PLANNING AND ZONING COMMISSION

MEETING AGENDA
August 25, 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 July 28, 2021 meeting of the Bismarck Planning & Zoning Commission

CONSENT AGENDA
CONSIDERATION

The following item is a request for a public hearing.

2. **Blocks 11 and 12, Northern Pacific Addition** (DN)……..…….…… 1

   Zoning Change | ZC20201-009

   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.

3. **Boden Addition** (DN)…….....…….…… ...……11

Major Subdivision Final Plat | FPLT2021-005

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

Zoning Change (A and R5 to Conditional RT) | ZC2020-008

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

4. **Frohlich Addition** (JW)……...……...……27

Major Subdivision Final Plat | FPLT2021-007

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

5. **Potter Pointe Addition** (JW)…….……..……..…… ...……36

Minor Subdivision Final Plat | MPLT2021-001

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

Zoning Change (RR to RR & R5) | ZC2020-017

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

6. **Fairview Addition** (DN)…….……..……..…..…47

Major Subdivision Final Plat | FPLT2021-006

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

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

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

7. **Hughes Addition** (Klee)…… ……..…59

PUD Amendment | PUDA2021-002

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

Special Use Permit (Electronic Message Center Sign) | SUP2021-019

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

8. **Lot 1, Block 1, First Evangelical Free Church** (DN) ……..……..70

Special Use Permit (Electronic Message Center Sign) | SUP2021-008

Staff recommendation: approve □ approve □ continue □ table □ deny

9. **Blocks 53 & 54, McKenzie & Coffins Addition and Blocks 65 & 66, Northern Pacific Second Addition** (DN)……..……..**78**

Special Use Permit (Electronic Message Center Sign) | SUP2021-012

Staff recommendation: approve □ approve □ continue □ table □ deny

10. **Lot 1, Block 4, Edgewood Village 7th Addition** (DN)…….……..……..87

Special Use Permit (Electronic Message Center Sign) | SUP2021-013

Staff recommendation: approve □ approve □ continue □ table □ deny

11. **Auditor's Lot 1 of the SW1/4 of Section 3, T138N-R80W/City Lands** (DN)…….....96

Special Use Permit (Electronic Message Center Sign) | SUP2021-014

Staff recommendation: approve □ approve □ continue □ table □ deny

12. **Part of Lot 3, Block 1, Meadow Valley Addition** (DN)…….……..……..105

Special Use Permit (Electronic Message Center Sign) | SUP2021-015

Staff recommendation: approve □ approve □ continue □ table □ deny

13. **Lot 3A, Block 1, Christianson First Addition** (WH)……..……..……..114

Special Use Permit (Drive-through) | SUP2021-017

Staff recommendation: approve □ approve □ continue □ table □ deny

14. **Lot 4, Block 1, Wachters Addition Second Replat** (WH)..……..……..……..122

Special Use Permit (Drive-through) | SUP2021-018

Staff recommendation: approve □ approve □ continue □ table □ deny

OTHER BUSINESS

15. **Together 2045 Update**

16. **Other**

ADJOURNMENT

17. **Adjourn.** The next regular meeting date is scheduled for September 22, 2021.

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

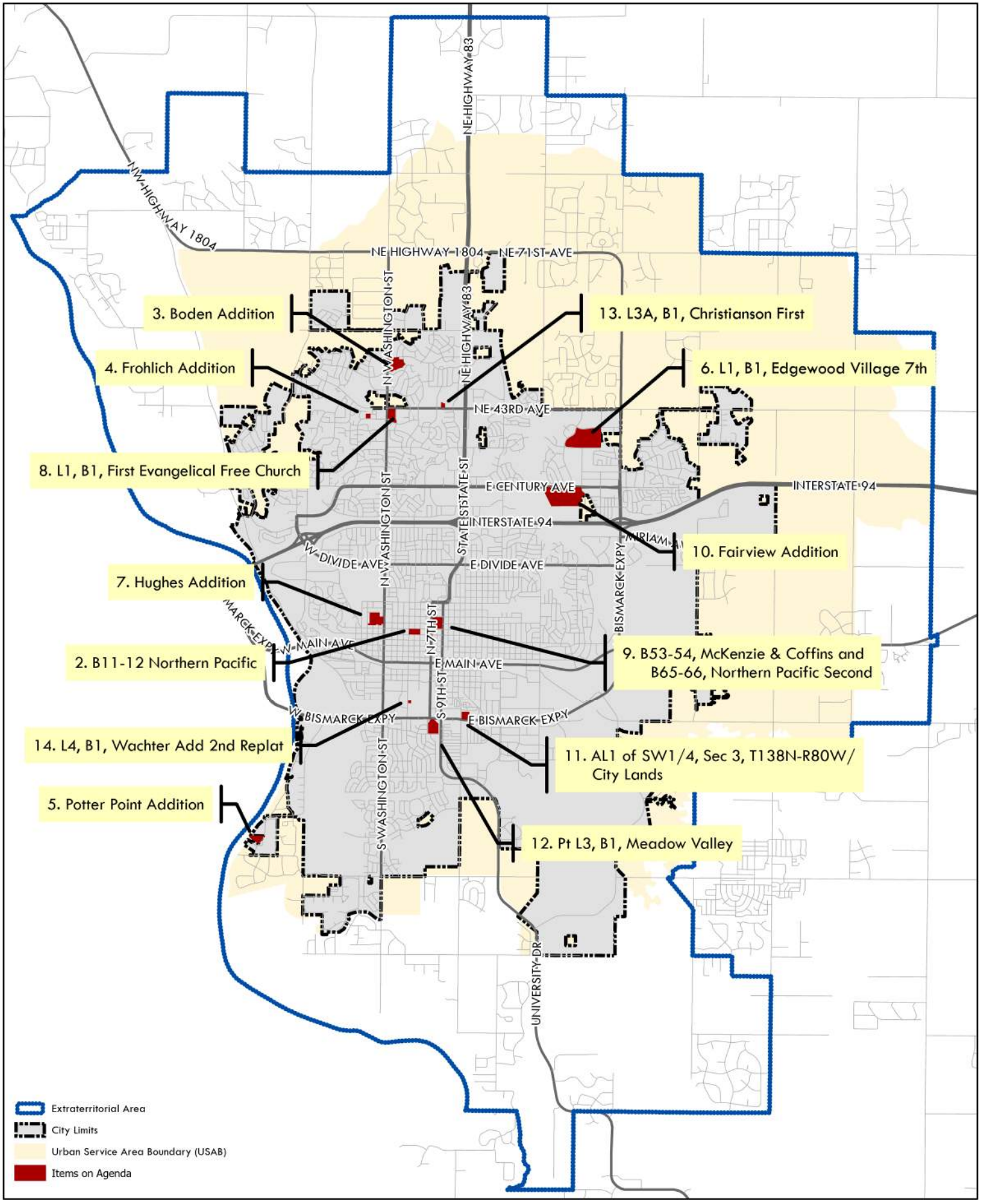
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions 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 Commission Meeting - August 25, 2021



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

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STAFF REPORT

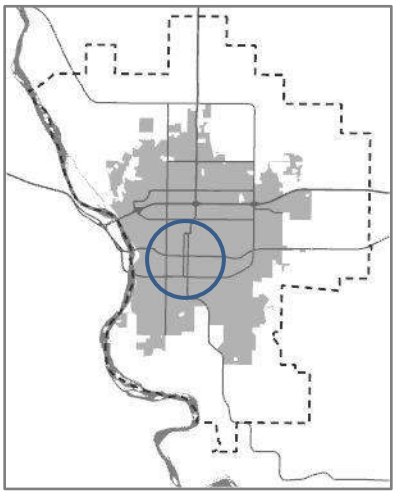
Agenda Item # 2
August 25, 2021

Application for: **Zoning Change**

Project ID: **ZC2021-009**

Project Summary

Title:	Blocks 11 and 12, Northern Pacific Addition
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Various owners (see attachment)
Project Contact:	Daniel Nairn, AICP
Location:	In central Bismarck, bounded by East Avenue B, North 5th Street, East Avenue C, and North 3rd Street
Project Size:	6.67 Acres
Request:	Rezone to Downtown Fringe to address non-conformities and facilitate redevelopment/reuse



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	18 parcels	*Number of Lots:*	18 parcels
Land Use:	Office, school, religious institution, historic site, multifamily and single-family residential	*Land Use:*	Office, school, religious institution, historic site, multifamily and 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:	RT – Residential RM30 – Residential PUD – Planned Unit Development	*Zoning:*	DF – Downtown Fringe
Uses Allowed:	RT – Offices and multi-family residential RM30 – Multi-family residential PUD – Uses specified in PUD	*Uses Allowed:*	DF – Mixed-use development including retail, multi-family residential, single-family residential, and office uses
Max Density:	RT – 30 units / acre RM30 – 30 units / acre PUD – Density specified in PUD	*Max Density:*	DF – 42 units / acre

(continued)

Property History

Zoned:	07/2017 (RT) 05/1999 (PUD) Pre-1980	*Platted:*	Pre-1980	*Annexed:*	Pre-1980

Staff Analysis

The City of Bismarck Community Development Department – Planning Division is initiating a zoning change from the RT – Residential, RM30 – Residential, and PUD – Planned Unit Development zoning districts to the DF – Downtown Fringe zoning district for Blocks 11 and 12, Northern Pacific Addition.

Adjacent uses include multi-family residential to the west; a religious institution, single and two family residential to the north; medical, office, multi-family and single-family residential to the east; and a religious institution, office, and multifamily residential to the south. The entire area has a mix of uses.

The Planning Division has been approached by two separate landowners within this area that have inquired about a downtown zoning classification to allow building modifications or uses not currently allowed. Because of the need to keep the downtown districts contiguous, staff has opted to initiate a broader zoning change rather than ask each property owner to request a rezoning independently.

Each of the 18 property owners were sent a letter on May 26, 2021 to notify of this potential rezoning prior to staff submitting this request for consideration by the Planning and Zoning Commission. Property owners were invited to a meeting on June 7, and one attended. Staff have received some inquiries, but to date staff has not received any objections from owners within the proposed area.

The DF – Downtown Fringe zoning district allows a broader range of uses, as well as more detailed development standards and no off-street parking requirements. However, the requirements of Downtown Design Review would apply, and all development could be subject to review by the Downtown Design Review Committee in accordance with the 2015 Design Guidelines.

There are a number of non-conforming uses within these two blocks. Single-family dwellings are not allowed in the RT – Residential zoning district, unless in conjunction with a commercial use. There are currently four non-conforming single-family dwellings in this district. The RM30 – Residential district in this area is modified to allow single-family dwellings and medical offices, but there is one non-conforming non-medical office in this district. Non-conforming uses may remain in place but are limited from alteration or expansion. All of these non-conformities would be remedied by this rezoning.

There is one Planned Unit Development (PUD) for a single parcel in part of Lot 8, Block 12, Northern Pacific Addition. The PUD allows offices, church, a single-family dwelling, schools, and photography studio. The required parking is four off-street spaces on-site, and nine parking spaces off-site. The proposed DF – Downtown Fringe zoning district would allow these uses and simplify parking because no off-street spaces would be required. The full PUD is attached to this staff report.

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

(continued)

2014 Growth Management Plan, as amended;

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

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the RT – Residential, RM30 – Residential, and PUD - Planned Unit Development zoning districts to the DF – Downtown Fringe zoning district for Blocks 11 and 12, Northern Pacific Addition.

Attachments

1. List of Property Owners
2. Location Map
3. Aerial Map
4. Zoning and Plan Reference Map
5. Proposed Zoning Change Map
6. Comparison of RT, RM30, and DR Zoning Districts
7. PUD on Part of Lot 8, Block 12, Northern Pacific Addition

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

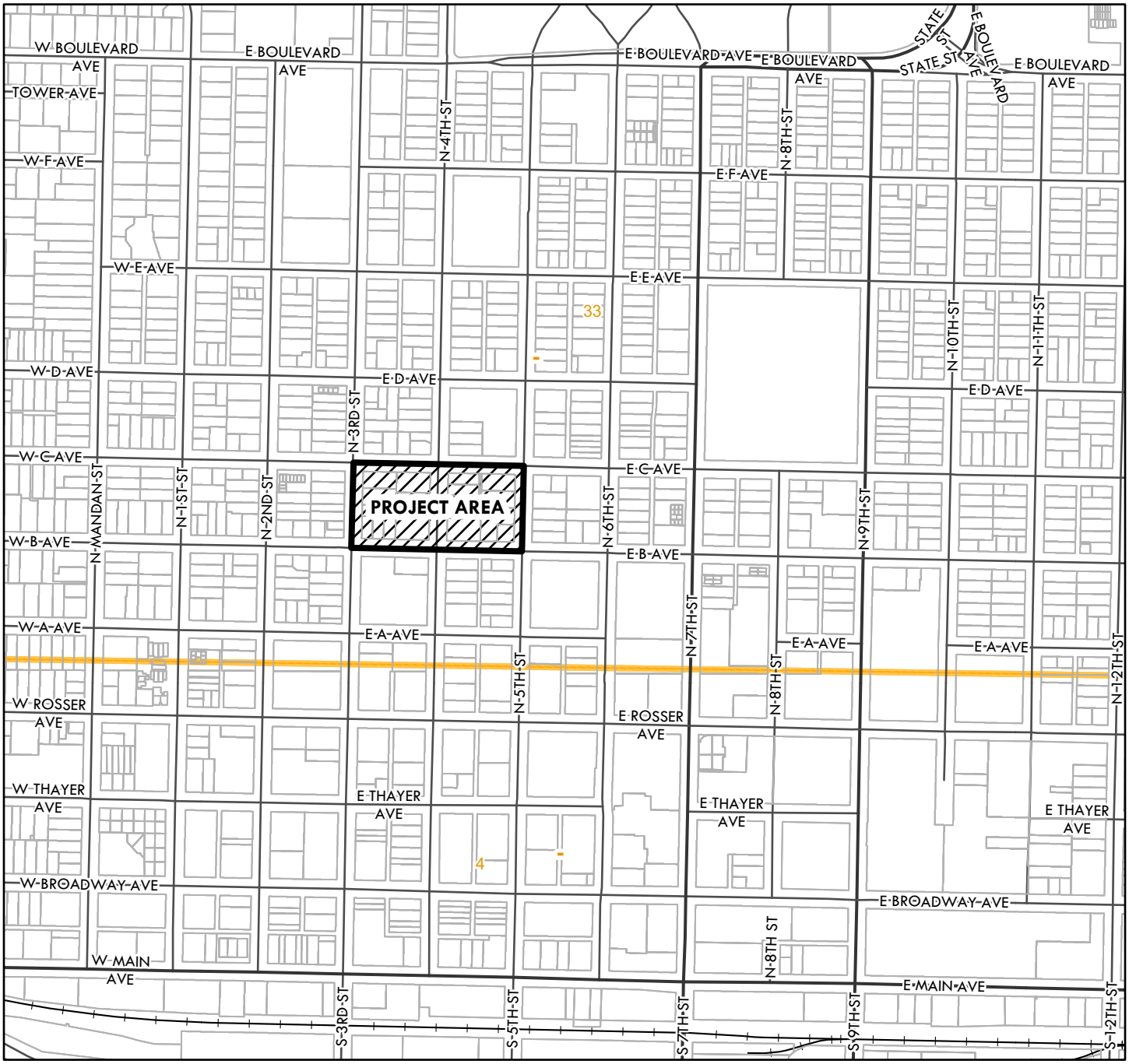
Property Owners within Proposed DF – Downtown Fringe Rezoning Area

