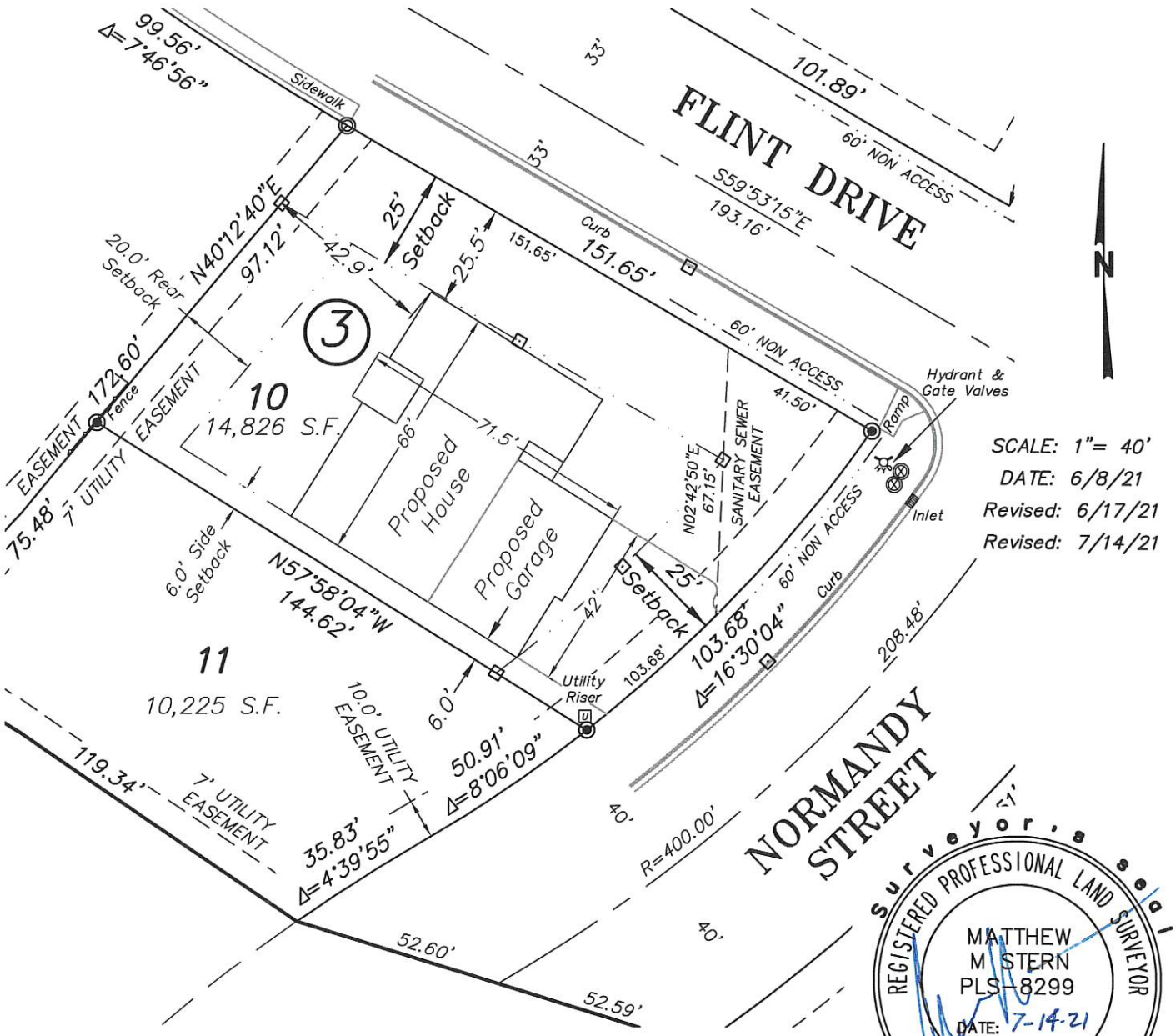
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

Miles
0 0.02 0.04 0.07

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

LOT SURVEY EXHIBIT

LOT 10 BLOCK 3
SUBDIVISION Boulder Ridge 6th Addition
ADDRESS 5118 Normandy Street
OWNER Ray Glasser



SCALE: 1"= 40'
DATE: 6/8/21
Revised: 6/17/21
Revised: 7/14/21

Surveyor's seal
REGISTERED PROFESSIONAL LAND SURVEYOR
MATTHEW M STERN
PLS-8299
DATE: 7-14-21
NORTH DAKOTA

◎ FOUND MONUMENT
◉ SET MONUMENT
⊡ BUILDING SETBACK OR NON-ACCESS STAKE

NOTES

THE BUILDING SETBACK LINES SHOWN ARE TYPICAL, THERE MAY BE OTHER BUILDING RESTRICTIONS, COVENANTS OR INTERPRETATIONS THAT AFFECT THIS PROPERTY. THE BUILDER IS RESPONSIBLE FOR VERIFYING THE BUILDING DIMENSIONS AND VERIFYING THE BUILDING SETBACKS WITH THE APPROPRIATE APPROVING AUTHORITIES. DIMENSIONS ARE FROM PLAT. BUILDING AS SHOWN HAS NOT BEEN FIELD SURVEYED.

FAXED OR EMAILED TO: DATED:

BUILDER OR OWNER

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

TH '21

BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
June 23, 2021

The Bismarck Planning & Zoning Commission met on June 23, 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, Cole Johnson, Vernon Laning, Paul Levchak, Kevin Martin, Gabe Schell, Mike Schwartz, Trent Wangen and Paul Zent.

Commissioners Brian Bitner and Wendy Van Duyne were 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, and Daniel Nairn – Senior Planner.

MINUTES

Chair Schwartz called for consideration of the minutes of the May 26, 2021 meeting.

MOTION: Commissioner Bakken made a motion to approve the minutes of the May 26, 2021 meeting, as presented. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Bakken, Johnson, Laning, Levchak, Martin, Schell, Schwartz, Wangen and Zent voting in favor of the motion.

CONSIDERATION

2. POTTER POINTE ADDITION (RECONSIDERATION) – ZONING CHANGE

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve consent agenda item 2, calling for a public hearing on the item as recommended by staff. Commissioner Martin seconded the motion and it was unanimously approved with Commissioners Bakken, Johnson, Laning, Levchak, Martin, Schell, Schwartz, Wangen and Zent voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION
MEMORY THIRD ADDITION

Chair Schwartz called for final consideration of the annexation of Memory Third Addition. The property is located in north Bismarck, along the east side of US Highway 83 / State Street and the south side of Brookside Lane (currently known as Lot 1 and the vacated access road less the East 25 feet of Lot 1, Gussner Acreage Homesites).

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

1. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed.

2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck.

3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.

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

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

Mr. Hutchings said, based on these findings, staff recommends approval of the annexation of Memory Third Addition (currently known as Lot 1 and the vacated access road less the East 25 feet of Lot 1, Gussner Acreage Homesites) and all of the right-of-way for Brookside Place.

Commissioner Levchak asked if there would be an assessment for Brookside Lane and if there might be annexation to include the lots to the east as well.

Commissioner Schell said if or when those lots are annexed and depending on the policy at the time they would be required to pay the same as the other properties in the continuous district.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the annexation of Memory Third Addition (currently known as Lot 1 and the vacated access road less the East 25 feet of Lot 1, Gussner Acreage Homesites) and all of the right-of-way for Brookside Place. Commissioner Zent seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Levchak, Martin, Schell, Schwartz and Wangen voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION
PARTS OF SILVER RANCH FIRST ADDITION AND SILVER RANCH FIRST ADDITION FIRST REPLAT

Chair Schwartz called for final consideration of the annexation of parts of Silver Ranch First Addition and Silver Ranch First Addition First Replat. The property is located in northeast Bismarck, south of 43rd Avenue NE and east of Silver Boulevard.
Mr. Nairn gave an overview of the request, including the following findings related to land use for the annexation:

1. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed.

2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck.

3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.

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

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

Mr. Nairn said, based on these findings, staff recommends approval of the annexation of parts of Silver Ranch First Addition and Silver Ranch First Addition First Replat, more specifically described as Lots 2-4, Block 4; Lots 4-8, Block 5 and all adjoining rights-of-way, Silver Ranch First Addition First Replat; and Lots 15-21, Block 2; Lots 1 and 8-12, Block 8; Lots 5-12 and 15-22, Block 9; and Lots 5-12, Block 10 and all adjoining rights-of-way, Silver Ranch First Addition.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the annexation of parts of Silver Ranch First Addition and Silver Ranch First Addition First Replat, more specifically described as Lots 2-4, Block 4; Lots 4-8, Block 5 and all adjoining rights-of-way, Silver Ranch First Addition First Replat; and Lots 15-21, Block 2; Lots 1 and 8-12, Block 8; Lots 5-12 and 15-22, Block 9; and Lots 5-12, Block 10 and all adjoining rights-of-way, Silver Ranch First Addition. Commissioner Johnson seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Laning, Levchak, Martin, Schell, Schwartz, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE AND MAJOR SUBDIVISION FINAL PLAT BODEN ADDITION

Chair Schwartz called for the public hearing on the major subdivision final plat and the zoning change from the A – Agricultural and R5 – Residential zoning districts to the R5 – Residential and Conditional RT – Residential zoning districts for Boden Addition. The proposed plat is 46 lots in 1 block on 18.4 acres and is located in north Bismarck, on the west side of North Washington Street and the south side of East Lasalle Drive.

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 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.

Mr. Nairn then gave the findings related to land use for the major subdivision final plat:

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

2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.

3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.

4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP).

5. The 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.

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.

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

Commissioner Johnson asked if there is a private drive ordinance that would define curb and gutter requirements.

Mr. Nairn said they are required to follow fire apparatus roadway standards which dictate width, but not necessarily curbs, gutters or lights, but the developer does plan on following some previously set standards for streetlighting.

Commissioner Bakken asked if this would be similar to the office buildings on Slate Drive and if so, what was the process like for that development. He also asked if there would be access points on Onyx Drive and if a signal has been considered to allow for student access and extra traffic.