Owner_Name	Owner_Mailing_Address_Line_One	Owner_City_State	Owner_Zip_Code
HARDEE, JR, EDWARD AKAI & PAR	300 E AVENUE B	BISMARCK ND	58501-3676
GRIFFIN PROPERTIES LLC	PO BOX 2	BISMARCK ND	58502-0002
NAGLE, CORISSA & CAMERON	304 E AVENUE B	BISMARCK ND	58501-3676
KUNZ, GRIFFIN	308 E AVENUE B	BISMARCK ND	58501-3676
EXECUTIVE MANSION	600 E BOULEVARD AVE	BISMARCK ND	58505-0001
DOLEN PROPERTIES LLC	407 E AVENUE C	BISMARCK ND	58501-3942
ST GEORGE EPISCOPAL MEM CHURCH	PO BOX 1241	BISMARCK ND	58502-1241
NELSON, JOY	2106 MARINA RD SE	MANDAN ND	58554-6277
RDMG LLP	630 BUCKSKIN AVE	BISMARCK ND	58503-8288
ST GEO EPISCOPAL MEM CHURCH	PO BOX 1241	BISMARCK ND	58502-1241
ST GEORGE'S EPISCOPAL MEMORIA	PO BOX 1241	BISMARCK ND	58502-1241
GALPIN, LORAN L	PO BOX 2567	BISMARCK ND	58502-2567
613 DEVELOPMENT CORPORATION	PO BOX 2567	BISMARCK ND	58502-2567
FIRSTCHOICE CLINIC	614 N 4TH ST	BISMARCK ND	58501-3684
ANDERSON, JERRY F & SYVERTSON	615 N 4TH ST	BISMARCK ND	58501-3685
LYNDE, MICHAEL	617 N 4TH ST	BISMARCK ND	58501-3685
618 LLC	246 4TH AVE W	DICKINSON ND	58601-4945
GRAMBS PROPERTIES LLC	200 W MAIN AVE	BISMARCK ND	58501-3739

Location Map

NORTHERN PACIFIC ADDITION, B11-12

ZC2021-009



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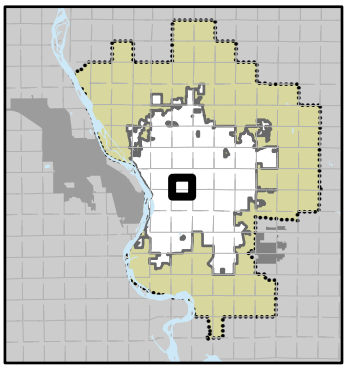


City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

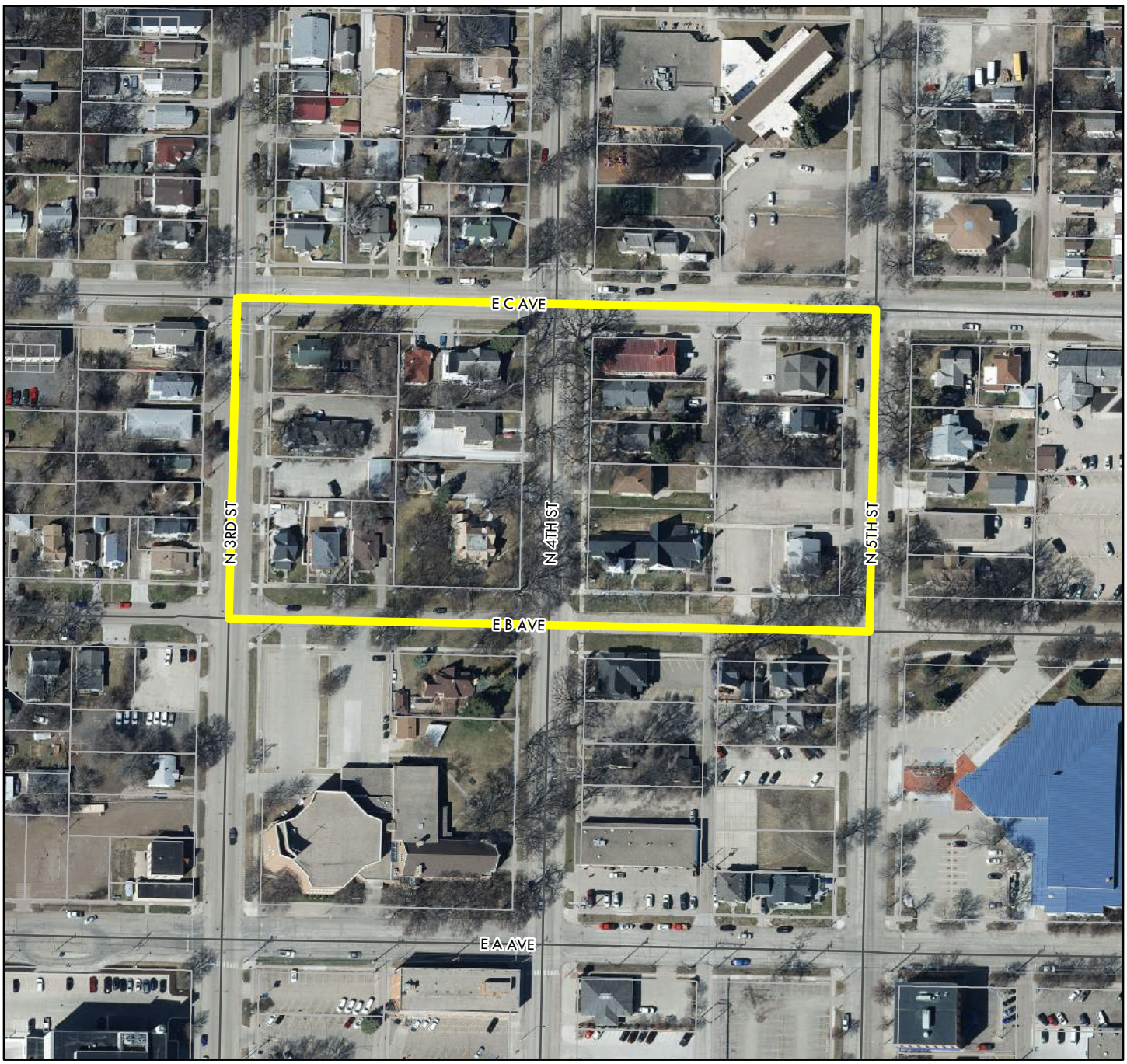
City of Bismarck
Community Development Department
Planning Division
July 21, 2021 (HLB)

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

NORTHERN PACIFIC ADDITION, B11-12

ZC2021-009



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City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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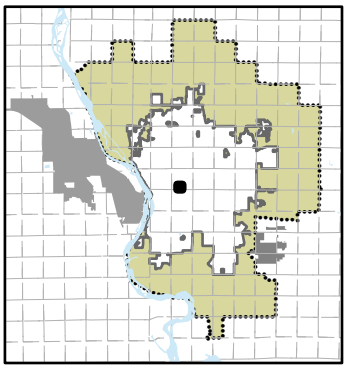


City of Bismarck
Community Development Department
Planning Division
July 21, 2021

Zoning and Plan Reference Map

NORTHERN PACIFIC ADDITION, B11-12

ZC2021-009

Zoning Districts

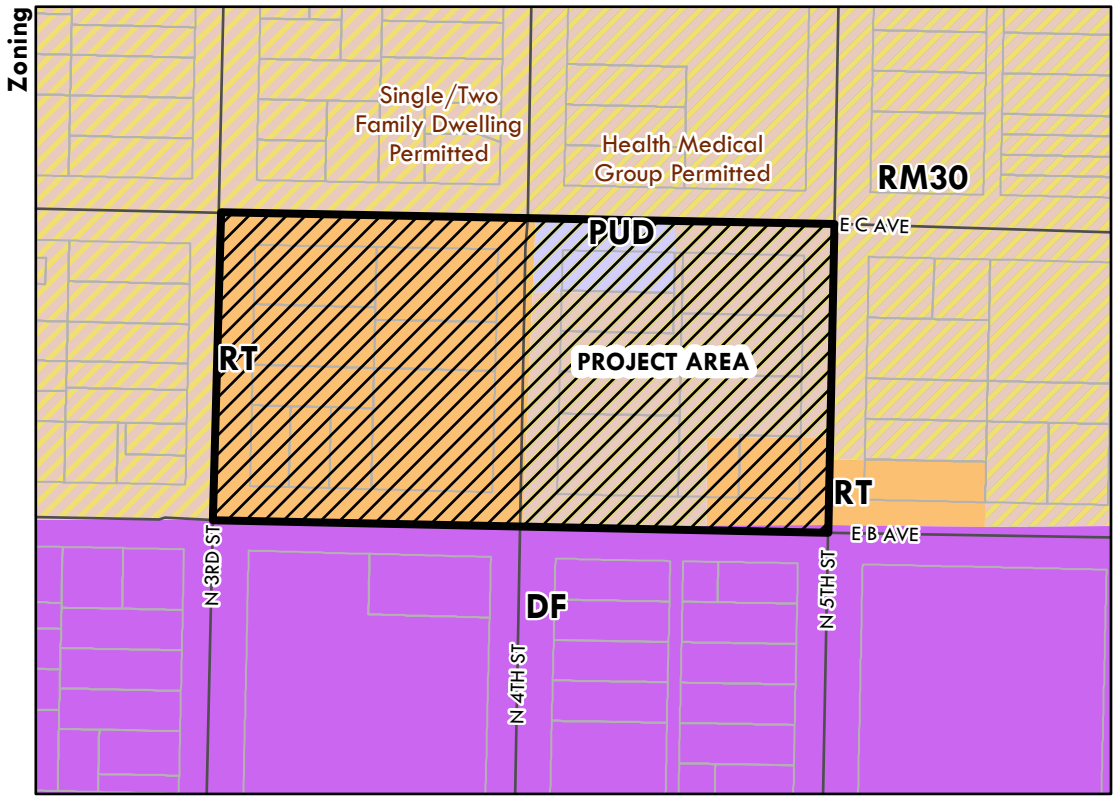
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

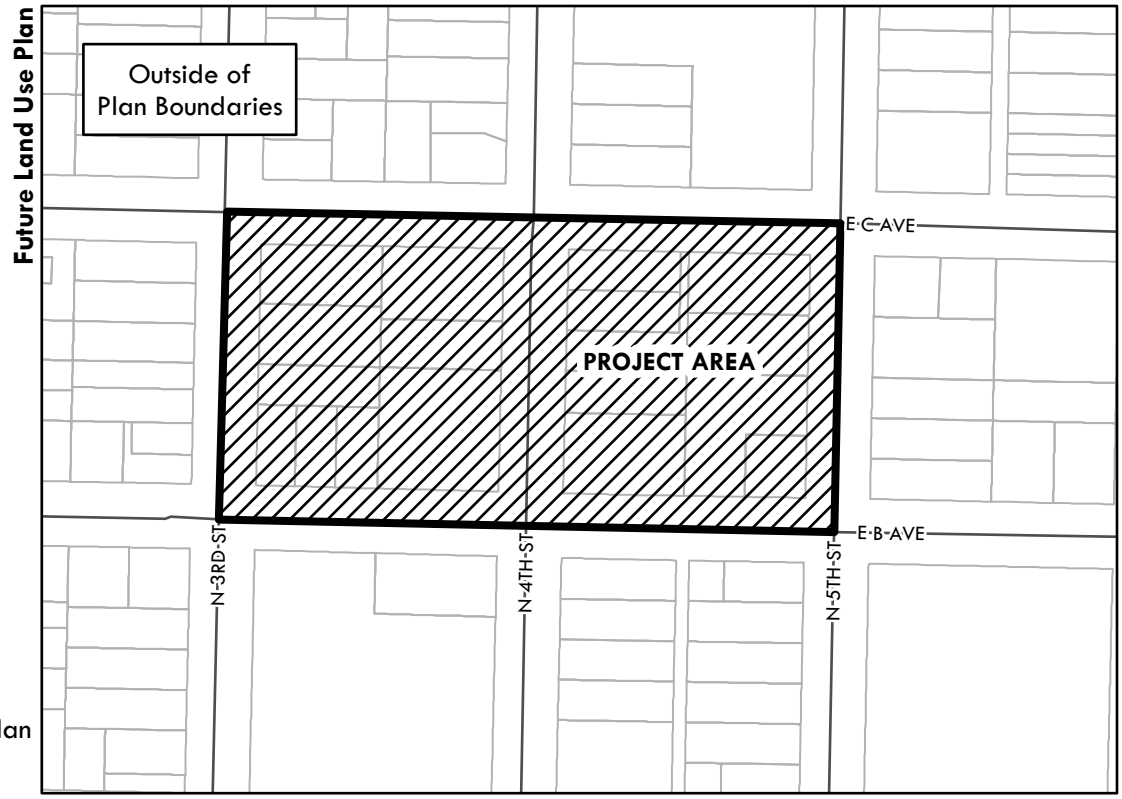
Future Land Use Plan

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

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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