Mr. Nairn said it would be similar to the Slate Drive development which is also zoned RT-Residential, but each of these offices would be standalone buildings. He said the School Safety Crossing study in 2017 made some recommendations for this location including things such as more sidewalks and crosswalks, but that timeframe is yet to be discussed.

Commissioner Martin said the ordinance says the minimum building size is 200 square feet and that seems very small and not harmonious with the surrounding area.

Mr. Nairn said that is a revision quirk in the text formatting and said it actually reads 1,200 square feet.

Commissioner Levchak said there is 46 lots proposed with 44 for office buildings and one residential lot and asked what the remaining one lot is intended to be used for.

Mr. Nairn said that would be Lot 45 and said it is intended for stormwater detention.

Commissioner Levchak asked if water and sewer would be private here. Mr. Nairn said that is correct.

Commissioner Levchak asked how that would be metered. Commissioner Schell answered that there would be a private utility agreement recorded against the property so the roles of all parties are known. He said it is anticipated the water main would be owned by the association and each lot would have a private line.

Commissioner Levchak said he is concerned about kids cutting through the area without sidewalks and they would have to walk in the street, especially during the winter.

Mr. Nairn said there is not an obvious route to the school through the site and there would be more sidewalk connectivity as development proceeds in this area.

Chair Schwartz opened the public hearing.

Cam Knutson, Boulder Ridge Development, said they have been preparing this project for about a year and previous projects of theirs include Elk Ridge, Hawktree and Whispering Bay. He said they worked with Bismarck Public Schools to secure the new school site in Elk Ridge and now are working on this infill project. He said it is a large site but the time is right with there being a variety of options suitable for this location including apartments, twinhomes, retail, commercial, assisted living, storage units, food and coffee services or a gas station. He said the site could fit 98 single-sided twinhomes, but there is a lot of small businesses that want ownership and investment in their space so he chose to develop offices instead. The buildings would be around 1,200 square feet, smaller than most single-family homes, and they did take the surrounding neighborhood into consideration. He added that Oak Ridge in West Fargo is a similar arrangement, but this would not be as dense or eclectic in nature. He said it would include a narrow street which helps reduce traffic speed. He said the Rocking Horse Farm is another high demand and successful similarly designed development they researched. Mr. Knutson closed by explaining the density would be about 7.2 square feet of land for each square foot of building and values of similar developments have increased vastly lately. He then explained some of the proposed restrictive covenants and design standards and with-it only being business office uses they expect it to be a fairly quiet area after 5PM and on the weekends. Mr. Knutson showed other examples of office buildings near residential areas in Bismarck and stated that residential property values were not adversely affected by the offices. Mr. Knutson said they have met with a few adjacent property owners and would like to get more neighborhood input and revise their plans in order to move through the rest of the approval process.

Commissioner Laning asked if each unit would have off-street parking. Mr. Knutson said each lot would have their own parking.

Commissioner Levchak asked if any of this area could include single-family homes. Mr. Knutson said that could be an option, but the proximity to North Washington Street and low-lying land somewhat complicates that and would likely not allow that to work successfully.

Commissioner Levchak asked if they would retain ownership or have an office owner's association in the development. Mr. Knutson said they would be involved in the development process with direct oversight and the covenants would be enforced through a design review process. He said he does not intend to retain any offices as rentals.

Commissioner Levchak asked if an individual would be allowed to purchase multiple lots and then rent the space out on their own as an investment. Mr. Knutson said they have not considered that possibility, but that option would likely not be very appealing as the design is geared towards small business owners.

Commissioner Bakken said this would likely not serve heavy traffic uses. Mr. Knutson said that is correct and that developing high traffic uses on this site does not interest him.

Commissioner Johnson asked for more information on the possibility of sidewalks and safety. Mr. Knutson said there would be sidewalks around the perimeter of the site and an elementary school crossing. He said there is presently a crossing guard there and he does not see any issues with this being a shortcut through presently.

Commissioner Levchak asked if the LaSalle Drive access points meet all of the emergency access requirements. Mr. Knutson said it was decided it would be better to have access on LaSalle Drive rather than on North Washington instead of putting another street back into the development. He said they did discuss the roadway network and access with staff.

Commissioner Schell asked if the sign and landscape easement plans could be explained further.

Mr. Knutson said the signs within these easements would be small scale and are to be designed yet but would be similar to the other sites.

Jamie Wagendorf, 534 East LaSalle Drive, said he lives two blocks east of Liberty Elementary and his concern is safety. He asked why this development needs to be in this location and suggested there is multiple other sites nearby that are open for development. He said the nearby residents already have the stormwater ditch paid for and asked what would happen to that and if traffic and business feasibility studies have been conducted.

Mr. Ehreth said business feasibility studies are not typical development requirements.

Mr. Wagendorf said 46 businesses is concerning, especially on LaSalle Drive and North Washington Street. He said that is a major connection and adding two access points on the south side will only make it busier. He then asked who is paying for these improvements and how to increase safety for the elementary kids while doing it. He then asked what will happen to their property taxes and assessments because of this and he suggests an alternate entry point for the school further north so they can avoid LaSalle Drive.

Lyle Halverson, 4912 Granite Drive, said this development would be directly behind his house and the proposed vegetative buffer will take years to mature. He said Slate Drive has three offices out of sight and this area was zoned P-Public when he bought his home, and had he known it would change to this he would not have bought it. He said approving this request would be outrageous and he is concerned about the impact on property values. He added that this is a different type of proposal because Boulder Ridge is not a new development and asked that it please be denied. *(Secretary's Note: The western portion of this property has been zoned R5 – Residential since it was platted in 2012 and the eastern portion is unplatted and still zoned A – Agricultural.)*

Jon Breitbach, 305 East LaSalle Drive, said Lots 33-34 would share a lot line with his and he was excited to live close to an elementary school and liked the neighborhood. He said this proposal threatens that and asked that it please be denied.

Dan Wrolstad, 5024 Boulder Ridge Road, said he did his research when buying his home and with the R5-Residential zoning he decided to build where he did. He said that came with certain expectations and asked that this request please be voted against.

Dawn Ulmer, 4906 Boulder Ridge Road, said there are more homes developed here than what the map showed and there is a lot of children who walk through the area and play. She said it is a beautiful place and they were told it would stay a green and residential area. She added that they invested in their properties based on trust and new development is ok but not between homes and an elementary school. She asked if the pond is for water retention and said the City should protect their zoning rights and it should stay zoned R5-Residential. She said RT-Residential would allow more units and asked what would happen if the zoning

changes and the development does not happen; what then could be developed? She said they need to think some more and people have moved here to retire and they have not complained in the past but this is serious. She said it is a good concept, but this is not going to improve the area and it would be better to get an environmental grant and make the area a park in order to preserve it and protect it. She said they cannot just change things on people, especially when they were promised it would not change.

Cal Collins, 4700 Granite Drive, said he agrees with all of the points made especially that of safety issues. He said there are a lot of kids in the area and this would add traffic at peak times, especially with there being talk of a potential daycare here. He said he was the transportation director for Bismarck Public Schools for 15 years and he knows the issues. He said to please consider denying this request and putting it somewhere away from an elementary school.

Mr. Knutson said he was asked to consider other uses on the east side of the property and he understands the concerns expressed. He said this trend is truly good and he knows a compromise can be found. He added that the safety concerns have been noted and that is always a concern of theirs as well. He said he would like to work further with the adjacent homeowners and scale back on the east side and find a development design that they all can mostly agree on.

Jason Petryszyn, Swenson, Hagen & Co., said Boulder Ridge First Addition was done in 2003 and they have worked through multiple master plans and as needs changed and the elementary school was needed, they had to change some plans as well. He said they take ownership in the reality that development concepts have changed and have put a lot of time and energy into the what-if questions and do take pride in their efforts. He said there are multiple uses prohibited by the proposed ordinance and regardless of what is developed there would need to be some type of detention pond on site. He added that they are trying to not promote walking shortcuts and drain ways can help with that. He then said they are trying to limit the concerns stated including impervious surfaces and this would be at an overall lesser density, but if done sensitively and mindfully it can be a tasteful product.

Justin Hughes, 4814 Pumice Loop, Boulder Ridge HOA President, said he submitted his comments in writing and said he is strenuously opposed to the requests on behalf of many others in the area. He said when they discussed square footage they talked about value and concerns and the need to distinguish a number of other properties with increased property values, but they need to think about the evidence and the more apt comparison would be properties adjacent or not adjacent to a commercial area. He said these people made educated investments.

Mr. Wagendorf said he would rather have cows in that space like what used to be behind Horizon Heights.

Ms. Ulmer said she is also concerned about the construction work that will take place for several months.

Roger Harris, 527 East LaSalle Drive, said he has lived here since only 2019 but he has invested time and money here and it is not a business area. He said Fargo does not interest him and he wants his daughter to grow up in a neighborhood, not a business district and to please consider not approving these requests.

Dave Roose, 4912 Granite Drive, said he agrees with all of the comments provided and said the proposal is very up-and-coming, but it should be in a new, not an existing, housing development. He said he does not want to have to see watershed or environmental berms or backs of buildings and parking lot lights from his house.

JoAnn Monson, 4912 Boulder Ridge Road, said she has lived here for 14 years and has learned a lot from buying a home. She said there have been drainage issues in this area and she does not need a pond by her home. She said if it becomes bad enough then her property will end up being the one to catch all of it and smarter minds need to be involved with this decision. She said there is a lot of square footage involved with nothing to protect her from that stormwater runoff.

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

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

Commissioner Schell asked exactly what the allowable uses would be within the requested conditional RT zoning. Mr. Nairn said RT would allow offices and multi-family, but there would be restrictions in this ordinance that would restrict to only offices of business and medical uses and no commercial uses, with the exception of light retail and if a child care was to be developed it would require a special use permit.

Commissioner Bakken asked what the future holds for the access plans and roadways in the area.

Commissioner Schell said the School Safety Crossing study from 2017 made recommendations based on travel patterns and crossing needs. He said he anticipates more sidewalk connectivity as development continues and travel patterns could change with that. He said they monitor those patterns with Bismarck Public Schools to help resolve any issues that arise.

MOTION: Commissioner Bakken made a motion to continue the requests for a zoning change from the A – Agricultural and R5 – Residential zoning districts to the Conditional RT – Residential and R5 – Residential zoning districts and the final plat for Boden Addition, to the August meeting of the Planning and Zoning Commission to allow time for the applicant to work with nearby property owners and potentially modify the development plan. Commissioner Martin seconded the motion and the motion was approved with Commissioners Bakken, Johnson, Laning, Levchak, Martin, Schell, Schwartz, Wangen and Zent voting in favor of the motion.

Mr. Nairn said staff would be re-notifying the adjacent property owners of the requests again prior to the continued public hearing.

PUBLIC HEARING - SPECIAL USE PERMIT (OVERSIZED ACCESSORY BUILDING) LOT 12, BLOCK 5, COPPER RIDGE SUBDIVISION (6309 COPPER RIDGE LANE)

Chair Schwartz called for the public hearing on a special use permit to increase the area of accessory buildings to 2,792 square feet on Lot 12, Block 5, Copper Ridge Subdivision. The property is located southeast of Bismarck, south of 62nd Avenue SE in the northeast

quadrant of the intersection of Copper Ridge Lane and Kayley Drive (6309 Copper Ridge Lane).

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

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.

2. The proposed special use is compatible with adjacent land uses and zoning.

3. The Apple Creek Township Board of Supervisors has verbally recommended approval of the proposed special use.

4. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.

5. Adequate public facilities and services are in place or would be provided at the time of development.

6. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.

7. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.

8. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice.

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

Mr. Hutchings said, based on these findings, staff recommends approval of the special use permit to increase the area of accessory buildings to 2,792 square feet on Lot 12, Block 5, Copper Ridge Subdivision.

Commissioner Schell asked if the new building would be connected off of the existing driveway. Mr. Hutchings said that is correct.

Chair Schwartz opened the public hearing.

Mr. Mewes said his only concern with having to request the special use permit is that his lot is exactly 65,000 square feet and the ordinance for a larger building in the RR-Residential zoning district says the property needs to be more than 65,000 square feet so he wants to make sure he can have 3,200 square feet of accessory buildings.

Mr. Hutchings replied that with 65,000 square feet he would be able to go up to 3,200 square feet. There is a typographical error in the ordinance, but it has been interpreted to allow up to 3,200 square feet on a lot 65,000 square feet or greater.

Mr. Mewes said he just wants to make sure he does not have to remove the other accessory building he already has. Mr. Hutchings clarified and said they would treat this as a property that would allow up to 3,200 square feet and Mr. Mewes would not have to remove his existing structure.

Commissioner Schell said the staff report does define that exception correctly.

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 special use permit to increase the area of accessory buildings to 2,792 square feet on Lot 12, Block 5, Copper Ridge Subdivision. Commissioner Zent seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Laning, Levchak, Martin, Schell, Schwartz, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT (CHILD CARE FACILITY)
EAST 180 FEET OF LOT 1, LESS THE NORTH 44 FEET, AND THE EAST 180 FEET OF LOTS 2-4, BLOCK 2, AIRPORT ROAD ADDITION (910 SOUTH 18TH STREET)

Chair Schwartz called for the public hearing on a special use permit to allow a child care center on the East 180 feet of Lot 1, less the North 44 feet, and the East 180 feet of Lots 2-4, Block 2, Airport Road Addition. The property is located in southeast Bismarck, north of East Bismarck Expressway and west of Airport Road on the west side of South 18th Street (910 South 18th Street).

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 allow a child care center on the East 180 feet of Lot 1, less the North 44 feet, and the East 180 feet of Lots 2-4, Block 2, Airport Road Addition, with the following conditions:

1. Modifications to the building are made to comply with fire code and building code requirements prior to occupation.

2. Required landscaping is installed prior to occupation.

3. A sidewalk connection to the south linking the parcel to the existing sidewalk on Bismarck Expressway is installed.

Commissioner Laning asked if there would be landscaping on the south end of the property as well. Mr. Nairn said it would be perimeter parking lot landscaping so not as wide, but it would include the south and east sides. He said they would have to avoid the 25-foot site triangle at the corner of the property however.

Commissioner Schell asked who would be responsible for maintaining that landscaping. Mr. Nairn said the applicant is in the process of purchasing the property and it would be the responsibility of the owner to maintain.

Commissioner Bakken asked what the elevation is like on the back side of the property. Mr. Nairn said there is not a significant grade change and said there is a greater grade on the south side of 17th Street, but there is not a concern about the grade difference on this site.

Chair Schwartz opened the public hearing.

Written comments are attached as Exhibit W.

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 special use permit to allow a child care center on the East 180 feet of Lot 1, less the North 44 feet, and the East 180 feet of Lots 2-4, Block 2, Airport Road Addition, with the following conditions: 1. Modifications to the building are made to comply with fire code and building code requirements prior to occupation; 2. Required landscaping is installed prior to occupation; 3. A sidewalk connection to the south linking the parcel to the existing sidewalk on Bismarck Expressway is installed. Commissioner Zent seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING- ZONING ORDINANCE TEXT AMENDMENT ACCESSORY STRUCTURES LOCATED IN THE SPECIAL FLOOD HAZARD AREA (SFHA)

Chair Schwartz called for the public hearing on a zoning ordinance text amendment relating to accessory structures located in the special flood hazard area (SFHA).

Mr. Blaskowski gave an overview of the amendment, stating that the City Commission, at their meeting on December 8th of last year, directed 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 construction and elevation requirements outlined in the proposed zoning ordinance are a result of their review.

Mr. Blaskowski also thanked the stakeholder group as their insight and comments throughout the process have been greatly appreciated by staff.

Mr. Blaskowski then gave the following findings:

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.

4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Blaskowski said based on these findings, staff recommends approval of the zoning ordinance text amendment of Section 14-04-19 of the City Code of Ordinances, as presented in the draft ordinance attached to the staff report.

Commissioner Schell asked for a general explanation of the floodplain district applicability as it relates to floodplain management.

Mr. Blaskowski said it is an overlay district to all other zoning districts and designates properties that are located in the SFHA, as adopted by FEMA's Flood Insurance Rate Map (FIRM).

Mr. Johnson asked if the FIRM is different from the Community Rating System (CRS). Mr. Blaskowski said they are different and explained that the CRS designation is awarded to communities that go above and beyond FEMA and State floodplain management practices. He also stated that the FIRM is the map that designates areas within a community that are located within the SFHA.
Commissioner Schell asked if these text amendments are in coordination with the State and FEMA. Mr. Blaskowski said any zoning ordinance text amendment related to the FP-Floodplain district requires approval by the State Water Commission and FEMA and the changes have been reviewed and approved by the State and FEMA, and the stakeholder group as well.

Commissioner Zent asked how many properties might benefit from this change. Mr. Blaskowski said for those building in the SFHA it quite a few that end up benefitting.

Chair Schwartz opened the public hearing.

Dennis Wetzel, 6111 Apple Creek Drive, said there was a lot of involvement in the proposed changes and asked if Burleigh County is planning on changing their ordinance as well since this will impact more residents in the ETA.

Mr. Ehreth said they did realize some inconsistencies as they were working on their changes and do intend to have long-term conversations with Burleigh County to better align the two zoning ordinances.

Mr. Wetzel said they have been restricted in the past and asked why 600 square foot buildings were decided on.

Mr. Ehreth said they did propose a larger square footage initially, but FEMA suggested the 600 square foot limit and would not consider anything larger.

Mr. Wetzel said the Fargo zoning ordinance does not define a limit and asked why this ordinance is more limited, although it will help with accessory buildings, it will still limit some property developments. He then asked the difference between engineered versus non-engineered structures and if wetproofing guidelines will be part of the permitting process. He said there was a lot of neighborhood interest in this item and feels it will help a lot and asked if notifications were sent to property owners of the change.

Mr. Ehreth said because a zoning ordinance text amendment could essentially impact the entire community these types of public hearings are only noticed in the paper.

Mr. Wetzel said he knows his neighbor, Mr. Skager, has a structure that is more than 600 square feet so this would not change his case as it relates to an appeal he has requested for a denied variance since his building is already constructed.

Mr. Ehreth said that is correct and added the City Commission would have the final decision on that appeal.

Mr. Blaskowski explained that engineered versus non-engineered openings are determined by the National Flood Insurance Program (NFIP), such as net openings and lift openings with a flood event and damage prevention options with smaller structures.

Mr. Schell asked if this would potentially increase their CRS rating.

Mr. Blaskowski said it would not, but would not hurt it either.

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 ordinance text amendment of Section 14-04-19 of the City Code of Ordinances) relating to the accessory structures located in the special flood hazard area (SFHA. Commissioner Zent seconded the motion and the motion was unanimously

approved with Commissioners Bakken, Johnson, Laning, Levchak, Martin, Schell, Schwartz, Wangen and Zent voting in favor of the motion.

Commissioner Bakken said he would like to thank that stakeholders' group, especially Mr. Blaskowski and Ms. Wollmuth, for their diligent work to make this process easier for some residents wanting to expand the development of their properties.

OTHER BUSINESS

TOGETHER 2045 UPDATE

Mr. Nairn said the Together 2045 Advisory Committee and Technical Committee have been meeting and working through various needs and concepts for the comprehensive plan. He said the website for information is bismarcknd.gov/together2045. He added that survey cards went out, of which 238 responded to date, and the first public meetings on the plan are scheduled for September.

Commissioner Schell asked what the format and location of the public meetings will be. Mr. Nairn said there will be one on the north side of town and one on the south side of town, possibly at public schools and everyone is free to follow their updates online as well.

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 7:52 p.m. to meet again on July 28, 2021.

Respectfully submitted,

_____
Hilary Balzum
Recording Secretary

_____
Mike Schwartz
Chair

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Public Comment for Biden Addition of Boulder Ridge Development
Date:	Tuesday, June 15, 2021 10:43:55 AM

From: Gordon Lemmel <l >
Sent: Monday, June 14, 2021 7:01 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Public Comment for Biden Addition of Boulder Ridge Development

CAUTION: ***External Email - Use caution clicking links or opening attachments***

To whom it may concern:

I have no substantial objection to the completion of this phase of development.