Potential Zoning Change

Between East Avenue C, North 5rd Street, East Avenue B, and North 3th Street

Proposed New Zoning Map

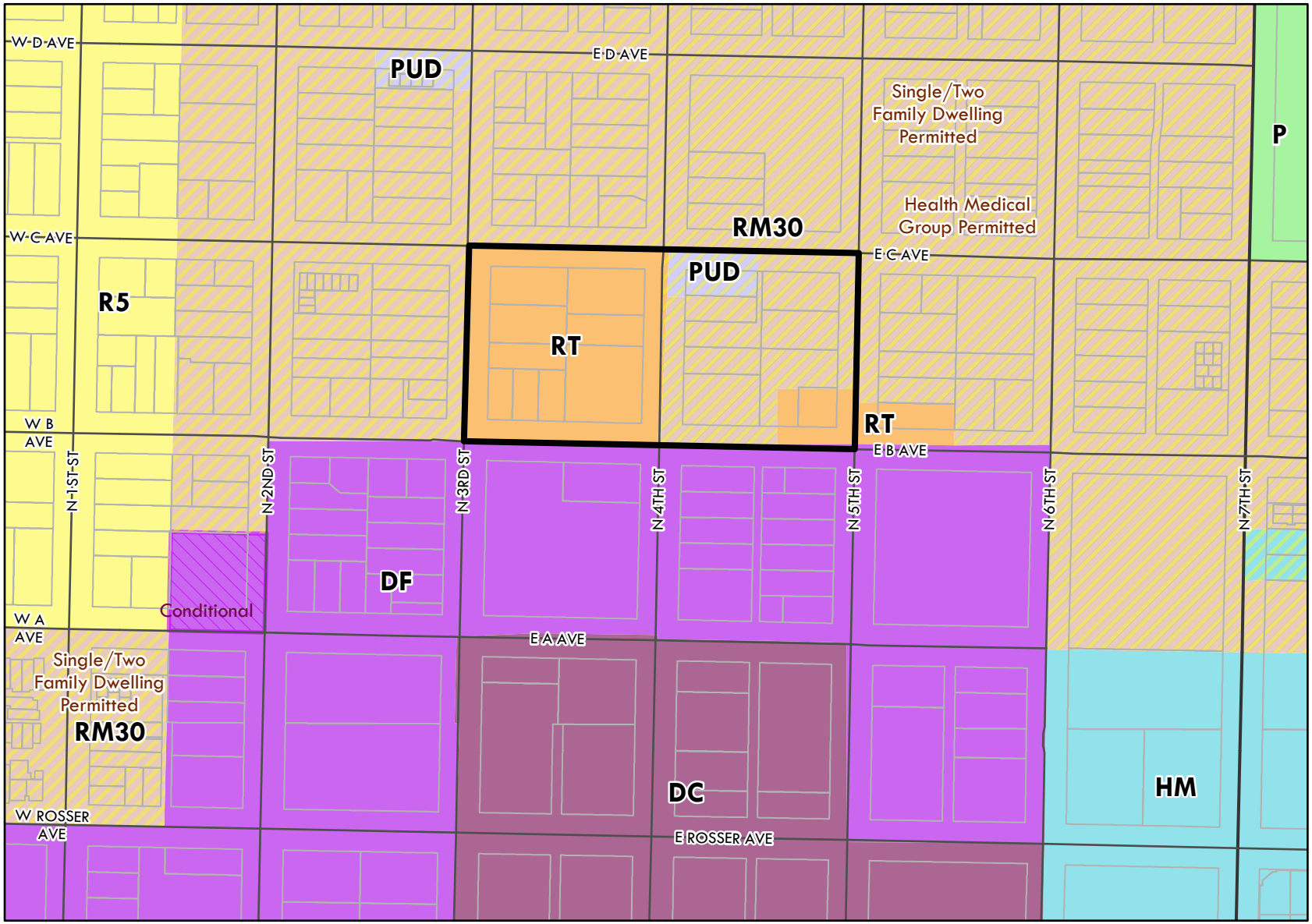
Project Area (zoning within is proposed)

City Limits

Zoning Districts

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

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



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

The following table describes some of the differences between the existing and proposed zoning districts:

	Existing		**Proposed**
	RT – Residential	**RM30 – Residential**	**DF – Downtown Fringe**
Typical Uses Allowed	Office, medical and multifamily residential. Single and two-family prohibited	Multifamily residential; medical, single and two-family residential also allowed	Commercial, office, multifamily residential, mixed use, single and two-family residential
Front Setbacks (distance of structures from street)	Minimum of 15 feet	Minimum of 25 feet, or aligned with nearby buildings	No minimum setback; maximum of 25 feet
Side Setbacks (distance of structures from side property line)	No setback for non-residential (unless building code requires for fire protection); setback of at least five feet for residential	10 feet setback	No setback (unless building code requires for fire protection)
Rear Setbacks (distance of structures from rear property line)	20 feet setback	20 feet setback	No setback
Building Height	60 feet maximum, or 25 feet for accessory buildings	60 feet maximum	75 feet maximum
Lot Coverage (amount of lot that can be filled with buildings/parking)	80% for commercial; 50% for residential	50% of lot	100% of lot
Signs	Follow commercial sign standards; minimal limitations	Follow stricter residential sign standards. Digital require special permit.	Follow stricter downtown standards. No digital or off-premise signs, etc.
Design Review	Not applicable	Not applicable	Projects reviewed for compliance with Downtown Design Guidelines

ORDINANCE NO. 4973

Introduced by	
First Reading	*April 13, 1999*
Second Reading	*May 11, 1999*
Final Passage and Adoption	*May 11, 1999*
Publication Date	*April 27 and May 4, 1999*

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

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

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

The following described property shall be excluded from the RM (30)-Residential District and included in the PUD-Planned Unit Development District:

The west 140 feet of the north 50 feet of Lot 8, Block 12, Northern Pacific 1st Addition.

The above described Planned Unit Development shall permit the following land uses, as shown on the attached site plan:

General office use group, church, single-family dwelling, health-medical use group, education use group, and photography studio.

The Planned Unit Development shall also contain the following off-street parking spaces:

Four spaces on-site and nine spaces off-site.

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

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

Bismarck COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Chair Schwartz and Planning Commissioners

FROM: Kim L. Lee, AICP, Planning Manager

DATE: August 25, 2021

SUBJECT: Boden Addition – Final Plat and Zoning Change

On June 23, 2021, the Planning and Zoning Commission held a hearing on the request of Boulder Ridge Development and Ron and Ruth Knutson for approval of a final plat for Boden Addition and a zoning change from the A – Agricultural and R5 – Residential zoning districts to the Conditional RT – Residential zoning district. Numerous residents spoke and submitted written comments at that hearing.

At the conclusion of that public hearing, the Planning and Zoning Commission took action to continue the hearing to the meeting on August 25, 2021 to allow time for the applicant to work with nearby property owners and potentially modify the development plan. Because the request was continued to a specific meeting date, the request for a continued public hearing needed to be included on this agenda for the meeting on August 25, 2021. However, the applicant has requested an additional continuation to the September 22, 2021 meeting in order to give them more time to address the concerns raised at the June 23, 2021 hearing. In addition, because the applicant has requested additional time, no new information has been submitted.

Based on that request, staff is recommending that the public hearing be continued for another month to September 22, 2021.

A notice was mailed to adjacent property owners indicating that staff intended to recommend continuation for another month. Another notification will be sent to adjacent property owners no less than 10 days prior to the continued public hearing on September 22, 2021.

A copy of the previous staff report from the June 23, 2021 meeting is attached to this memo for your reference.

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

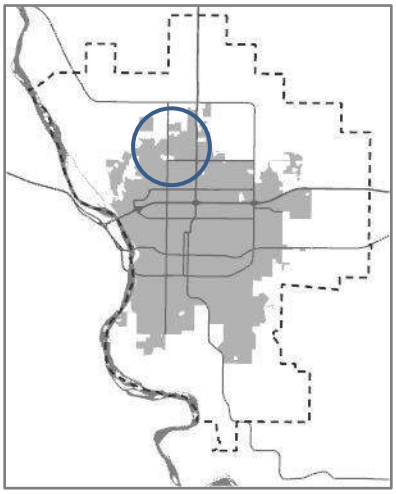
Agenda Item #5
June 23, 2021

Application for: **Zoning Change**
Major Subdivision Final Plat

Project ID: **ZC2021-008**
FPLT2021-005

Project Summary

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



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	5 parcels	*Number of Lots:*	46 Lots in 1 Block
Land Use:	Undeveloped	*Land Use:*	Small-scale offices and one single-family residence
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 A – Agricultural	*Zoning:*	Conditional RT – Residential R5 – Residential
Uses Allowed:	R5 – Single-family residential A – Agriculture	*Uses Allowed:*	Conditional RT – Offices and multi-family residential R5 – Single-family residential
Max Density:	R5 – 5 units / acre A – 1 unit / 40 acres	*Max Density:*	Conditional RT – 30 units / acre R5 – 5 units / acre

Property History

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

(continued)

Staff Analysis

Boulder Ridge Development and Ron and Ruth Knutson are requesting approval of a zoning change from the R5 – Residential and A – Agricultural zoning districts to the Conditional RT – Residential and R5 – Residential zoning districts and a major subdivision final plat for Boden Addition.

The Planning and Zoning Commission considered this request at their meeting of May 26, 2021 and called for a public hearing on the zoning change and tentatively approved the preliminary plat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on June 11th and June 18th, and 63 letters were mailed to the owners of nearby properties on June 11th.

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

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

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

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

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

The underlying zoning district of RT – Residential would allow the general office or medical office uses. While the ordinance includes basic design standards to favor a residential-style of construction, the association may create and administer more detailed standards through a private covenant.

All access to the development would be made by private roadway loops connected to East LaSalle Drive to the north at two points. A small segment of Onyx Drive has already been dedicated as a public right-of-way and improved, and this would be platted over and transferred to the association through a private roadway agreement. This action removes the road segment as a public right-of-way. The internal roadway network and underlying utilities would be owned and managed by an association for the development. Stormwater for the development would be collected in Lot 45 to the east.

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

(continued)

Boden Addition includes one lot zoned R5 – Residential for development of a single-family home. This lot would be disconnected from the remainder of the subdivision and would be accessed directly from Basalt Drive. A neighborhood park development agreement has already been reached, and a park is planned for a site at a future corner of Normandy Street and Granite Drive.

Required Findings of Fact (relating to land use)

Zoning Change

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

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;

(continued)

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

Staff Recommendation

Based on the above findings, staff recommends approval of a zoning change from the R5 – Residential and A – Agricultural zoning districts to the R5 – Residential zoning district for Lot 46, Block 1, Boden Addition and the Conditional RT – Residential zoning district for the remainder of the subdivision, as outlined in the attached draft ordinance, and approval of the major subdivision final plat for Boden Addition.

Attachments

1. Draft Zoning Change Ordinance (annotated with changes from previous draft)
2. Location Map
3. Aerial Map
4. Zoning and Plan Reference Map
5. Proposed Change to Zoning Map
6. Final Plat
7. Preliminary Plat
8. Boulder Ridge 5th Addition (portions being replatted).

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

ORDINANCE NO. XXXX

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

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

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

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

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

Lot 46, Block 1, Boden Addition

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

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

Lots 1 - 45, Block 1, Boden Addition

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

1. *Use Restrictions*. All residential uses are prohibited, including but not limited to single-family, multifamily, rowhouses, and group homes. Additionally, drive-throughs are prohibited.

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

DRAFT

3. *Building Area*. Each lot is limited to one (1) principal structure with a footprint of no less than one-thousand ~~five~~ two hundred (1,~~500~~200) square feet and no greater than three thousand (3,000) square feet for lots under ten thousand (10,000) square feet in area or four thousand five hundred (4,500) square feet for lots ten thousand (10,000) square or above in area. No accessory structures are permitted, although decks, porches, patios, and other building features are permitted.

4. *Building Design*. All buildings shall be designed in a general residential character, including a pitched roof, a front entry visible from the street, and windows on the front building façade. ~~Additional design standards may be enacted and administered by an association.~~Structures may have attached garages, which may be counted toward the required minimum off-street parking.

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

6. *Interior Landscaping*. Each lot shall include a landscaped area of not less than fifteen (15) percent of the total lot area, excluding the area reserved as an access easement, to be planted with trees, shrubs, grass, or other cultivated vegetation at the time of lot development. Said landscaped area must include at least one shade tree on each lot.

7. *Lighting*. All outdoor lighting fixtures shall be designed as a full cut-off fixture or have a shielding method to direct light emissions down onto the site and not shine direct illumination or glare onto adjacent properties, with the exception of low-wattage landscape lighting and up-lighting intended to highlight part of a building or landscaping; provided, that the light distribution from the fixture is effectively contained by an overhanging architectural element or landscaping element and does not shine beyond the intended target including into the sky. Private access roads may include streetlights in a matching style of up to twenty (20) feet in height.

8. *Signs*. Each lot is limited to one (1) wall sign or one (1) monument sign ~~, not illuminated,~~ oriented toward a private street of Boden Addition, and one (1) wall sign oriented toward a public right-of-way. The total allowable area of signs on a lot is ~~and no greater than~~ sixty (60) square ~~feet in size~~. Said signs may not be internally illuminated. Additionally, one (1) sign

~~oriented toward LaSalle Drive~~ may be permitted within each platted sign and landscape easement in compliance with all requirements of Chapter 14-03.1 (Signs) that apply to the RT – Residential zoning district.

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

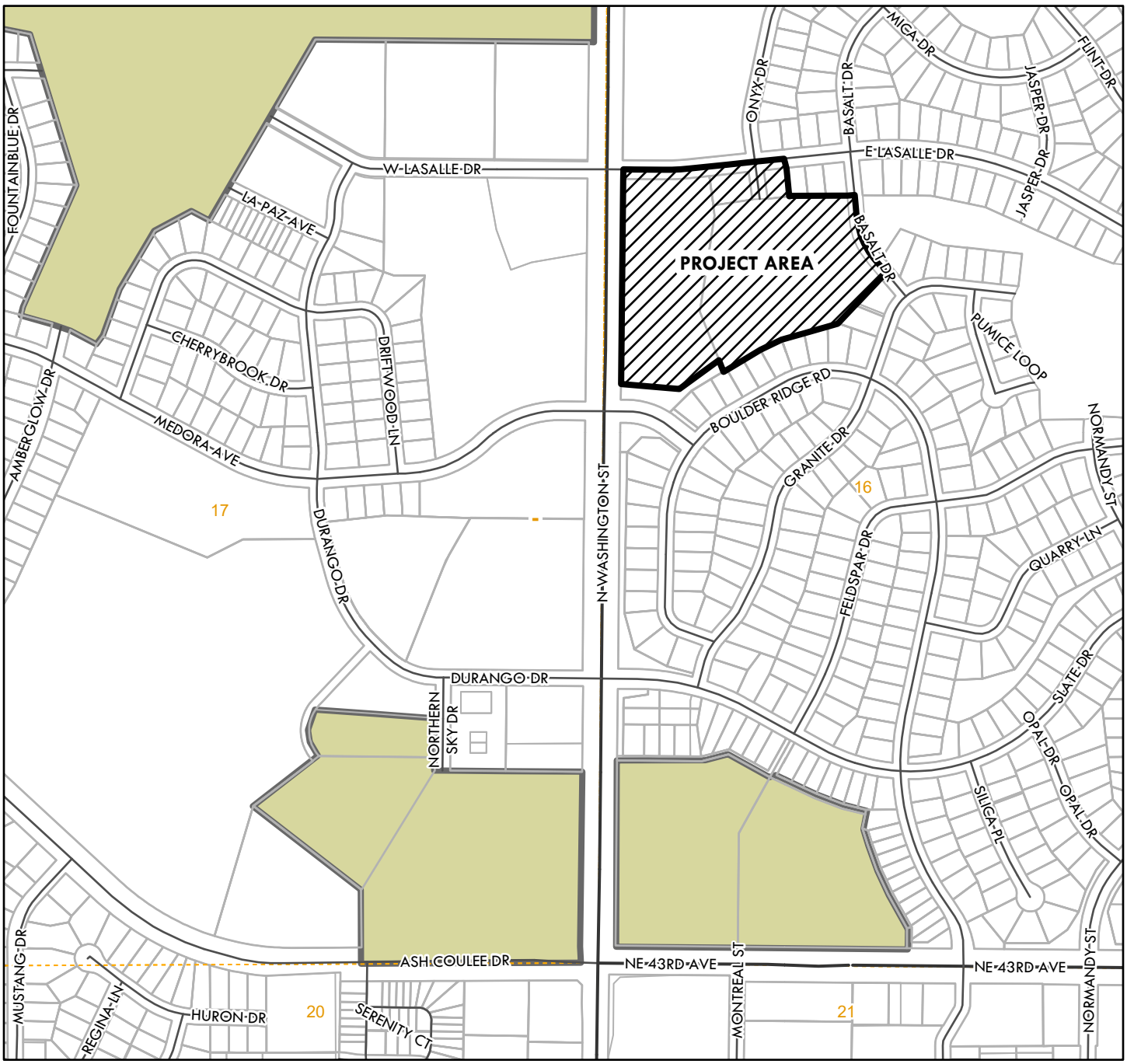
Section 4. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