My two concerns at as such:
1) The developer provides no neighborhood-sized park space. A park should be within a 15 minute walk for any neighborhood (per NRPA recommended sizing guidelines and parks and recreation best practices). The closest green space to our neighborhood are Horizon and New Generation, and the area north of 43rd, between Washington and Hwy. 83 has no public parks. Lots 28, 29, 34, 35 and 36 would make a great location for such a neighborhood sized park.

2) The conditional RT zoning makes no sense, as the proposed play drawing shows no location for "small scale offices." I support
the idea of providing small offices and business along the Washington corridor, should they provide amenities or conveniences that makes the neighborhood more walkable.

Thank you for the opportunity to provide comment. I would be happy to discuss these further with you.

Sincerely,

Gordon Lemmel, ASLA, PLA
344 E LaSalle Dr, Bismarck, ND 58503
p.

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Community Development Department - Planning & Zoning Commission - Final Plat for Boden Addition
Date:	Thursday, June 17, 2021 3:21:38 PM
Attachments:	Letter to Community Development Department - Bismarck Planning & Zoning Commission - In opposition to zoning of small scale offices.pdf

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From: Brandon Vaughan < >
Sent: Thursday, June 17, 2021 3:14 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Cc: Brandon Vaughan < >
Subject: Community Development Department - Planning & Zoning Commission - Final Plat for Boden Addition

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Hello,

Attached is my signed letter in opposition to the zoning of the Boden Addition in Boulder Ridge to anything other than single family housing, for safety concerns because of the proximity to Liberty Elementary School.

Sincerely,

Brandon Vaughan

Brandon Vaughan
4913 Granite Dr.
Bismarck, ND 58503

June 17, 2021

Bismarck Planning & Zoning Commission
Community Development Department
PO Box 5503
Bismarck, North Dakota 58506-5503

To the Bismarck Planning & Zoning Commission:

I write this letter in opposition of the proposed zoning of small-scale offices for the proposed plat for Boden Addition by Ron and Ruth Knutson. This addition is directly across the street from my house and from Liberty Elementary School. This addition should be zoned for only Residential- single-family housing. In allowing small-scale offices zoning, a large influx of traffic would be brought down LaSalle at the same time an already large influx of traffic is going on with Liberty Elementary School being at the same corner of Washington and LaSalle. That corridor between Washington and Onyx is the only way to get in and out of the proposed development and is also the only way to get in and out of the school. The backup of traffic on LaSalle from the streetlight at the intersection with Washington already goes past the intersection of LaSalle and Onyx during drop off and pickup time of school. Adding business traffic to that would place additional congestion to this intersection as the only ways into this development lie within the same corridor. This additional traffic would put the children at risk as this is the main road they use to walk and bike to school.

Allowing zoning of only single-family homes is the only safe option for this section of land in order to protect the flow of traffic to the school and to protect the children living in the area and going to that school.

Thank you for your time and attention to this matter.

Sincerely,

Brandon Vaughan

Brandon Vaughan
4913 Granite Dr.
Bismarck, ND 58503

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Boulder Ridge project
Date: Monday, June 21, 2021 9:37:03 AM

-----Original Message-----
From: Jamie Wagendorf < >
Sent: Sunday, June 20, 2021 10:52 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Boulder Ridge project

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Good day,

My name is Jamie Wagendorf. I live at 534 E Lasalle Drive. I just moved to this neighborhood in December 2020. I moved to this location because I wanted a home where my kids would be safe and be able to grow up in a neighborhood of family and friends. I moved to this location due to the safe and quick commutes to my kids schools, where they can either walk or ride bike both to school and back home.
I fear that if the Boden Addition is built, ALL of this will be taken away from us.
First of all, I have heard that up to 40 offices and commercial properties would be built on corner of Washington and Lasalle. If this happens, what will happen to my kids safe commute to school and back home? I would no longer feel safe having them walk or ride bike as the amount of traffic in that area will increase dramatically. To me, it just doesn't make sense to put all these buildings right across the street from an Elementary school and that will be in the back yards of many homes. The traffic of buses and parents dropping off and picking up kids is already bad enough. And now you want to add this? Have traffic and vehicle feasibility studies been done? If so, we want to see those results.
Second, the roads are currently not wide enough. You need roads with turning lanes, and Lasalle isn't wide enough to add those. Where will the entry points into this area be?
Third, what will happen to our property taxes and specials? Can you tell us all at the meetings that not one cent will be added to our property taxes or special assessment balances due to your proposed project?
And lastly, what evidence or proof can you provide homeowners that this type of development won't lower the value of our homes? It certainly won't increase the value that is for sure.
I saw Cam Knutson on the news tonight promoting a swimming pool at Hawktree. I think this site on Lasalle would be much better served with a public pool and more single family housing than any office buildings would. Who benefits from offices? You do Mr Knutson. Who benefits from single family homes and public pools? Families do. Don't let money and greed win out over families here. We owe it to our children and community to keep our neighborhoods safe. And putting a 40 building office complex in our neighborhood will take our safety and turn it into traffic jams, backed up traffic, homeowners not able to get out of their driveways as they wait for car after car to go by Lasalle will turn into another Washington Street, but without any lights. Without any crosswalks Without any stop signs. Without turning lanes. This will all lead to a huge traffic increase, only increasing risk of auto accidents and of children being hit by vehicles. This only puts our kids in danger when they are out walking or biking.
All these things in this email I pointed out that us homeowners in Boulder Ridge deserve to know must be addressed at the meeting.

Concerned citizen,

Jamie Wagendorf

Sent from my iPhone

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Boden Addition
Date:	Monday, June 21, 2021 4:47:14 PM

From: Jesse Schuette < >
Sent: Monday, June 21, 2021 12:38 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Boden Addition

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Please don't approve the zoning changes. We don't need office space built in this area. Please keep the residential zoning (single family housing). Thank you.

Jesse Schuette
Boulder Ridge Resident

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Boulder Ridge - Boden Development
Date:	Monday, June 21, 2021 4:49:26 PM

From: Austin Schwab < >
Sent: Monday, June 21, 2021 12:59 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Boulder Ridge - Boden Development

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Good day,

My name is Austin Schwab I moved to this neighborhood in 2020. I moved to this location because I wanted a home where my kids would be safe and be able to grow up in a neighborhood of family and friends. I moved to this location due to the safe and quick commutes to my kids schools, where they can either walk or ride bike both to school and back home.

I fear that if the Boden Addition is built, ALL of this will be taken away from us.

First of all, I have heard that up to 40 offices and commercial properties would be built on corner of Washington and Lasalle. If this happens, what will happen to my kids safe commute to school and back home? I would no longer feel safe having them walk or ride bike as the amount of traffic in that area will increase dramatically. To me, it just doesn't make sense to put all these buildings right across the street from an Elementary school and that will be in the back yards of many homes. The traffic of buses and parents dropping off and picking up kids is already bad enough. And now you want to add this? Have traffic and vehicle feasibility studies been done? If so, we want to see those results.
Second, the roads are currently not wide enough. You need roads with turning lanes, and Lasalle isn't wide enough to add those. Where will the entry points into this area be?
Third, what will happen to our property taxes and specials? Can you tell us all at the meetings that not one cent will be added to our property taxes or special assessment balances due to your proposed project?
And lastly, what evidence or proof can you provide homeowners that this type of development won't lower the value of our homes? It certainly won't increase the value that is for sure.

Don't let money and greed win out over families here. We owe it to our children and community to keep our neighborhoods safe. And putting a 40 building office complex in our neighborhood will take our safety and turn it into traffic jams, backed up traffic, homeowners not able to get out of their driveways as they wait for car after car to go by Lasalle will turn into another Washington Street, but without any lights. Without any crosswalks Without any stop signs. Without turning lanes. This will all lead to a huge traffic increase, only increasing risk of auto accidents and of children being hit by vehicles. This only puts our kids in danger when they are out walking or biking.

All these things in this email I pointed out that us homeowners in Boulder Ridge deserve to know must be addressed at the meeting.

Concerned citizen,

Austin Schwab
5210 Jasper

Get Outlook for iOS

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Boden Addition June 23 Public Hearing
Date:	Monday, June 21, 2021 4:49:52 PM

From: Lyle Halvorson < >
Sent: Monday, June 21, 2021 4:44 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Cc: 'Dave Roose' < >
Subject: Boden Addition June 23 Public Hearing

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Members of the Bismarck Planning and Zoning Commission –

We are writing to strongly oppose the proposed rezoning request for the so-called Boden Addition to allow for commercial development.

We live at the corner of Granite Drive and Basalt Ave. This land is directly behind our home. We did not buy a $520,000 home in "Bismarck's premier development" to live adjacent to 44 office buildings. When we purchased our home, this land was zoned public. At some point it was rezoned to R5-Residential, which is what it should remain. We do not want to look over 44 office buildings and their parking lots while sitting on our back deck. (One of the lots on the east side of the drainage area, #46, borders our property, but the developer told us this lot will remain zoned as single-family residential.)

It's outrageous that the city would allow land to be rezoned to commercial in an existing residential neighborhood. Had we known what is under consideration today for this property, we would have never purchased a home in Boulder Ridge. What will happen to the value of our home? Who can answer that question? We believe an office park in our back yard is going to result in a significant decline in the value of our home.

Another significant concern the Planning and Zoning Commission should consider is the proximity to Liberty Elementary School. The two street entrances / exits to this office park would be directly across the street from the elementary school. Has any consideration been given to the increased traffic associated with this development and the safety of these young children walking to and from school?

Living on the east end of this proposed development, we have concerns about storm water runoff. Right now during a heavy rain and since the redevelopment of Washington Street, a literal river forms near Washington Street and runs behind the homes on Boulder Ridge Road directly at our home. Standing on our deck, it sounds like a rapids. Also, with the assisted living / long-term care facility being built on the west side of Washington, their drainage goes through a large culvert under Washington and runs parallel to LaSalle. But that "river" will become streets and office buildings.

Where will that water go? Many of us in this area don't have a lot of faith in the city's engineers after being assessed a second time because of the faulty watershed planning that has already occurred.

Finally, why weren't homeowners notified of the proposed office park earlier? The developer give us just a few days' notice of his informational meeting, which also happened to be Father's Day, when many families already had plans and were unable to attend. And why weren't all homeowners in Boulder Ridge sent letters by the city? This impacts the entire development and not just those of us who live within a block or two. The lack of notice gives the appearance that approval of this project has been "greased."