DRAFT

Location Map

BODEN ADDITION

PPLT2021-005
ZC2021-008



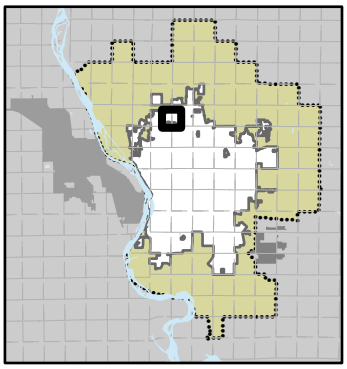
0 0.13 0.25 0.5 Miles

City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange



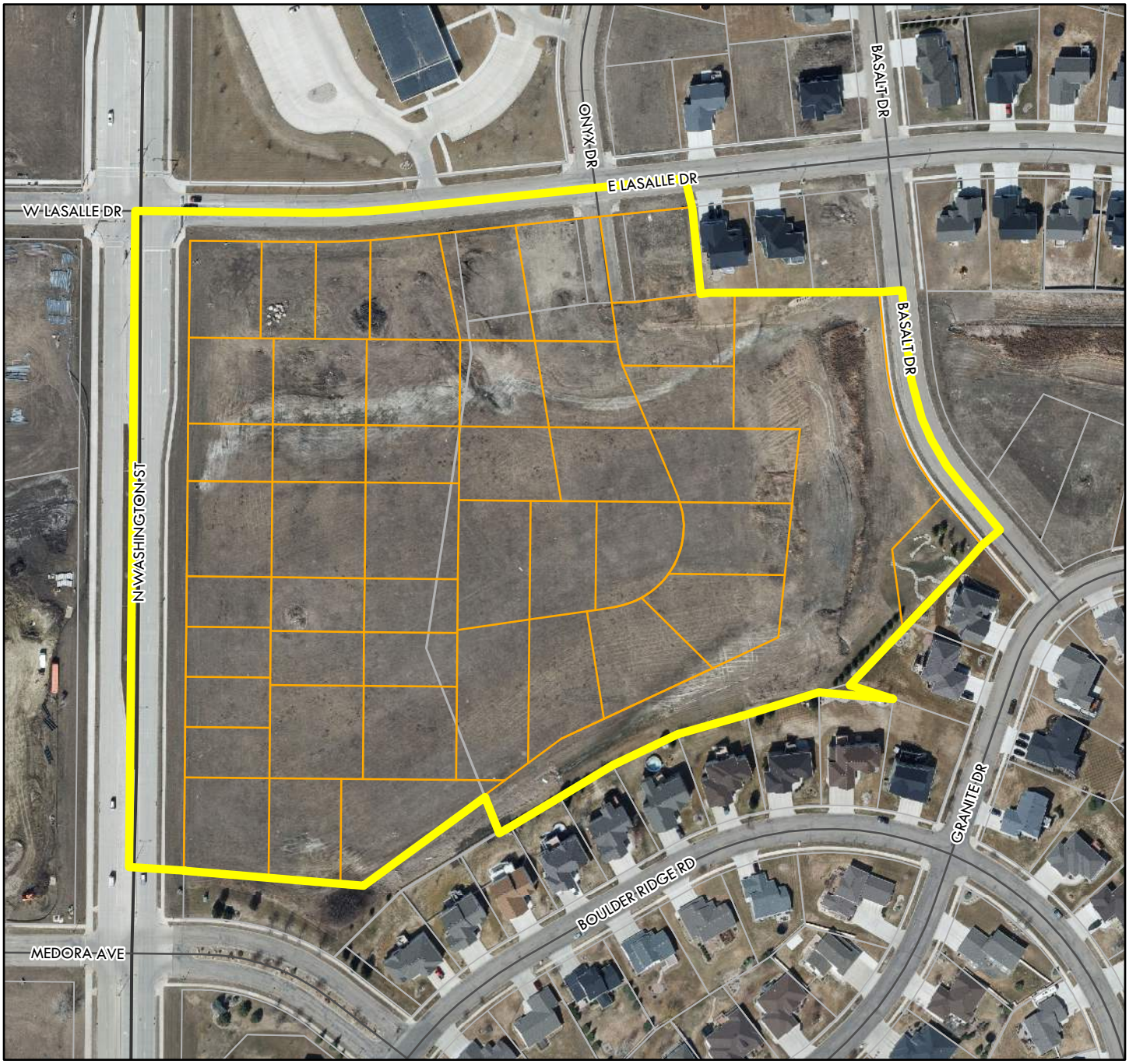
City of Bismarck
Community Development Department
Planning Division
May 12, 2021 (HLB)

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

Aerial Map

BODEN ADDITION

FPLT2021-005
ZC2021-008

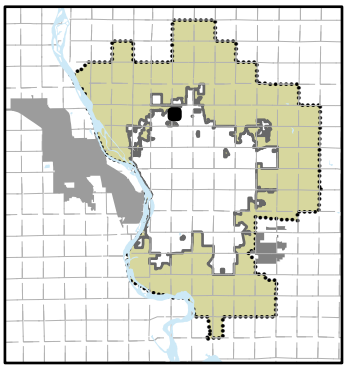


0 0.05 0.1 0.2 Miles

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
June 18, 2021

Zoning and Plan Reference Map

BODEN ADDITION

PPLT2021-005
ZC2021-008

Zoning Districts

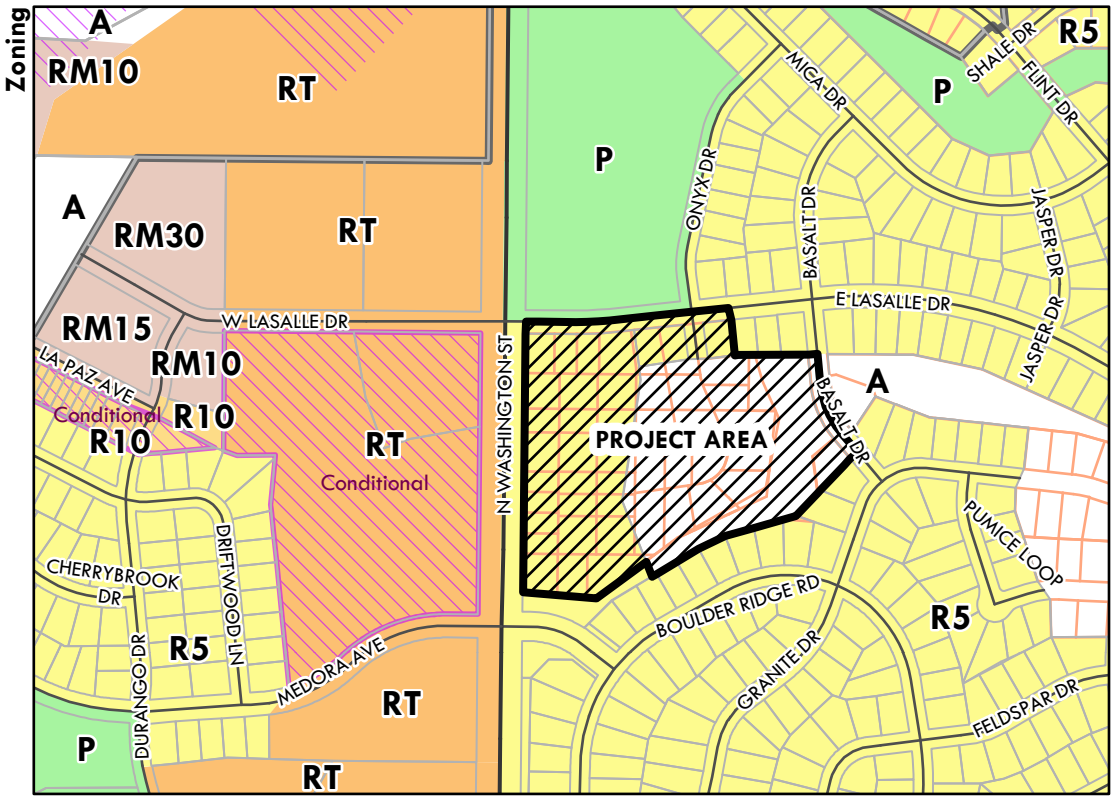
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

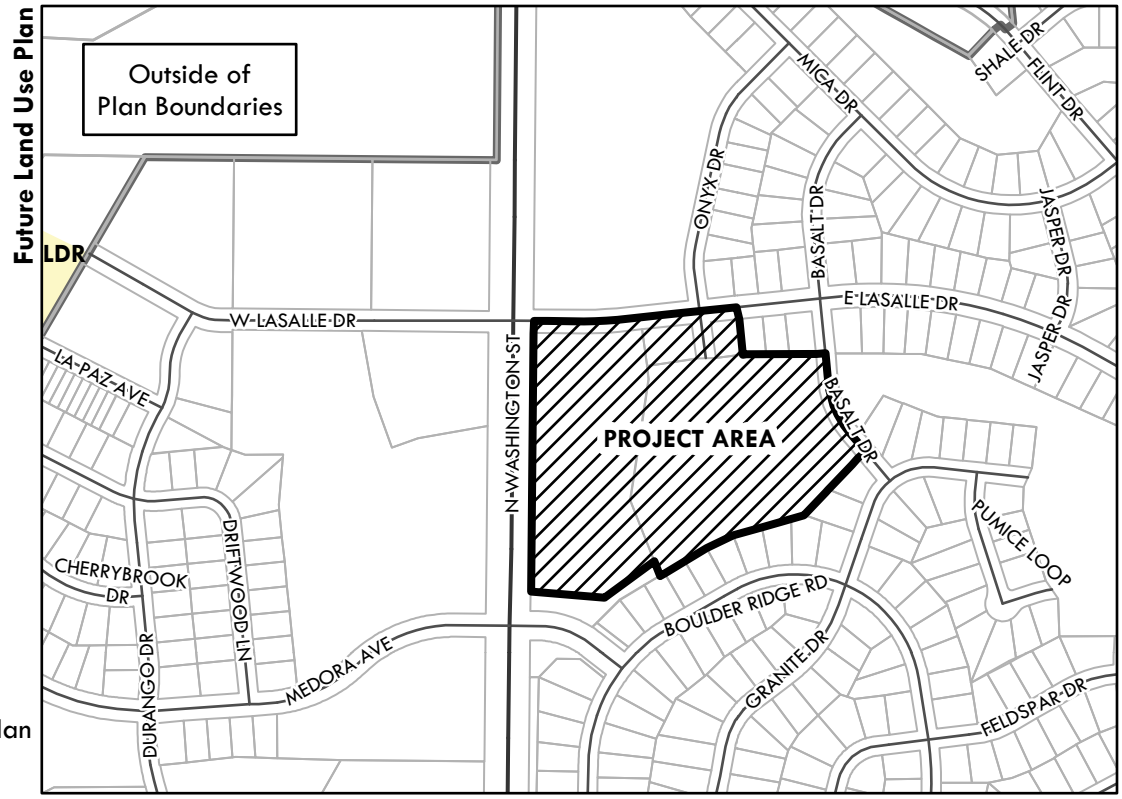
Future Land Use Plan

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

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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Miles
0 0.07 0.15 0.3

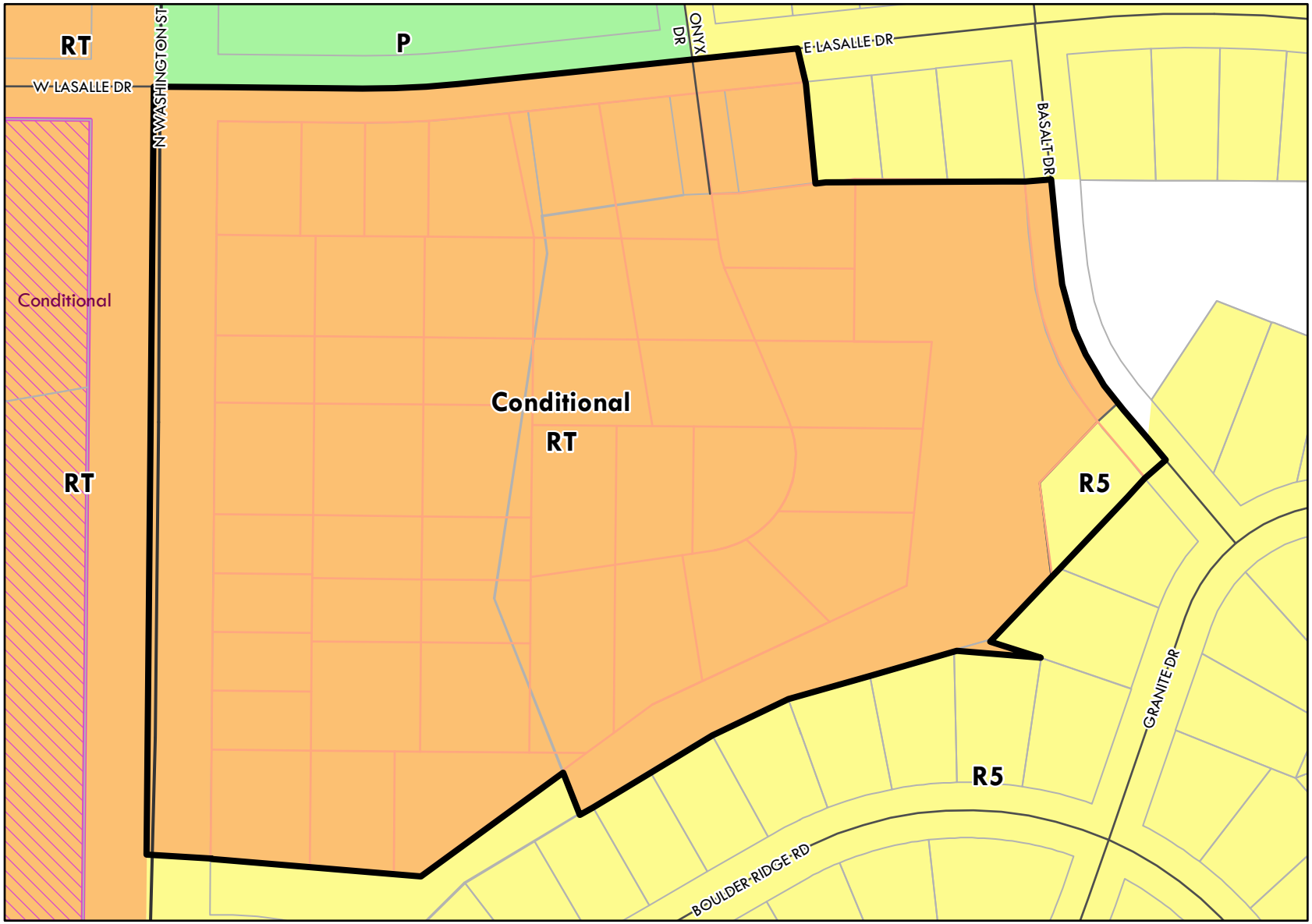
City of Bismarck
Community Development Dept.
Planning Division
May 12, 2021

Potential Zoning Change

BODEN ADDITION

ZC2021-008

Proposed New Zoning Map



Project Area (zoning within is proposed)

City Limits

Zoning Districts

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

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

0 0.05 0.1 0.2 Miles

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

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

BODEN ADDITION

BEING A REPLAT OF LOT 2 & 3 BLOCK 1, LOT 4 BLOCK 2
BOULDER RIDGE FIFTH ADDITION, PART OF THE EAST 1/2 OF NORTH WASHINGTON STREET
RIGHT-OF-WAY, PART OF THE SOUTH HALF OF LASALLE DRIVE RIGHT-OF-WAY, PART OF THE WEST
HALF OF BASALT DRIVE RIGHT-OF-WAY, & PART OF THE WEST 1/2 OF
SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIPTION

BEING A REPLAT OF LOT 2 & 3 BLOCK 1, LOT 4 BLOCK 2 BOULDER RIDGE FIFTH ADDITION, PART OF THE EAST 1/2 OF NORTH WASHINGTON STREET RIGHT-OF-WAY, PART OF THE SOUTH HALF OF LASALLE DRIVE RIGHT-OF-WAY, PART OF THE WEST HALF OF BASALT DRIVE RIGHT-OF-WAY, & PART OF THE WEST 1/2 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 SOUTHWEST CORNER OF LOT 3 BLOCK 2 BOULDER RIDGE FIFTH ADDITION; THENCE NORTH 82 DEGREES 44 MINUTES 56 SECONDS EAST, ALONG THE BOUNDARY OF SAID BOULDER RIDGE FIFTH ADDITION, A DISTANCE OF 46.71 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 37 SECONDS EAST, ALONG SAID BOUNDARY, AND ITS EASTERLY EXTENSION, A DISTANCE OF 235.73 FEET TO THE CENTERLINE OF BASALT DRIVE RIGHT-OF-WAY; THENCE SOUTH 06 DEGREES 01 MINUTE 33 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 105.62 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 300.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 177.82 FEET; THENCE SOUTH 39 DEGREES 59 MINUTES 13 SECONDS EAST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 83.72 FEET TO THE NORTHEASTERLY EXTENSION OF THE NORTHWEST LINE OF LOT 2 BLOCK 4 BOULDER RIDGE FOURTH ADDITION; THENCE SOUTH 43 DEGREES 34 MINUTES 10 SECONDS WEST, ALONG SAID EXTENSION AND SAID NORTHWEST LINE AND THE NORTHWEST LINE OF LOT 1 BLOCK 4 BOULDER RIDGE FOURTH ADDITION, A DISTANCE OF 300.69 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 70 DEGREES 59 MINUTES 21 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 65.34 FEET TO THE BOUNDARY OF BOULDER RIDGE FIRST ADDITION; THENCE NORTH 84 DEGREES 54 MINUTES 21 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 104.39 FEET; THENCE SOUTH 74 DEGREES 06 MINUTES 33 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 206.17 FEET; THENCE SOUTH 64 DEGREES 33 MINUTES 52 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 100.40 FEET; THENCE SOUTH 58 DEGREES 51 MINUTES 38 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 183.76 FEET TO THE BOUNDARY OF LOT 1 BLOCK 1 BOULDER RIDGE FIFTH ADDITION; THENCE NORTH 21 DEGREES 35 MINUTES 05 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 55.59 FEET; THENCE SOUTH 53 DEGREES 57 MINUTES 02 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 210.58 FEET; THENCE NORTH 89 DEGREES 16 MINUTES 20 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 325.08 FEET TO THE CENTERLINE OF NORTH WASHINGTON STREET RIGHT-OF-WAY; THENCE NORTH 00 DEGREES 32 MINUTES 57 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 911.02 FEET TO THE CENTERLINE OF LASALLE DRIVE RIGHT-OF-WAY; THENCE SOUTH 89 DEGREES 25 MINUTES 03 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 248.38 FEET; THENCE EASTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 1000.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 115.35 FEET; THENCE NORTH 83 DEGREES 58 MINUTES 27 SECONDS EAST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 407.94 FEET TO THE NORTHERLY EXTENSION OF THE WEST LINE OF LOT 3 BLOCK 2 BOULDER RIDGE FIFTH ADDITION; THENCE SOUTH 06 DEGREES 01 MINUTE 50 SECONDS EAST, ALONG SAID NORTHERLY EXTENSION AND SAID WEST LINE, A DISTANCE OF 161.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 18.44 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

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

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

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

APPROVAL OF CITY PLANNING COMMISSION

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

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

APPROVAL OF BOARD OF CITY COMMISSIONERS

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

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

_____
ATTEST
KEITH J. HUNKE – CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

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

_____
GABRIEL J. SCHELL
CITY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT RON KNUTSON, RUTH KNUTSON, BOULDER RIDGE DEVELOPMENT, INC, & FIVE GUYS INVESTMENT, LLP, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "BODEN ADDITION", 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 FURTHERMORE DEDICATE UNTO THE CITY OF BISMARCK "STORM WATER AND DRAINAGE EASEMENTS" TO RUN WITH THE LAND FOR THE PURPOSE OF STORM SEWER AND SURFACE WATER DRAINAGE UNDER, OVER, THROUGH AND/OR ACROSS THOSE AREAS DEDICATED HEREON AS "STORM WATER AND DRAINAGE EASEMENTS" FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, ENLARGING AND MAINTAINING STORM WATER MANAGEMENT FACILITIES TOGETHER WITH NECESSARY APPURTENANCES THERETO FOR STORM WATER, STORM SEWER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORM WATER FLOW IN A MANNER THAT WILL PERMIT THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER, OVER AND/OR ACROSS THE EASEMENT AREA.

THEY FURTHERMORE GRANT ACCESS, WATERMAIN, AND SANITARY SEWER EASEMENTS TO THE LANDOWNERS OF BODEN ADDITION, THEIR TENANTS, VISITORS AND LICENSEES, SAID EASEMENT TO INCLUDE THE FULL AND FREE RIGHT FOR SAID PARTIES, THEIR TENANTS, VISITORS AND LICENSEES, IN COMMON WITH ALL OTHERS HAVING LIKE RIGHT AT ALL TIMES HEREAFTER FOR ALL PURPOSES CONNECTED WITH THE USE OF SAID PARTIES, TO PASS AND REPASS ALONG SAID EASEMENT AND TO HOLD SAID EASEMENT TO SAID PARTIES, THEIR HEIRS AND ASSIGNS AND APPURTENANT TO THE LAND OF SAID PARTIES. THEY ALSO GRANT SAID EASEMENT TO CONSTRUCT, OPERATE, MAINTAIN, AND REPAIR WATERMAIN AND SANITARY SEWER FACILITIES UNDER OR UPON THE REAL PROPERTY HEREINAFTER DESCRIBED. THEY ALSO DEDICATE SAID ACCESS EASEMENT TO AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, ITS OFFICERS AND EMPLOYEES FOR UTILITIES AND ANY OTHER GOVERNMENTAL USE OR USES IT DEEMS NECESSARY OR ADVISABLE, PROVIDED THE CITY SHALL NOT BE RESPONSIBLE IN ANY WAY TO FURNISH ANY CITY SERVICES IF SUCH ACCESS EASEMENTS ARE NOT PROPERLY MAINTAINED OR ARE OBSTRUCTED BY THE OWNERS OF PROPERTY IN THE SUBDIVISION.

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

_____

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED _____ 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 _____

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

_____

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED _____ 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 _____

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

_____

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED _____ 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 _____

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

_____

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED _____ 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.

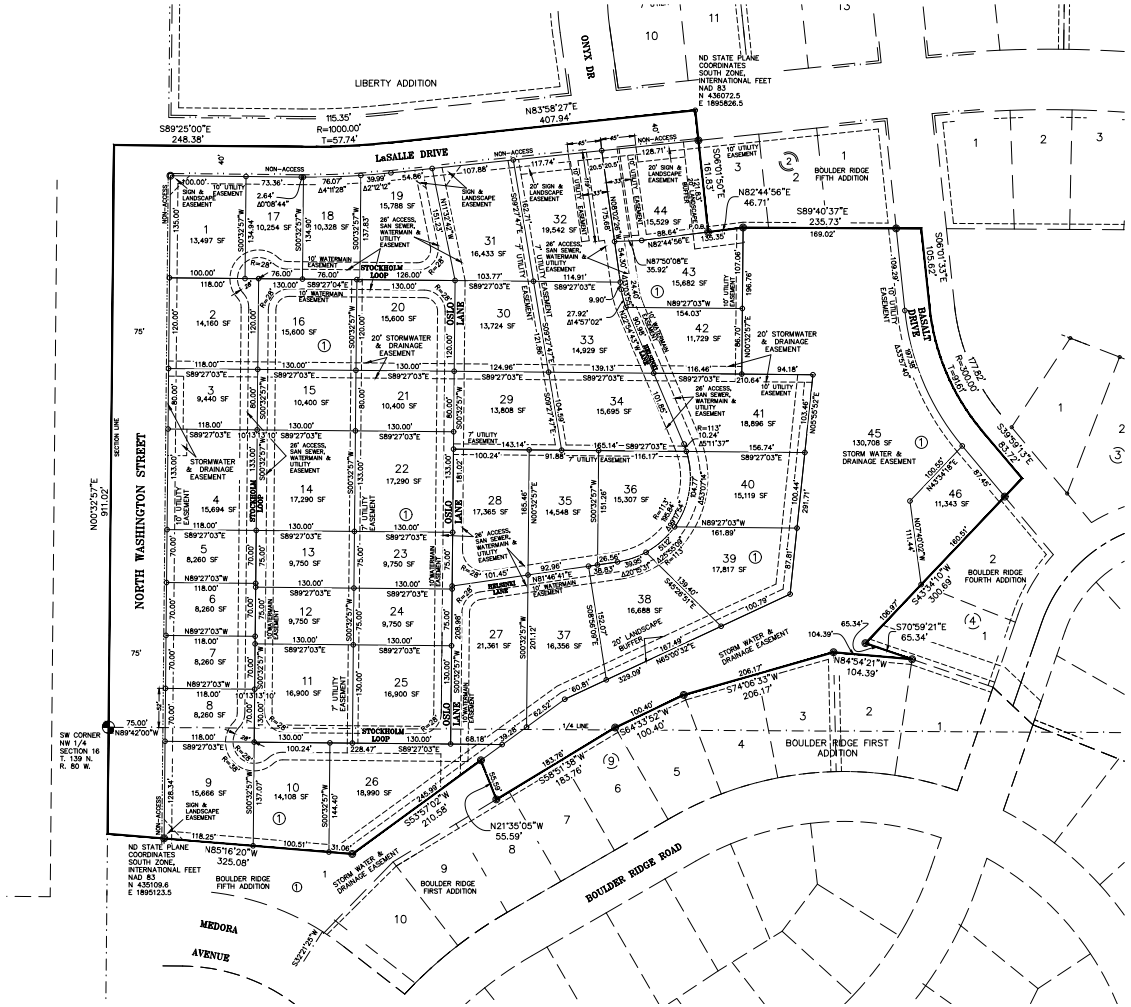
_____
NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

SWENSON, HAGEN & COMPANY P.C.
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management
909 Basin Avenue
Bismarck, North Dakota 58504
shaug@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2636

BODEN ADDITION

BEING A REPLAT OF LOT 2 & 3 BLOCK 1, LOT 4 BLOCK 2
BOULDER RIDGE FIFTH ADDITION, PART OF THE EAST 1/2 OF NORTH WASHINGTON STREET
RIGHT-OF-WAY, PART OF THE SOUTH HALF OF LASALLE DRIVE RIGHT-OF-WAY, PART OF THE WEST
HALF OF BASALT DRIVE RIGHT-OF-WAY, & PART OF THE WEST 1/2 OF
SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



0 60'

JUNE 2, 2021
SCALE 1" = 60'

○ 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:
TBD

AREA DATA

LOTS	762,922 S.F.	17.51 ACRES
STREETS	40,520 S.F.	0.93 ACRES
TOTAL	803,442 S.F.	18.44 ACRES

SWENSON, HAGEN & COMPANY P.C.
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management
909 Basin Avenue
Bismarck, North Dakota 58504
sharp@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2636