If the developer wants to introduce a concept of office buildings disguised as homes in Bismarck, let him put it in a new development where people buying homes know what is going to be in their back yard. At the developer's meeting Sunday evening, he repeatedly compared this proposed development to one in West Fargo. However, the West Fargo development has nothing close to 44 office buildings and it's not surrounded by half-million dollar single-family homes.

Please deny the RT zoning request.

Lyle Halvorson and David Roose
4912 Granite Dr.
Bismarck, ND 58503

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Boden Addition
Date:	Tuesday, June 22, 2021 9:03:28 AM

From: Sarah Baer < >
Sent: Monday, June 21, 2021 5:28 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Boden Addition

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Planning and Zoning Commission,

My name is Sarah Sappington and I live in the Boulder Ridge development. It has come to my attention the intent for the Boden addition (agenda item 5 in the upcoming June 23rd meeting) of Boulder Ridge and the proposed zoning change to Conditional RT Residential zone allowing office buildings to be placed across from Liberty Elementary. I am concerned that with the change of the zoning to RT Residential that the developer would place offices immediate adjacent to the elementary school. This would jeopardize the safety and well-being of our children that attend this school, with an increase of traffic and access to the neighborhood as a thorough-fair along LaSalle and over to State street. With more people accessing offices we also risk more attention to our children and houses including crime and noise.

While I understand that our neighborhood does have an office park already, one thing to consider is that the Boulder Ridge Office park is on the outskirts of the Boulder ridge housing development and located on Slate and Washington which is away from the elementary school. As an alternative to placing offices next to the existing school, it would make more sense for office development to continue near the current office park and closer to 43rd and Washington rather than a new development near the Liberty Elementary school.

I understand that the commission is slated to approve the Boden addition, but am requesting for the health, safety, and well-being of our neighborhood to request no change to the zoning and no office development near our elementary school.

I appreciate your consideration in this matter.

Thanks,
Sarah Sappington
Sent from IPhone

From:	Ben Ehreth
To:	Hilary Balzum
Cc:	Kim Lee; Daniel Nairn
Subject:	FW: Online rezoning inquiry
Date:	Tuesday, June 22, 2021 9:07:59 AM

Please include this with the public comment on Boden.

Ben Ehreth, AICP
Department Director

City of Bismarck – Community Development
221 N 5th St.
PO Box 5503
Bismarck, ND 58506-5503

Office: 701-355-1840
Direct: 701-355-1842
Fax: 701-222-6450
Website: bismarcknd.gov
Facebook: facebook.com/bismarcknd.gov | Twitter: twitter.com/BismarckNDGov | Instagram: bismarckndgov

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From: Nancy Guy <nguy@bismarcknd.gov>
Sent: Tuesday, June 22, 2021 8:34 AM
To: Ben Ehreth <behreth@bismarcknd.gov>
Subject: Online rezoning inquiry

Good morning Ben,

I received this online inquiry from Warren & Kathy Larson, regarding a rezoning in Boulder Ridge requested by Ron Knutson. It sounds to me like this rezoning request has not yet made its way to the Planning & Zoning Board's agenda for consideration. Is that correct?

Thanks Ben!

Nancy Guy

City Commissioner

City of Bismarck

221 N 5th St.

PO Box 5503

Bismarck, ND 58501

Office: 701-355-1300

Website: bismarcknd.gov

Facebook: facebook.com/bismarcknd.gov | Twitter: twitter.com/BismarckNDGov |
Instagram: bismarckndgov

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From: noreply@civicplus.com <noreply@civicplus.com>
Sent: Monday, June 21, 2021 9:34 PM
To: Nancy Guy <nguy@bismarcknd.gov>
Subject: Online Form Submittal: Commissioner Guy

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If you are having problems viewing this HTML email, click to view a Text version.

Commissioner Guy

Your city government is here to serve you. Please feel free to contact us by the method most convenient for you. We would be happy to respond to your comments, questions and suggestions for making Bismarck an even better place to live. **This e-mail communication is intended for use by Bismarck residents and/or Bismarck property owners. Commercial solicitations, offers, introductions or advertisements will not be considered.**

City of Bismarck
221 N 5th Street
PO Box 5503
Bismarck, ND 58506-5503
Phone: 701-355-1300
Fax: 701-222-6470
First Name* warren

Last Name*	larson
Address 1:	
Address 2:	
City	
State	ND
Zip Code	
Email*	
Phone Number	
Fax Number	
Comments*	Commissioner Guy. I was not able to make the meeting for property owners Sunday evening on the proposed rezoning of the Boulder Ridge Development south of Liberty School due to a previous commitment. I strongly oppose the change. Those of us who built homes in the development did so to be away from business development within our neighborhood. We have no idea what type of businesses will be in the 40+ offices. We would welcome Mr. Knutson and his son to build their office spaces on their land directly north of 57th, just a short distance away. I would hope that you vote to support the desire of the people of Boulder Ridge, rather than the needs of one developer. Thanks for reading the concerns of my wife and I.

* indicates required fields.

View any uploaded files by signing in and then proceeding to the link below:
http://bismarcknd.gov/Admin/FormHistory.aspx?SID=31820

The following form was submitted via your website: Commissioner Guy

First Name: warren

Last Name: larson

Address 1: :

Address 2::

City:

State: ND

Zip Code:

Email: _____

Phone Number:

Fax Number:

Comments: Commissioner Guy. I was not able to make the meeting for property owners Sunday

evening on the proposed rezoning of the Boulder Ridge Development south of Liberty School due to a previous commitment. I strongly oppose the change. Those of us who built homes in the development did so to be away from business development within our neighborhood. We have no idea what type of businesses will be in the 40+ offices. We would welcome Mr. Knutson and his son to build their office spaces on their land directly north of 57th, just a short distance away. I would hope that you vote to support the desire of the people of Boulder Ridge, rather than the needs of one developer. Thanks for reading the concerns of my wife and I.

Additional Information:
Form submitted on: 6/21/2021 9:34:02 PM
Submitted from IP Address: 172.103.24.140
Referrer Page: https://bismarcknd.gov/Directory.aspx?EID=1257
Form Address: http://bismarcknd.gov/Forms.aspx?FID=265

From:	Ben Ehreth
To:	Hilary Balzum
Cc:	Kim Lee; Daniel Nairn
Subject:	FW: Another online rezoning comment
Date:	Tuesday, June 22, 2021 9:08:35 AM

Please also include this with the public comment on Boden.

Ben Ehreth, AICP
Department Director

City of Bismarck – Community Development
221 N 5th St.
PO Box 5503
Bismarck, ND 58506-5503

Office: 701-355-1840
Direct: 701-355-1842
Fax: 701-222-6450
Website: bismarcknd.gov
Facebook: facebook.com/bismarcknd.gov | Twitter: twitter.com/BismarckNDGov | Instagram: bismarckndgov

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From: Nancy Guy <nguy@bismarcknd.gov>
Sent: Tuesday, June 22, 2021 8:57 AM
To: Ben Ehreth <behreth@bismarcknd.gov>
Subject: Another online rezoning comment

Hi Ben,

Here's another online inquiry in opposition to the proposed Knutson rezoning item on the P&Z agenda tomorrow. I suspect this went to all the commissioners and Mayor. Could you respond to Mr. Glasser and let him know you'll forward to P&Z, please?

Thanks!

Nancy Guy

City Commissioner

City of Bismarck

221 N 5th St.

PO Box 5503

Bismarck, ND 58501

Office: 701-355-1300

Website: bismarcknd.gov

Facebook: facebook.com/bismarcknd.gov | Twitter: twitter.com/BismarckNDGov |
Instagram: bismarckndgov

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From: noreply@civicplus.com <noreply@civicplus.com>
Sent: Tuesday, June 22, 2021 8:52 AM
To: Nancy Guy <nguy@bismarcknd.gov>
Subject: Online Form Submittal: Commissioner Guy

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If you are having problems viewing this HTML email, click to view a Text version.

Commissioner Guy

Your city government is here to serve you. Please feel free to contact us by the method most convenient for you. We would be happy to respond to your comments, questions and suggestions for making Bismarck an even better place to live. **This e-mail communication is intended for use by Bismarck residents and/or Bismarck property owners. Commercial solicitations, offers, introductions or advertisements will not be considered.**

City of Bismarck
221 N 5th Street
PO Box 5503
Bismarck, ND 58506-5503
Phone: 701-355-1300
Fax: 701-222-6470
First Name* Tyler

Last Name*	Glasser
Address 1:	
Address 2:	
City	
State	ND
Zip Code	
Email*	
Phone Number	
Fax Number	
Comments*	Good morning to Whom it may concern, I am writing in strong opposition to the Knudson proposal for a zoning change for the Boden addition. This new development directly across from Liberty elementary school that I have one child going to now and will have 2 more in the near future calls for up to 45 office buildings. I live a block from Liberty Elementary school. I have many concerns with this development but the most concerning part of this is the safety of the young children that go to this school. The traffic right now without 40 plus office buildings is concerning and adding this will only make the situation worse. Please think about how you would feel if you had young children in this situation. This is dangerous and negligent for the students of this school. The infrastructure is not in place on Washington street and Lasalle to support the extra traffic that this will cause. North Washington street is busy enough right now without this. Missouri Slope is also in the process of being built across the street of this proposed development which will bring even more traffic to this area. Boulder ridge is a desirable north Bismarck development with many young families. What is 45 office buildings going to do to the property values? Mr. Knudson has plenty of other land available to put office buildings on. Boulder ridge is not the right spot for this and I ask you to put yourself in the citizens of Boulder Ridges shoes. Please take all this into consideration and vote a strong NO on this proposed development. Thank you for your time, Tyler Glasser5336 Basalt DriveBismarck, ND 58503

* indicates required fields.