SHEET 2 OF 2

BODEN ADDITION

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

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

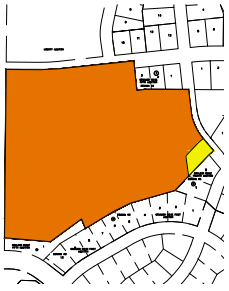
LOCATION MAP

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

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

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

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



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

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

APRIL 21, 2021

SWENSON, HAGEN & COMPANY P.C.
Surveying
Hydrology
Land Planning
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Landscape & Site Design
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909 Basin Avenue
Bismarck, North Dakota 58504
shcmp@swensonhagen.com
Phone (701) 223 - 2600
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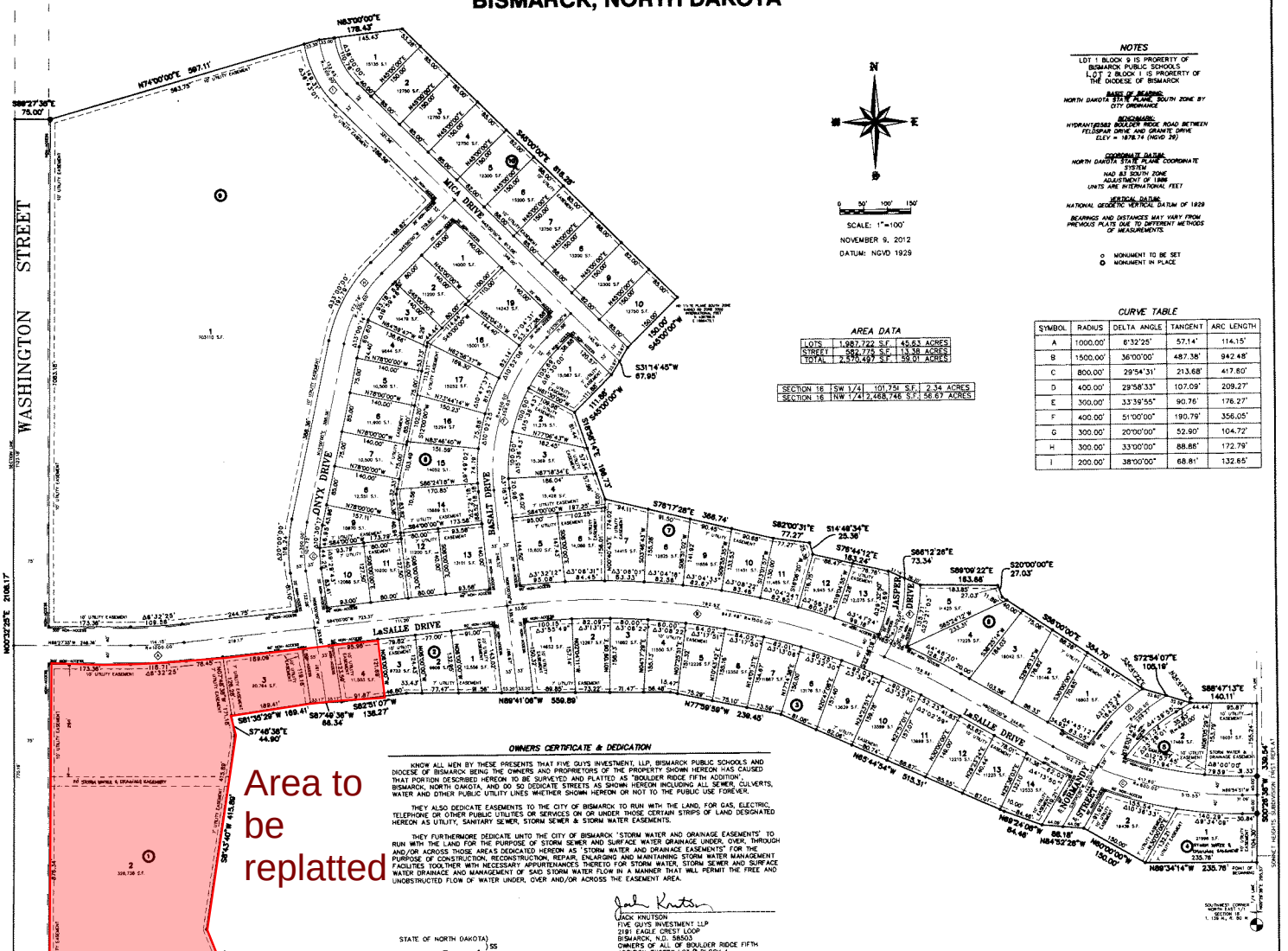
BOULDER RIDGE FIFTH ADDITION

AUDITOR'S LOTS A AND B AND PART OF THE NW 1/4 AND THE NW 1/4 OF THE SW 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 60 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY,

BISMARCK, NORTH DAKOTA



NOTES

LOT 1 BLOCK 9 IS PROPERTY OF BISMARCK PUBLIC SCHOOLS
LOT 2 BLOCK 1 IS PROPERTY OF THE DIOCESE OF BISMARCK

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

BENCHMARK:
HYDRANT#2582 BOULDER RIDGE ROAD BETWEEN FELDSPAR DRIVE AND GRANITE DRIVE
ELEV = 1878.74 (NGVD 29)

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

VERTICAL DATUM:
NATIONAL GEODETIC VERTICAL DATUM OF 1929

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

○ MONUMENT TO BE SET
● MONUMENT IN PLACE

AREA DATA

LOTS	1,987,722 S.F.	45.63 ACRES
STREET	356,775 S.F.	11.38 ACRES
TOTAL	2,344,497 S.F.	56.01 ACRES

SECTION 16	SW 1/4	101,751 S.F.	2.34 ACRES
SECTION 16	NW 1/4	2,468,746 S.F.	56.67 ACRES

CURVE TABLE

SYMBOL	RADIUS	DELTA ANGLE	TANGENT	ARC LENGTH
A	1000.00'	6°32'25"	57.14'	114.15'
B	1500.00'	36°00'00"	487.38'	942.48'
C	800.00'	29°54'31"	213.68'	417.80'
D	400.00'	29°58'33"	107.09'	209.27'
E	300.00'	33°39'55"	90.76'	176.27'
F	400.00'	51°00'00"	190.79'	356.05'
G	300.00'	20°00'00"	52.90'	104.72'
H	300.00'	33°00'00"	88.88'	172.79'
I	200.00'	38°00'00"	68.81'	132.65'

OWNERS CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT FIVE GUYS INVESTMENT, LLP, BISMARCK PUBLIC SCHOOLS AND DIOCESE OF BISMARCK BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "BOULDER RIDGE FIFTH ADDITION", BISMARCK, NORTH DAKOTA, AND DO 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.

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, SANITARY SEWER, STORM SEWER & STORM WATER EASEMENTS.

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

JACK KNUTSON
FIVE GUYS INVESTMENT LLP
2151 EAGLE CREST LOOP
BISMARCK, N.D. 58503
OWNERS OF ALL OF BOULDER RIDGE FIFTH ADDITION EXCEPT LOT 2 BLOCK 1 & LOT 1 BLOCK 9

STATE OF NORTH DAKOTA) SS
COUNTY OF Burleigh)

ON THIS 2nd DAY OF November 2012, BEFORE ME PERSONALLY APPEARED JACK KNUTSON OF FIVE GUYS INVESTMENTS LLP KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

DAVID PATIENCE
Notary Public
State of North Dakota
My Commission Expires Aug. 24, 2018

NOTARY PUBLIC
Burleigh COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES Aug. 24, 2018

BISMARCK PUBLIC SCHOOLS
806 NORTH WASHINGTON STREET
BISMARCK, N.D. 58501
OWNER OF LOT 1 BLOCK 9

STATE OF NORTH DAKOTA) SS
COUNTY OF Burleigh)

ON THIS 15th DAY OF November 2012, BEFORE ME PERSONALLY APPEARED [illegible] OF BISMARCK PUBLIC SCHOOLS KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND (S)HE ACKNOWLEDGED TO ME THAT (S)HE EXECUTED THE SAME.

CYNTHIA I. WILLMANN
Notary Public
State of North Dakota
My Commission Expires July 21, 2014

NOTARY PUBLIC
Burleigh COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES 7-21-14

DIOCESE OF BISMARCK
420 RAYMOND STREET
BISMARCK, N.D. 58501
OWNER OF LOT 2 BLOCK 1

STATE OF NORTH DAKOTA) SS
COUNTY OF Burleigh)

ON THIS 20th DAY OF November 2012, BEFORE ME PERSONALLY APPEARED [illegible] OF DIOCESE OF BISMARCK 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.

DALE J. EBERLE
Notary Public
State of North Dakota
My Commission Expires July 20, 2016

NOTARY PUBLIC
Burleigh COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES 7-20-2016

SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, A PROFESSIONAL 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 NOVEMBER 2ND, 2012. 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.
808 BASIN AVENUE
BISMARCK, NORTH DAKOTA

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

STATE OF NORTH DAKOTA) SS
COUNTY OF BURLEIGH)

ON THIS 2nd DAY OF November 2012, BEFORE ME PERSONALLY APPEARED TERRY BALTZER, 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 Aug. 24, 2018

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES AUGUST 24, 2018

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 13th DAY OF November 2012, 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 DE THE CITY OF BISMARCK.

WAYNE LEE TEASER – 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 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 25th DAY OF OCTOBER, 2012.

ATTEST
W. C. WOCKEN – CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

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

MELVIN J. BULLINGER
CITY ENGINEER

4/11/13

DESCRIPTION

AUDITOR'S LOTS A AND B AND PART OF THE NW 1/4 AND THE NW 1/4 OF THE SW 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF THE NORTHWEST 1/4 AND THE WEST LINE OF SONNET HEIGHTS ADDITION; THAT LIES NORTH 00 DEGREES 26 MINUTES 38 SECONDS EAST, ALONG THE EAST LINE OF SAID NORTHWEST 1/4, A DISTANCE OF 295.57 FEET FROM THE SOUTHEAST CORNER OF THE NORTHWEST 1/4; THENCE NORTH 89 DEGREES 34 MINUTES 14 SECONDS WEST, A DISTANCE OF 230.76 FEET; THENCE NORTH 80 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 150.00 FEET; THENCE NORTH 84 DEGREES 52 MINUTES 28 SECONDS WEST, A DISTANCE OF 88.18 FEET; THENCE NORTH 89 DEGREES 24 MINUTES 08 SECONDS WEST, A DISTANCE OF 84.46 FEET; THENCE NORTH 85 DEGREES 44 MINUTES 54 SECONDS WEST, A DISTANCE OF 515.31 FEET; THENCE NORTH 77 DEGREES 59 MINUTES 39 SECONDS WEST, A DISTANCE OF 239.45 FEET; THENCE NORTH 89 DEGREES 41 MINUTES 08 SECONDS WEST, A DISTANCE OF 559.89 FEET; THENCE SOUTH 82 DEGREES 51 MINUTES 07 SECONDS WEST, A DISTANCE OF 138.27 FEET; THENCE SOUTH 87 DEGREES 49 MINUTES 38 SECONDS WEST, A DISTANCE OF 66.34 FEET; THENCE SOUTH 81 DEGREES 35 MINUTES 29 SECONDS WEST, A DISTANCE OF 169.41 FEET; THENCE SOUTH 07 DEGREES 46 MINUTES 38 SECONDS EAST, A DISTANCE OF 44.90 FEET; THENCE SOUTH 08 DEGREES 43 MINUTES 40 SECONDS WEST, A DISTANCE OF 615.69 FEET; THENCE SOUTH 21 DEGREES 35 MINUTES 37 SECONDS EAST, A DISTANCE OF 275.69 FEET TO THE NORTHERLY BOUNDARY LINE OF BOULDER RIDGE FIRST ADDITION; THENCE SOUTH 58 DEGREES 53 MINUTES 58 SECONDS WEST, ALONG SAID BOUNDARY LINE, A DISTANCE OF 159.70 FEET; THENCE SOUTH 45 DEGREES 20 MINUTES 27 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 1.34 FEET; THENCE NORTHWESTERLY AND TO THE LEFT, ON A 350.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 32 DEGREES 21 MINUTES 25 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE, AN ARC LENGTH OF 184.36 FEET; THENCE NORTH 89 DEGREES 27 MINUTES 35 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 101.29 FEET TO THE WEST LINE OF SAID SECTION 16; THENCE NORTH 00 DEGREES 32 MINUTES 25 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 2108.17 FEET TO THE NORTHERLY BOUNDARY LINE OF AUDITOR'S LOT A; THENCE SOUTH 89 DEGREES 27 MINUTES 35 SECONDS EAST, ALONG SAID BOUNDARY LINE, A DISTANCE OF 75.00 FEET; THENCE NORTH 74 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG SAID BOUNDARY LINE, A DISTANCE OF 587.11 FEET; THENCE NORTH 83 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 178.43 FEET; THENCE SOUTH 45 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 818.28 FEET; THENCE SOUTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 150.00 FEET; THENCE SOUTH 31 DEGREES 14 MINUTES 45 SECONDS WEST, A DISTANCE OF 67.95 FEET; THENCE SOUTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 111.86 FEET; THENCE SOUTH 18 DEGREES 58 MINUTES 14 SECONDS EAST, A DISTANCE OF 196.73 FEET; THENCE SOUTH 78 DEGREES 17 MINUTES 28 SECONDS EAST, A DISTANCE OF 368.74 FEET; THENCE SOUTH 82 DEGREES 00 MINUTES 31 SECONDS EAST, A DISTANCE OF 77.27 FEET; THENCE SOUTH 14 DEGREE 49 MINUTE 34 SECONDS EAST, A DISTANCE OF 25.36 FEET; THENCE SOUTH 78 DEGREES 44 MINUTES 12 SECONDS EAST, A DISTANCE OF 163.24 FEET; THENCE SOUTH 88 DEGREES 12 MINUTES 28 SECONDS EAST, A DISTANCE OF 73.34 FEET; THENCE SOUTH 89 DEGREES 09 MINUTES 22 SECONDS EAST, A DISTANCE OF 183.85 FEET; THENCE SOUTH 20 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 27.03 FEET; THENCE SOUTH 68 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 364.70 FEET; THENCE SOUTH 72 DEGREES 54 MINUTES 07 SECONDS EAST, A DISTANCE OF 105.19 FEET; THENCE SOUTH 88 DEGREES 47 MINUTES 13 SECONDS EAST, A DISTANCE OF 140.11 FEET TO THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 16; THENCE NORTH 00 DEGREES 26 MINUTES 36 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 330.54 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 59.01 ACRES, MORE OR LESS.

SWENSON, HAGEN & COMPANY P.C.
808 Basin Avenue
Bismarck, North Dakota 58504
Phone (701) 223-3600
Fax (701) 223-3636

1614

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

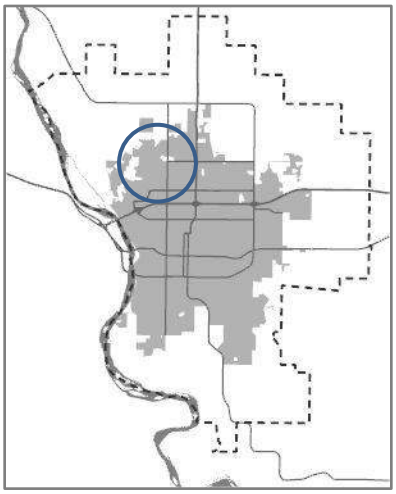
Agenda Item # 4
August 25, 2021

Application for: **Major Subdivision Final Plat**

Project ID: **FPLT2021-007**

Project Summary

Title:	Frohlich Addition
Status:	Planning & Zoning Commission – Public Hearing
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:	2.50 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)

Background Information

The Planning and Zoning Commission, at their meeting July 28, 2021, tentatively approved the preliminary Plat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 13th and August 20th and 52 letters were mailed to the owners of nearby properties on August 13th.

Transportation and Access

Right-of-way for the future connection for Huron Drive from the east, in Evergreen Ridge Addition, to the west, in High Meadows 7th Addition is dedicated along the northern portion of the proposed plat. This dedication is 60 feet in the northeast portion of the plat tapering off to 30 feet in the central and western portions of the plat. City staff anticipates this connection to be made and portions of the right-of-way to be vacated and relocated when the property to the north of the proposed plat is redeveloped.

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 zoning ordinance does not permit an 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 would 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. The timing for removal of the accessory building will be outlined in the Development Agreement for the proposed plat.

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.

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

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 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 requirements of the neighborhood parks and open space policy have been waived by the Bismarck Parks and Recreation District;
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

(continued)

allowed by the proposed subdivision at the time the property is developed;

8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the major subdivision preliminary plat for Frohlich Addition, with the understanding that the existing accessory building located on Lot 3 will be relocated or removed when the extension of Huron Drive is constructed.