View any uploaded files by signing in and then proceeding to the link below:
http://bismarcknd.gov/Admin/FormHistory.aspx?SID=31825

The following form was submitted via your website: Commissioner Guy

First Name: Tyler

Last Name: Glasser

Address 1: :

Address 2::

City:

State: ND

Zip Code:

Email: t

Phone Number:

Fax Number:

Comments: Good morning to Whom it may concern,

I am writing in strong opposition to the Knudson proposal for a zoning change for the Boden addition.
This new development directly across from Liberty elementary school that I have one child going to now and will have 2 more in the near future calls for up to 45 office buildings. I live a block from Liberty Elementary school.
I have many concerns with this development but the most concerning part of this is the safety of the young children that go to this school. The traffic right now without 40 plus office buildings is concerning and adding this will only make the situation worse. Please think about how you would feel if you had young children in this situation. This is dangerous and negligent for the students of this school.
The infrastructure is not in place on Washington street and Lasalle to support the extra traffic that this will cause. North Washington street is busy enough right now without this. Missouri Slope is also in the process of being built across the street of this proposed development which will bring even more traffic to this area.
Boulder ridge is a desirable north Bismarck development with many young families. What is 45 office buildings going to do to the property values? Mr. Knudson has plenty of other land available to put office buildings on. Boulder ridge is not the right spot for this and I ask you to put yourself in the citizens of Boulder Ridges shoes.
Please take all this into consideration and vote a strong NO on this proposed development.
Thank you for your time,
Tyler Glasser5336 Basalt DriveBismarck, ND 58503

Additional Information:
Form submitted on: 6/22/2021 8:52:12 AM
Submitted from IP Address: 24.111.128.170
Referrer Page: https://bismarcknd.gov/Directory.aspx?EID=1257
Form Address: http://bismarcknd.gov/Forms.aspx?FID=265

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Agenda item 5
Date: Tuesday, June 22, 2021 9:15:23 AM

-----Original Message-----
From: Jacey < >
Sent: Monday, June 21, 2021 9:35 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Agenda item 5

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I am writing to express my opposition to item number 5, a proposed change in the zoning of a section of Boulder Ridge.
Thank you for your time and consideration.
Jacelyn Brown

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Agenda Item 5
Date: Tuesday, June 22, 2021 9:19:17 AM

-----Original Message-----
From: Brown, Preston < >
Sent: Monday, June 21, 2021 9:35 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Agenda Item 5

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I am writing to express my opposition to item number 5, a proposed change in zoning of a section of boulder ridge.

Thank you for your time and consideration.

- Preston Brown

Sent from my iPhone

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Boulder Ridge Zoning Change
Date:	Tuesday, June 22, 2021 9:19:45 AM

From: < >
Sent: Monday, June 21, 2021 10:14 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Boulder Ridge Zoning Change

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Agenda #5 zoning change from residential to conditional residential to allow office buildings.

My husband and I are opposed to this zoning change. We built our house 12 years ago in a
nice residential area and do not want office buildings in our backyard.

There is an elementary school across the street from this area and we do not need the increased traffic
that would threaten the safety of our children.

Knutson's tried a zoning change several years ago in order to have a nursing home built there
and were denied. How many times can they request a zoning change?

This property's original intent was for residential and in all fairness to those of us that have built in Boulder Ridge, it should remain residential.

Barb and Dan Wrolstad
5024 Boulder Ridge Rd
Bismarck, ND 58503

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Boden Addition
Date:	Tuesday, June 22, 2021 9:21:00 AM

From: Ryan Kudrna < >
Sent: Tuesday, June 22, 2021 8:27 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Fwd: Boden Addition

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Good Morning

I am writing in strong opposition to Knudson proposal for zoning change for Boden Addition.

This is across the street from Liberty Elementary. Due to this:

1. This is a safety issue. Putting approx 40 office spaces directly across from an elementary school is dangerous and negligent, if approved.

2. The infrastructure is not in place to accommodate this type of "residential" zoning.

3. This zone is smack dab in the middle of Boulder Ridge development. This area is a respected and desirable subdivision in NW Bismarck. Re-zoning this would decrease property values significantly.

Please vote not on this proposal.

--
Ryan Kudrna
5401 Mica Drive
Bismarck ND 58503

--
Ryan

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Boden Addition in Boulder Ridge
Date:	Tuesday, June 22, 2021 9:21:23 AM

From: Tyler Glasser < >
Sent: Tuesday, June 22, 2021 8:50 AM
To: ; Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Boden Addition in Boulder Ridge

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Good morning to Whom it may concern,

I am writing in strong opposition to the Knudson proposal for a zoning change for the Boden addition.

This new development directly across from Liberty elementary school that I have one child going to now and will have 2 more in the near future calls for up to 45 office buildings. I live a block from Liberty Elementary school.

I have many concerns with this development but the most concerning part of this is the safety of the young children that go to this school. The traffic right now without 40 plus office buildings is concerning and adding this will only make the situation worse. Please think about how you would feel if you had young children in this situation. This is dangerous and negligent for the students of this school.

The infrastructure is not in place on Washington street and Lasalle to support the extra traffic that this will cause. North Washington street is busy enough right now without this. Missouri Slope is also in the process of being built across the street of this proposed development which will bring even more traffic to this area.

Boulder ridge is a desirable north Bismarck development with many young families. What is 45 office buildings going to do to the property values? Mr. Knudson has plenty of other land available to put office buildings on. Boulder ridge is not the right spot for this and I ask you to put yourself in the citizens of Boulder Ridges shoes.

Please take all this into consideration and vote a strong NO on this proposed development.

Thank you for your time,

Tyler Glasser
5336 Basalt Drive

Bismarck, ND 58503

From: Susan Pick
To: Hilary Balzum
Subject: Boden Addition reasoning
Date: Tuesday, June 22, 2021 10:33:04 AM

CAUTION: ***External Email - Use caution clicking links or opening attachments***

I am writing in opposition of the rezoning of Boden Addition. Agenda item #5 on the upcoming planning and zoning commission meeting agenda.

Thanks Hilary!

Susan Ronning

Sent from my iPhone

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Opposition to Boden Addition - Pt W/2 of Section 15-T139N-R80W
Date:	Tuesday, June 22, 2021 2:12:48 PM

From: Hughes, Justin < >
Sent: Tuesday, June 22, 2021 1:56 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Cc:
Subject: Opposition to Boden Addition - Pt W/2 of Section 15-T139N-R80W

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To Mr. Daniel Nairn and Bismarck Community Development Department – Planning Division:

On behalf of myself individually, and in my capacity as President of the Boulder Ridge Homeowners' Association, I write to formally oppose the proposed zoning change requested for the above-referenced property, being Boden Addition to the City of Bismarck. The City of Bismarck should deny the requested zoning change for the reasons discussed below.

Boden Addition is owned by Boulder Ridge Development, Inc. and Ron and ruth Knutson. The Bode Addition project will be developed by Knutson Development. Via letter and a meeting held June 20, 2021 at the Liberty Elementary School, Knutson Development explained the proposed Boden Addition project to Boulder Ridge residents and the Boulder Ridge HoA. As explained, Knutson Development proposed building out Boden Addition with approximately 44-46 lots each of which would contain a one or two story commercial office building. The problems with this proposed development or numerous.

First, allowing the zoning change to allow commercial development is inappropriate because nearly all the land within a quarter mile of Boden Addition is residential or residential or designed to supplement and encourage residential development. One may point at the nearly-completed Missouri Slope Lutheran Care Center North Campus as an adjacent commercial development. While the facility will be operated as a commercial enterprise, the commercial enterprise itself is primarily residential in nature. Other non-residential development in the vicinity includes a church and Liberty Elementary School – both of which enhance or otherwise provide a service to the Boulder Ridge Development and its residents. All other non-residential commercial development near or adjacent to Boulder Ridge is either south of 43rd Avenue NE, or west of N Washington Street, providing a natural buffer for homeowners and maintaining the residential nature of Boulder Ridge. Accordingly, it is plainly evident that a commercial development immediately adjacent to what is otherwise a residential area is unacceptable.

Second, allowing the zoning change to allow commercial development is inappropriate because it will negatively impact Liberty Elementary School and the parents and children who utilize it. On any given school day the streets and area around Liberty Elementary school are full of activity. Specifically, children traveling to or from school and parents dropping off or

picking children up. Traffic on E LaSalle Drive is nearly constant between 7:15 a.m. and 8:30 a.m. and again between 2:45 p.m. and 3:15 p.m. Further, numerous people park on the road because the Liberty Elementary School parking lot is not large enough for the volume of cars. Allowing commercial development in Boden Addition will cause further chaos with added traffic because the only ingress and egress points to Boden Addition are on E LaSalle Drive. Additionally, because the traffic will consist of individuals who do not live in Boden Addition, the traffic will likely be unfamiliar with the area and the number of children around; this traffic will unnecessarily endanger children walking or biking around the school. Examples of this endangerment are already evident as many people who do not live in the area nevertheless speed along E LaSalle Drive because it is one of the nearest and quickest ways to get from N Washington Street and west to State Street and points east. Again, adding the type and volume of traffic commercial development of Boden Addition would bring will unacceptable burden parents and endanger children.

Third, allowing the zoning change to allow commercial development is inappropriate because it will likely cause further water problems for Boulder Ridge residents. The City of Bismarck is very aware of the myriad water problems facing Boulder Ridge residents. Commercial development in Boden Addition will only exacerbate the problem by introducing more impervious surface for parking lots for the proposed office buildings. Requiring a detention pond for Boden Addition would only create alternative problems because standing water would attract bugs, namely mosquitos, but could also attract children who live and play in Boulder Ridge near Boden Addition inviting potential tragedy and liability. Again, such outcomes are unacceptable.

Fourth, allowing the zoning change to allow commercial development is inappropriate because it is likely to cause decreased property values for the adjacent residences. Knutson development indicated that the proposed commercial development in Boden Addition would bring value to Boulder Ridge residents. However, no empirical evidence was provided to support its assertion. It is more likely that Boulder Ridge property values decrease because of proximity to commercial development. Thus, allowing commercial development would benefit the few owners and developers at the expense of the many Boulder Ridge homeowners, which is unacceptable.