Attachments

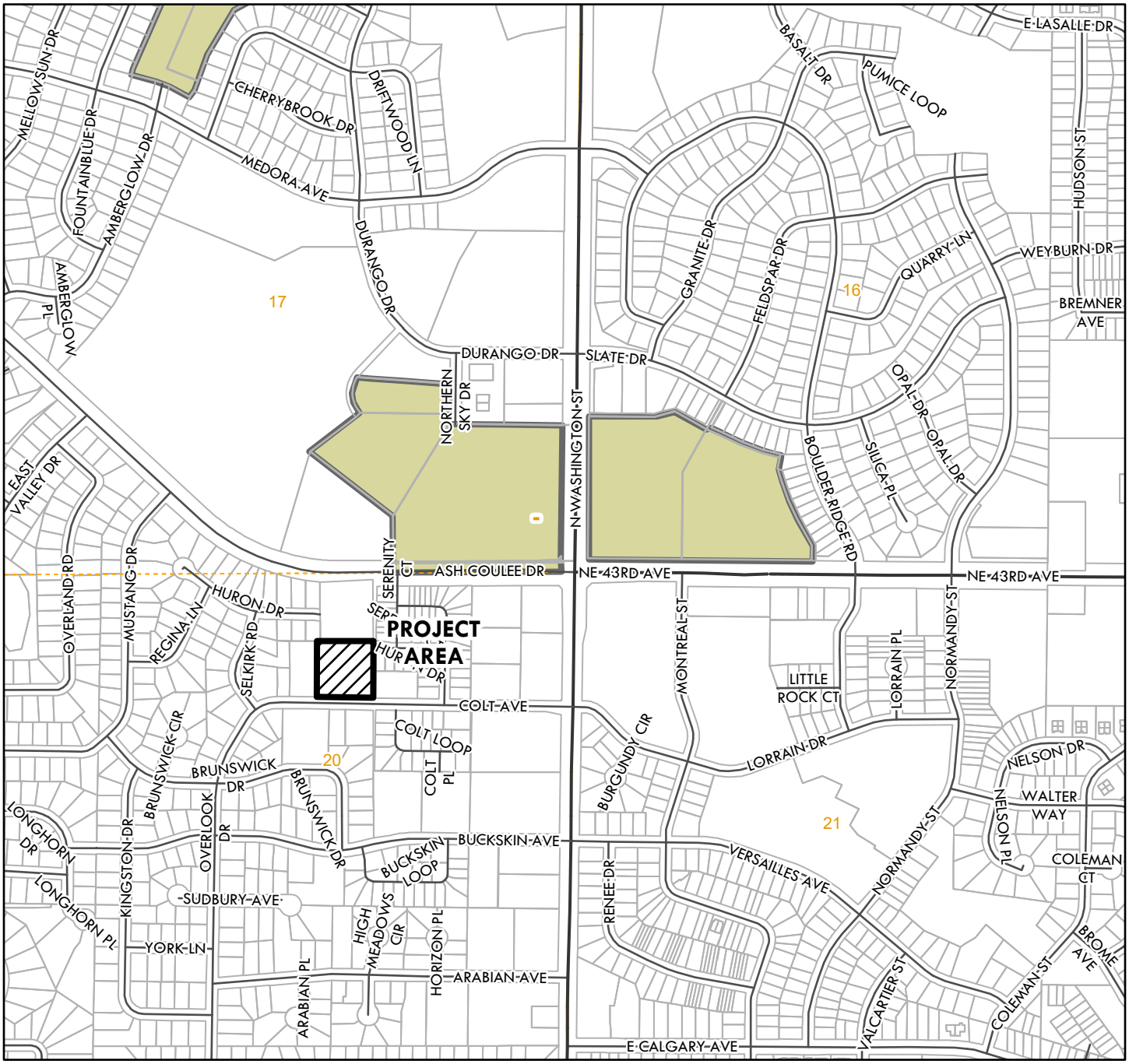
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Major Subdivision Final Plat
5. Major Subdivision Preliminary Plat
6. Original Plat with Replatted Area Highlighted

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

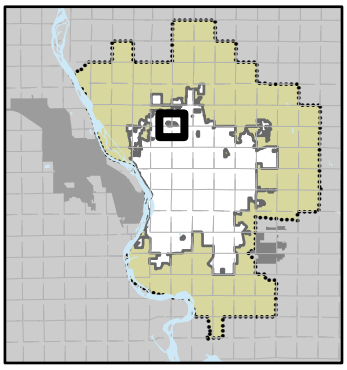
FPLT2021-007

Location Map

FROHLICH ADDITION



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

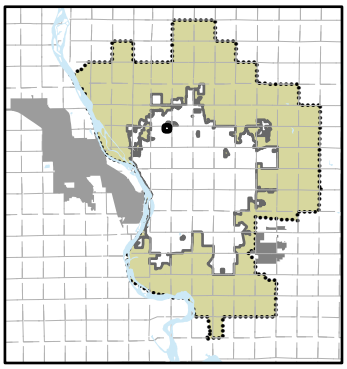
FPLT2021-007

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

FPLT2021-007

Zoning Districts

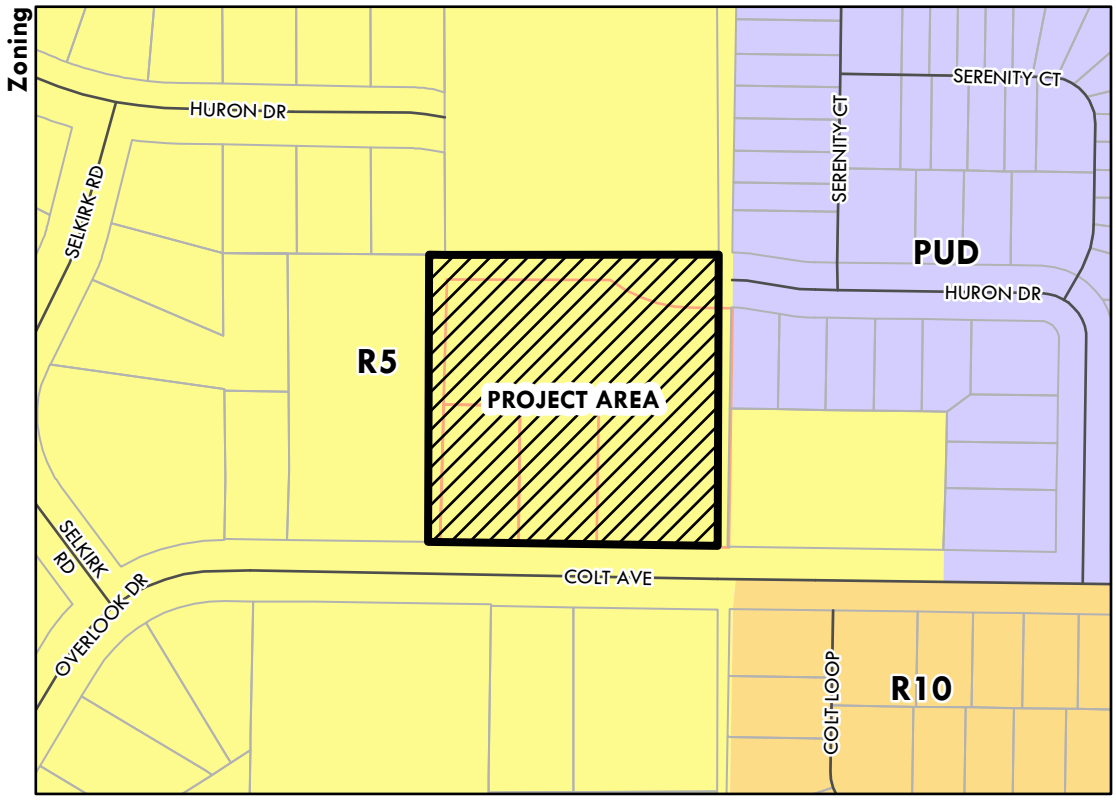
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

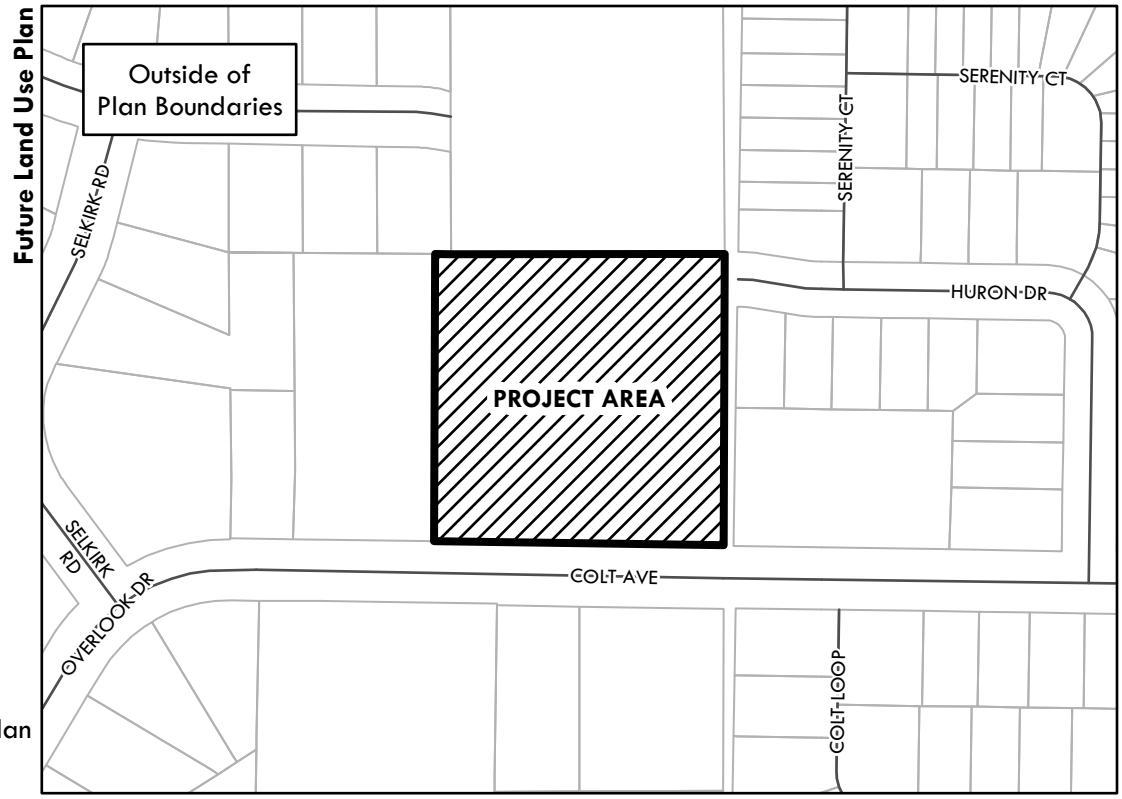
Future Land Use Plan

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





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.

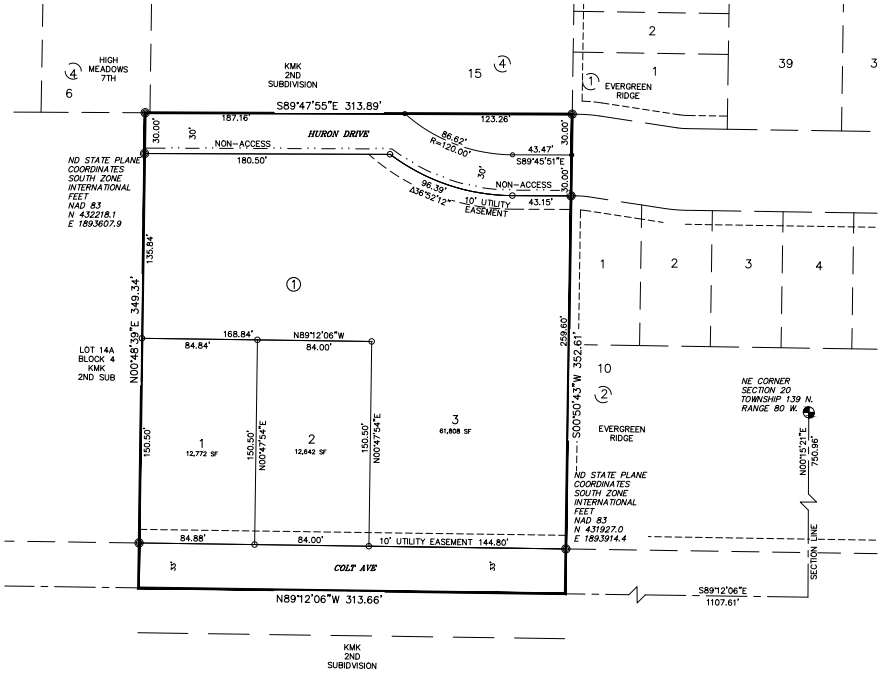
Miles
0 0.03 0.05 0.1

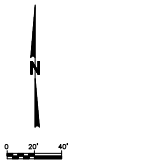
City of Bismarck
Community Development Dept.
Planning Division
July 7, 2021

FROHLICH ADDITION

BEING A REPLT OF THE EAST 314' OF LOT 14 BLOCK 4 K.M.K. ESTATES SECOND SUBDIVISION AND PART OF THE NORTH 1/2 OF COLT AVENUE RIGHT-OF-WAY OF THE NE 1/4 OF SECTION 20 TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA





JULY 1, 2021

○ 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 #2241, ELEV. 1942.03 (NGVD 29)
COLT DRIVE 2ND EAST OF SILKIRK DRIVE

AREA DATA

LOTS	87,222 S.F.	2.00 ACRES
STREETS	22,900 S.F.	0.53 ACRES
TOTAL	110,122 S.F.	2.53 ACRES

DESCRIPTION

BEING A REPLAT OF THE EAST 314' OF LOT 14 BLOCK 4 K.M.K. ESTATES SECOND SUBDIVISION AND PART OF THE NORTH 1/2 OF COLT AVENUE RIGHT-OF-WAY WEST OF THE NE 1/4 OF SECTION 20, TOWNSHIP 139 NORTH, RANGE 80 WEST THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1 BLOCK 1 EVERGREEN RIDGE ADDITION; THENCE SOUTH 00 DEGREES 50 MINUTES 43 SECONDS WEST, ALONG THE WEST LINE OF SAID EVERGREEN RIDGE ADDITION, A DISTANCE OF 352.61 FEET TO THE CENTERLINE OF COLT AVENUE RIGHT-OF-WAY; THENCE NORTH 89 DEGREES 12 MINUTES 06 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 313.66 FEET; THENCE NORTH 00 DEGREES 48 MINUTES 39 SECONDS EAST, A DISTANCE OF 349.34 FEET TO THE SOUTH LINE OF HIGH MEADOWS SEVENTH ADDITION; THENCE SOUTH 89 DEGREES 47 MINUTES 55 SECONDS EAST, ALONG SAID SOUTH LINE AND THE SOUTH LINE OF LOT 15 BLOCK 4 K.M.K. ESTATES SECOND SUBDIVISION, A DISTANCE OF 3313.89 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.53 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

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

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

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

APPROVAL OF BOARD OF CITY COMMISSIONERS

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

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

_____
ATTEST
KEITH J. HUNKE – CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

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

_____
GABRIEL J. SCHELL
CITY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT BRIAN AND BARBARA FROHLICH, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "FROHLICH ADDITION", 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.