Fifth, allowing the zoning change to allow commercial development is inappropriate because it results in perpetual oversight to enforce the conditions and restrictions placed on Boden Addition. Knutson Development indicated it would form an association akin to a homeowners' association to enforce covenants and applicable city conditions and requirements. However, if the City of Bismarck is not going to require that such association is likewise maintained by Knutson Development in perpetuity as part of approving the zoning change, there is nothing to stop Knutson Development from transferring association control to third-parties that may not abide by the private covenants let along City-provided conditions or requirements. Failure by the association to enforce covenants or City-imposed conditions creates a financial burden on the City, which then must enforce the same to the extent legally possible; however, this burden will ultimately get shifted to taxpayers.

Sixth, allowing the zoning change to allow commercial development is inappropriate because any landscaping buffer between Boden Addition and Boulder Ridge will likely be inadequate. The Boulder Ridge properties south and east of Boden Addition are anywhere from approximately 12-18 feet higher than the Boden Addition property. Thus, in order to provide an adequate buffer for homeowners, namely something substantially blocking the view of the

commercial development, would require an earthen berm even taller than the elevation change because anything less is inadequate to shield the view of higher-elevation property owners. Trees and shrubs are an unacceptable alternative as the length of time for vegetation to grow large enough to shield the commercial development from view will be measured in decades, not months or years.

Summarily, for the above-described reasons I, individually and as President of the Boulder Ridge Homeowners' Association, strenuously urge the City of Bismarck to deny the requested zoning change for Boden Addition.

Respectfully submitted,

Justin G. Hughes
Fredrikson & Byron, P.A.
Attorney
1133 College Drive
Suite 1000
Bismarck, ND 58501-1215

Assistant - Mary Etter: 701-221-8642
Main: 701-221-8700
Fax: 701-221-8750

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From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Agenda Item #5 - Boden Addition
Date:	Wednesday, June 23, 2021 8:08:58 AM

From: Jonathan Breitbach < >
Sent: Tuesday, June 22, 2021 7:41 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Agenda Item #5 - Boden Addition

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Jon and Joan Breitbach
305 E LaSalle Drive
Bismarck, ND 58503

June 22, 2021

Bismarck Planning & Zoning Commission
Community Development Department
Bismarck, ND 58506

To the Bismarck Planning and Zoning Commission:

My major concern with the proposed Boden Addition is the manner in which the financial risk vs. return ratio would be allocated. I believe that the financial risk and potential return should be allocated to the developer. The small business model being proposed in the Boden Addition places all the financial risk on the current surrounding homeowners. Without proof of concept in Bismarck, this addition would place current homeowners, surrounding the proposed area, in a state of financial uncertainty. Property values of surrounding homes would be immediately impacted based on either the desire, or lack thereof, to live in close proximity to these proposed small commercial businesses.

In contrast, I believe the Boden Addition poses very little financial risk to the developers due to its desired location. Before a small commercial addition is approved next to a residential area in Bismarck, it must first prove its validity in a subdivision that is completely designed around this small commercial/residential model. This would allow the impact on property values of residential lots surrounding the small commercial buildings to be accurately assessed. In this scenario, the market would be allowed to determine the value of the surrounding, undeveloped, residential lots before they are purchased by homeowners and the risk vs. return on investment would be properly assigned to the developers, and not fall on current homeowners. This would also allow potential homeowners the ability to opt into or out of the financial risks associated with an unproven concept.

In Bismarck, we have a developmental concept that has proven to work in the past, and it is currently being implemented into the Elk Ridge and Silver Ranch Developments. These new developments and this area of the Boulder Ridge Development, are designed around the idea of single family homes surrounding a neighborhood elementary school. This is the developmental concept that my neighbors and I chose to invest in and that has proven to provide financial security to current and future homeowners. The City of Bismarck properly zoned the land surrounding Liberty Elementary School to ensure this vision was carried out in future additions. The proposed Boden Addition threatens this vision and adds to financial uncertainty of those around it.

As a homeowner that would now share property lines with two commercial lots, I am not in favor of the proposed zoning changes. Please reject any rezoning requests and keep the land mentioned in the proposed Boden Addition zoned as A-Agricultural and R5 residential, to protect the investments of the current surrounding homeowners.

Thank you for your time and consideration.

Jon Breitbach

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Boden Addition
Date: Wednesday, June 23, 2021 8:10:16 AM

-----Original Message-----
From: Danny Anderson < >
Sent: Tuesday, June 22, 2021 11:11 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Boden Addition

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Hello, my name is Daniel Anderson. My family and I live at 4903 Pumice Loop in the Boulder Ridge Development. We would like to express our concern over the proposed zoning change for the Boden addition. We currently enjoy a quite neighborhood that is all residential. Our oldest son, Rowen, will be in first grade at Liberty Elementary this fall. Our youngest son, Renner, will start at Liberty in the fall of 2023. We love living close to the school and look forward to a time when our boys will be able to walk to school or ride bike to school by themselves. LaSalle is already a very busy road and it's seems that rezoning to allow small scale offices in the Boden addition will inevitably increase the amount of traffic in the area. This is our primary concern with the rezoning, looking out for the safety of not only our children, but all of the Liberty Elementary students that walk or ride bike to school everyday. It seems the school would be better protected by surrounding it with single family homes in an R5-Residential zoned area. Please consider this letter at the public hearings on Wednesday, June 23rd at 5:00 pm regarding the rezoning of the Boden addition as I will be unable to attend due to my work schedule.

Respectfully,

Danny, Danielle, Rowen, and Renner Anderson
4903 Pumice Loop
Bismarck, ND 58503

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Agenda Item #5 - Boden Addition
Date: Wednesday, June 23, 2021 8:10:44 AM

-----Original Message-----
From: Jeremy and Krista Brunelle < >
Sent: Wednesday, June 23, 2021 12:43 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Agenda Item #5 - Boden Addition

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Dear Commissioners,

We STRONGLY oppose the proposed Boden Addition for Boulder Ridge. We reside in Boulder Ridge and have two children that will be starting school at Liberty Elementary in the coming years. The proposed area is directly across from the Elementary School. The traffic during school pickup and drop off times is already horrendous and this would surely compound the traffic/congestion. Safety for our children is a huge concern.

Also, we don't believe business or offices of any type should be part of a single family home development.

Please advocate for the kids and vote in opposition to the Boden Addition.

Respectfully,

Krista & Jeremy Brunelle

Sent from my iPhone

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Boulder Ridge, Boden Plat
Date:	Wednesday, June 23, 2021 8:11:46 AM

From: Amber Schriock < >
Sent: Wednesday, June 23, 2021 4:56 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Boulder Ridge, Boden Plat

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Planning and Zoning Commission,

As a parent of a child at Liberty Elementary, I am opposed to rezoning that area from residential to business. I believe it would cause increased traffic La Salle, which is already a busy street and people frequently drive over the speed limit. Plus, there are vacant offices in other Bismarck locations. It doesn't make sense to build more.

Amber Schriock
sent from my Android device

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Opposition of the Boulder Ridge Boden Business Development
Date:	Wednesday, June 23, 2021 8:12:14 AM

From: Joe Cornell < >
Sent: Wednesday, June 23, 2021 7:34 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Opposition of the Boulder Ridge Boden Business Development

CAUTION: ***External Email - Use caution clicking links or opening attachments***

To Mr. Nairn and the Bismarck Community Development Department - Planning Division:

I am writing to you this morning as a concerned parent and resident of Boulder Ridge. The newly proposed Boden Division not only jeopardizes the single family model this neighborhood was built upon, but more importantly, the everyday safety of my children and children in this neighborhood. Adding daily traffic from 40 small businesses directly across the street from Liberty Elementary not only increases the danger to children exponentially, but further compounds the traffic flow issues LaSalle Avenue is already facing on a daily basis. Not to mention, the overflow traffic that would be pushed to the residential neighborhood. There is no place for this.

Allowing zoning of only single family homes is the only option for this plot of land. It preserves the everyday safety of children, protects against overflow school zone traffic, and keeps in integrity of the neighborhood housing.

Sincerely,

Joe Cornell
4907 Granite Drive
Bismarck, ND 58503

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Boden Addition
Date:	Wednesday, June 23, 2021 8:12:38 AM

From: Roger Harris >
Sent: Wednesday, June 23, 2021 7:57 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Boden Addition

CAUTION: ***External Email - Use caution clicking links or opening attachments***

Good Morning Commissioners,

It has come to my attention that there will be a request to build several office spaces directly across from the Liberty Elementary School where my family and I live. We greatly oppose this for that there will be an increase in traffic to which our whole street of LaSalle has become a hazard for drivers tend to speed of up to well over 40 miles just cutting across from N. Washington to get to the other side. There is also the fact that there currently is more office space that is not occupied all over Bismarck. There is no real need to turn a residential neighborhood into a small stretch of offices that will likely be empty within the next ten years just for the sheer number of available options already available. We moved to this neighborhood because it was quiet at the time but over the years it has become more and more congested with traffic, this is not what I want my daughter to grow in to , thus I will be attending the meeting tonight with numerous others who share the same thoughts. We are trying to build a community here and we do not need more businesses effecting that. Thank you for your time and consideration,

Respectfully,

Roger Harris

From: Daniel Nairn
To: Craig Thurow
Cc: Hilary Balzum
Subject: Re: Boulder Ridge Proposed Bohen Development Proposal
Date: Wednesday, June 23, 2021 8:41:25 AM

Thank you Craig. We will forward this to the Planning and Zoning Commission.

Sent from my iPhone

> On Jun 22, 2021, at 10:31 PM, Craig Thurow < > wrote:
>
> CAUTION: ***External Email - Use caution clicking links or opening attachments***
>
>
> To : Bismarck Planning Commission
>
> I am a citizen of Bismarck with residence at 301 Slate Drive in the Boulder Ridge development .
> I attended the neighborhood meeting on June 20,2021 at Liberty Elementary school.
> Listened to presentation by Mr. Cam Knutson and provided input and comments during this meeting.
>
> I have concerns regarding this business park development as follows:
> 1) close proximity to an elementary school that traffic flows will increase. As the developments vehicle traffic enters and exits into LaSalle Avenue. There currently are no pedestrian street crossing markings on LaSalle and Onyx Drive . Or traffic control signage at this intersection.
>
> 2) developer proposal to build a large holding pond to handle parking lot and street drainage in the development. My opinion this creates a hazard for elementary students that live and walk to and from Liberty school. Fargo has had a fatal drowning of a young child. In a neighborhood water retention pond last year.
> There are many students from Liberty weather permitting that walk to and from their residences near this property.
>
> 3) Boulder Ridge residents who built homes in the beginning of this neighborhood. Were assured there would be NO commercial development by the original developer. These home owners made decision to build homes in BR for this assurance and reason.
>
> Because these concerns reasons I am against this development proposal.
>
> I would suggest the developer consider moving the proposed development. To the NW quadrant vacant lot near North Washington and West LaSalle . Directly north of this property is the completed 2020 City Watershed network located near North Washington and West 57th Avenue intersection. Developer should consider making a land swap deal with this property owner. It would eliminate the risk of another holding pond near a residential neighborhood.
>
> Thank you for reviewing my comments.
>
> Sincerely
>
> Craig Thurow
>
>
> Sent from my iPhone

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Child Care Facility
Date:	Tuesday, June 22, 2021 9:05:25 AM
Importance:	High

Thank you for your comments. They have been forwarded to planners and commission members as part of the public record.

Kindest regards

Sandra Bogaczyk
Office Assistant II

City of Bismarck – Community Development
221 N 5th St.
PO Box 5503
Bismarck, ND 58506-5503

Office: 701-355-1840
Fax: 701-222-6450
Website: bismarcknd.gov
Facebook: facebook.com/bismarcknd.gov | Twitter: twitter.com/BismarckNDGov | Instagram: bismarckndgov

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From: < >
Sent: Monday, June 21, 2021 5:56 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: FW: Child Care Facility
Importance: High

CAUTION: ***External Email - Use caution clicking links or opening attachments***

This email is regard to your June 23rd zoning commission meet planed to approve the projected day care facility planned for 910 South 18th street.

Speaking on behalf on of the property owners affected by this facility, the concerns we have is maintenance of the landscaping. Previous tenants and owners failed miserably when it came to

grounds maintenance (i.e. failure to mow the lawn, weed control and picking garbage on which was blown onto the lot or thrown by transient foot traffic when the facility was empty).

We want to know how the new tenants plan to keep up the landscaping on this property. Under previous tenants and owners we have to call the city on numerous occasions to have the lawn mowed, weed control conducted and conduct overall grounds maintenance.

We as adjacent property owners have worked very hard to keep our properties maintained to a high standard only to have a an adjacent property fail to keep their commercial property properly maintained.

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 6/2021

	**********City**********				**********ETA**********			
	6/2021		6/2020		6/2021		6/2020	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	20	$4,914,352.55	23	$5,762,956.01	8	$3,056,603.93	7	$2,296,545.80
ROWHOUSE (2) 1-HR FIRE SEPARATION	34	$7,829,942.05	5	$981,398.42	0	$0.00	0	$0.00
THREE OR FOUR UNIT	0	$0.00	3	$804,000.00	0	$0.00	0	$0.00
MANUFACTURED HOMES	2	$0.00	0	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	3	$265,522.95	2	$13,631.26	0	$0.00	1	$74,400.00
DETACHED GARAGE	1	$14,400.00	6	$93,433.00	6	$221,400.00	16	$650,934.00
DECKS\PORCHES & COVERED PORCHES	10	$32,926.50	39	$145,169.32	1	$5,670.00	6	$39,396.00
SWIMMING POOLS	0	$0.00	3	$153,600.00	2	$165,000.00	1	$62,500.00
RESIDENTIAL ALTERATION/OTHER	5	$211,287.86	6	$113,066.00	0	$0.00	1	$3,000.00
STORAGE SHED	4	$11,340.00	6	$36,800.00	0	$0.00	2	$5,760.00
BASEMENT FINISH	5	$90,430.00	8	$135,641.50	1	$17,802.00	2	$6,475.00
RESIDENTIAL	0	$0.00	1	$0.00	0	$0.00	0	$0.00
FIREWORKS SALES	0	$0.00	0	$0.00	7	$0.00	10	$0.00
MISC TEMPORARY STRUCTURES	2	$0.00	0	$0.00	0	$0.00	0	$0.00
NEW SIGN PERMITS	20	$144,135.00	11	$67,075.00	0	$0.00	0	$0.00
SIGN ALTERATION	9	$119,530.00	6	$106,800.00	0	$0.00	0	$0.00
ELECTRONIC MESSAGE CENTER	0	$0.00	1	$36,000.00	0	$0.00	0	$0.00
COMMERCIAL NEW CONSTRUCTION	3	$4,290,514.00	3	$3,484,900.00	1	$211,000.00	0	$0.00
COMMERCIAL ADDITION	1	$649,026.00	0	$0.00	1	$0.00	0	$0.00
COMMERCIAL ALTERATION	12	$3,937,462.86	15	$2,826,589.00	3	$4,577,757.00	1	$37,811.28
Total	**131**	**$22,510,869.77**	**138**	**$14,761,059.51**	**30**	**$8,255,232.93**	**47**	**$3,176,822.08**

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 6/2021

	**********City**********				**********ETA**********			
	6/2021		6/2020		6/2021		6/2020	
Trade Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	104	$42,861.15	104	$33,000.00	1	$0.00	1	$0.00
BUILDING MECHANICAL	143	$1,152,331.22	128	$1,328,392.79	23	$507,104.47	37	$250,321.58
BUILDING PLUMBING	43	$1,078,054.00	39	$1,410,323.67	26	$1,424,085.00	11	$476,428.75
BUILDING SEPTIC	0	$0.00	0	$0.00	3	$0.00	2	$0.00
Total	**290**	**$2,273,246.37**	**271**	**$2,771,716.46**	**53**	**$1,931,189.47**	**51**	**$726,750.33**

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 6/2021

	*******************City*******************		*******************ETA*******************	
	6/2021	**6/2020**	**6/2021**	**6/2020**
Living Units	**Units**	**Units**	**Units**	**Units**
MANUFACTURED HOMES	1	0	0	0
BASEMENT FINISH	0	0	0	0
DECKS\PORCHES & COVERED PORCHES	0	0	0	0
DETACHED GARAGE	0	0	1	0
RESIDENTIAL ADDITION	0	0	0	0
RESIDENTIAL ALTERATION/OTHER	0	0	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	27	5	0	0
SINGLE FAMILY DETACHED	19	22	8	5
SWIMMING POOLS	0	0	0	0
THREE OR FOUR UNIT	0	7	0	0
Total	**47**	**34**	**9**	**5**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 6/2021

	**********City**********				**********ETA**********			
	6/2021		6/2020		6/2021		6/2020	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	91	$25,229,715.44	90	$22,912,915.10	35	$13,055,137.95	26	$7,988,608.59
ROWHOUSE (2) 1-HR FIRE SEPARATION	67	$14,589,415.09	14	$2,800,348.79	0	$0.00	2	$429,629.68
THREE OR FOUR UNIT	0	$0.00	3	$804,000.00	0	$0.00	0	$0.00
MANUFACTURED HOMES	3	$0.00	6	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	12	$516,994.52	7	$498,947.02	3	$334,046.80	6	$363,181.52
DETACHED GARAGE	15	$195,950.00	20	$363,911.25	34	$1,358,340.00	34	$1,264,347.00
DECKS\PORCHES & COVERED PORCHES	59	$215,789.45	84	$382,810.24	8	$43,344.00	10	$52,286.00
SWIMMING POOLS	2	$223,000.00	7	$388,110.00	5	$404,221.00	1	$62,500.00
RESIDENTIAL ALTERATION/OTHER	38	$1,164,039.11	21	$1,083,015.12	1	$38,000.00	6	$184,075.00
HOME OCCUPATION	3	$0.00	1	$0.00	1	$0.00	2	$0.00
STORAGE SHED	14	$45,100.00	7	$51,542.00	1	$2,880.00	3	$8,640.00
BASEMENT FINISH	58	$1,388,174.00	48	$714,612.25	8	$168,861.00	10	$146,409.50
RESIDENTIAL	4	$0.00	6	$0.00	0	$0.00	0	$0.00
FIREWORKS SALES	0	$0.00	0	$0.00	7	$0.00	11	$0.00
NURSERY STOCK SALES	5	$0.00	0	$0.00	0	$0.00	0	$0.00
MISC TEMPORARY STRUCTURES	2	$0.00	5	$0.00	0	$0.00	0	$0.00
NEW SIGN PERMITS	57	$874,592.16	53	$714,729.00	0	$0.00	2	$1,175.00
SIGN ALTERATION	14	$245,697.00	13	$163,105.00	0	$0.00	0	$0.00
ELECTRONIC MESSAGE CENTER	0	$0.00	1	$36,000.00	0	$0.00	0	$0.00
COMMERCIAL NEW CONSTRUCTION	45	$53,407,608.21	11	$65,919,106.00	1	$450,000.00	5	$0.00
COMMERCIAL ADDITION	4	$2,337,176.00	4	$1,582,716.00	0	$0.00	0	$0.00
COMMERCIAL ALTERATION	56	$22,965,310.86	73	$27,848,546.07	0	$0.00	1	$37,811.28
Total	**549**	**$123,398,561.84**	**474**	**$126,264,413.84**	**104**	**$15,854,830.75**	**119**	**$10,538,663.57**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 6/2021

	**********City**********				**********ETA**********			
	6/2021		**6/2020**		**6/2021**		**6/2020**	
Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	501	$82,661.15	467	$163,498.00	0	$0.00	0	$0.00
BUILDING MECHANICAL	759	$8,113,306.85	602	$12,174,530.46	65	$589,359.47	89	$1,097,040.03
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	211	$6,539,863.04	181	$9,911,383.36	55	$1,526,379.00	35	$1,163,519.18
BUILDING SEPTIC	0	$0.00	0	$0.00	12	$24,000.00	12	$6,850.00
Total	**1471**	**$14,735,831.04**	**1251**	**$22,272,411.82**	**132**	**$2,139,738.47**	**137**	**$2,270,409.21**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 6/2021

	*******************City*******************		*******************ETA*******************	
	6/2021	**6/2020**	**6/2021**	**6/2020**
Living Units	**Units**	**Units**	**Units**	**Units**
MANUFACTURED HOMES	2	6	0	0
Total	**2**	**6**	**0**	**0**