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

_____
BRIAN FROHLICH
1800 CONTESSA PLACE
BISMARCK, ND 58503

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED BRIAN FROHLICH, 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 _____

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

_____
BARBARA FROHLICH
1800 CONTESSA PLACE
BISMARCK, ND 58503

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED BARBARA FROHLICH KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND SHE ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME.

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

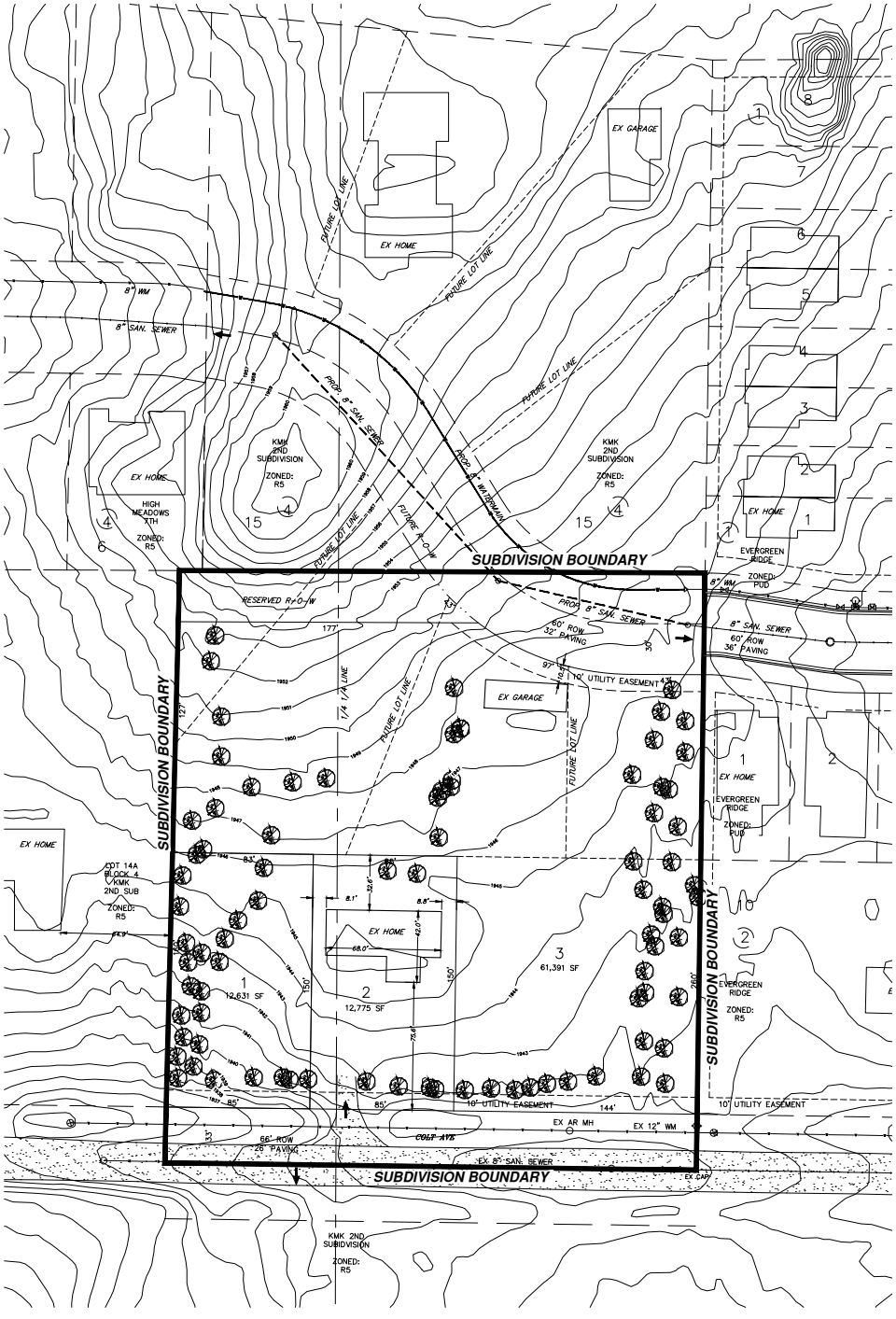
SWENSON, HAGEN & COMPANY P.C.
909 Basin Avenue
Bismarck, North Dakota 58504
sheng@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

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'

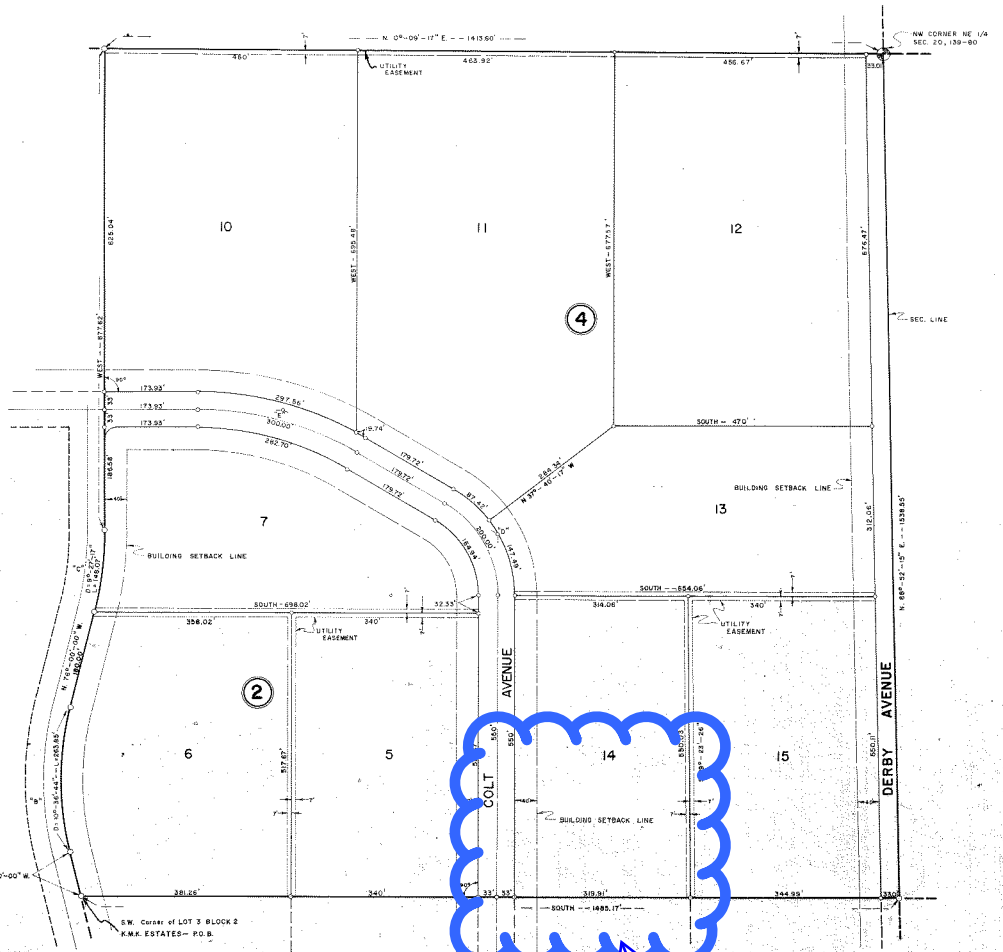
VERTICAL DATUM: NAVD 88

JUNE 24, 2021

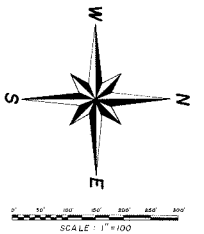
SWENSON, HAGEN & COMPANY P.C.
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management
909 Basin Avenue
Bismarck, North Dakota 58504
shesg@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606

K.M.K. ESTATES SECOND SUBDIVISION

BURLEIGH COUNTY, NORTH DAKOTA



Proposed Plat



DATE OF PLAT OCTOBER 2, 1969

DESCRIPTION

ALL THAT PART OF THE NORTHEAST QUARTER (N.E. 1/4) 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 VALVEYOR:

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. 1/4) 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. 1/4) 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. 1/4) 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 (1485.17) 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 TO PERPETUITY 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 F. Kavaney
WILLIAM F. KAVANEY
NOTARY PUBLIC, BURLEIGH COUNTY, N. DAK.
MY COMMISSION EXPIRES DECEMBER 11, 1970

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 MONUMED BY 20' 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 21, 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 N. Hagen
EDWARD N. HAGEN, NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES, JULY 9, 1975

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 3, 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.

Alvin C. Taylor
ALVIN C. TAYLOR, CHAIRMAN

Tom Baker
TOM BAKER, 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.

Ervin Bourgois
ERVIN BOURGOIS, CHAIRMAN

Kathryn Kerr
KATHRYN KERR, 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 ADDENDUM 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 Kerr
KATHRYN KERR, COUNTY AUDITOR

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

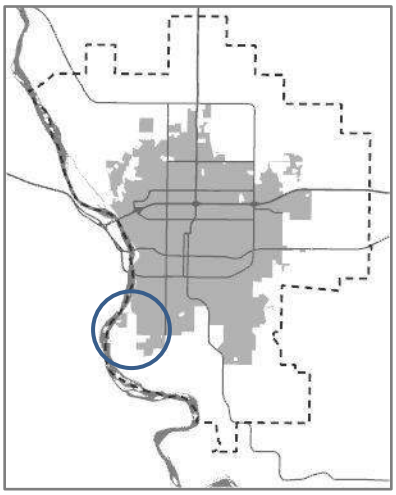
Agenda Item # 5
August 25, 2021

Application for: **Zoning Change**
Minor Subdivision Final Plat

Project ID: **ZC2020-017**
MPLT2021-001

Project Summary

Title:	Potter Pointe Subdivision
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Dan Potter and Wayne and Jennifer Harvison
Project Contact:	Landon Niemiller, Swenson, Hagen & Co.
Location:	Southwest Bismarck, between Mills Avenue and Larson Road along the west side of Langer Lane (a replat of Lots 1-4, Block 1, Replat of Lots 1A, Lot 2A and Part of Lot 3A of Mills First Subdivision and the West 52 feet of Langer Lane right-of-way)
Project Size:	7.42 acres
Request:	Rezone and replat property for future urban and rural residential development



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	4 lots in 1 block	*Number of Lots:*	6 lots in 1 block
Land Use:	Undeveloped	*Land Use:*	Undeveloped
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	*Designated GMP Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	RR – Residential	*Zoning:*	RR – Residential R5 – Residential
Uses Allowed:	RR – Large lot single-family residential and limited agriculture	*Uses Allowed:*	RR – Large lot single-family residential and limited agriculture R5 – Single-family residential
Max Density Allowed:	RR – 1 unit per 65,000 square feet	*Max Density Allowed:*	RR – 1 unit per 65,000 square feet R5 – 5 units / acre

(continued)

Property History

Zoned:	12/1976 (Mills First Subdivision)	*Platted:*	05/2002 (Replat of Lots 1A, 2A and Part of 3A of Mills First Subdivision)	Annexed:	N/A

Staff Analysis

Dan Potter and Wayne and Jennifer Harvison are requesting approval of a zoning change from the RR – Residential zoning district to the RR – Residential and the R5 – Residential zoning district and a minor subdivision final plat titled Potter Pointe Subdivision.

Background Information

The Bismarck Planning and Zoning Commission held a public hearing on the proposed zoning change and minor subdivision final plat on April 28, 2021. Four members of the public spoke during the meeting and 11 written comments were submitted to the Commission. Concerns raised by members of the public, both during the hearing and in the written comments, were related to the proposed R5 – Residential zoning, the sizes of Lots 3 and 4, and the concern that potential home sizes on these lots would not be comparable to the adjacent R5 – Residential zoned lots. Concerns were also raised regarding recent improvements to Langer Lane and the associated special assessments that were not paid by the owner of this property as it was not located within corporate limits.

At the conclusion of the public hearing and based on the findings contained in the staff report, the Planning and Zoning Commission voted 9 to 1 to deny the request, noting that the sizes of Lots 3 and 4 are not comparable in size to adjacent R5 – Residential zoned lots and that these smaller lots could negatively affect the property values of adjacent lots.

The applicants appealed the denial of the Planning and Zoning Commission to the City Commission for their meeting on May 25, 2021. During the City Commission meeting, the applicants proposed a modification of the plat, which would increase the sizes of Lots 3 and 4, and ultimately reduce the size of Lot 5. During the meeting, it was suggested that the applicants withdraw their appeal request and submit the modified plat for reconsideration to the Planning and Zoning Commission.

The Planning and Zoning Commission reconsidered the zoning request at their meeting of July 28, 2021 and called for a public hearing.

The public had been duly notified of this request. A notice was published in the Bismarck Tribune on August 13th and August 20th, and 73 letters were mailed to the owners of nearby properties on August 13th.

Additional Information

Adjacent uses include rural residential to the north, developing urban single-family residential to the east across Langer Lane and to the south, and rural residential to the west.

Proposed Changes

In order to satisfy concerns outlined by the Planning and Zoning Commission and adjacent property owners during the April 28, 2021 public hearing, the applicants have modified the dimensions of the urban residential lots west of Langer Place, the private access easement within the plat.

(continued)

These modifications would increase the size of Lot 3 from 9,281 square feet to 10,891 square feet; Lot 4 from 9,287 square feet to 10,890 square feet; and Lot 5 (now labeled as Lot 6) from 65,167 square feet to 67,921 square feet; decrease the size of Lot 1 from 95,225 square feet to 68,191 square feet; and create an additional Lot (Lot 5) to be zoned R5 – Residential.

Lot 5 has been added to increase the separation distance from the proposed vacant rural lots (Lot 1 and Lot 6) from municipal sewer services, so that the rural lots can be developed. The ND State Sewer and Water Service Code requires that any property located within 200 feet of available municipal sewer services be serviced by those services. This includes new development and replacement of failed or failing septic systems and drain fields. An individual sewer treatment system (septic system and drain field) cannot be located on a within 200 feet of municipal sewer services.

Any modification of the parcels within the proposed plat that would increase the number of lots will require approval of a minor subdivision final plat.

Conformance with the Comprehensive Plan

The proposed plat and zoning change are in an area that was not included in the Future Land Use Plan or the Growth Phasing Plan, as this area was already partially developed and zoned when the plans were created. Lots 3, 4 and 5 of the proposed plat are proposed to be zoned R5 – Residential, which would allow for the development of three urban single-family lots when annexed. The corporate boundary is adjacent to these lots beginning at Langer Lane. The owner has indicated that annexation of these lots would occur in the future, when buyers have been identified. Planning staff has notified the applicant that building permits for these lots cannot be issued until the lots are annexed and municipal utilities are extended. Utility capital charges would also be required at that time.

Transportation and Access

The proposed plat includes a 40-foot wide access easement, named Langer Way. This easement is intended to provide access to Lots 1, 2, 5 and 6. Lots 3 and 4 would be accessed from Langer Lane.

Required Findings of Fact (relating to land use)

Zoning Change

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

(continued)

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

Minor Plat

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) with written concurrence from the County Engineer;
3. The proposed subdivision is located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands;
4. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
5. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and,
6. 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 zoning change from the RR – Residential zoning district to the RR – Residential zoning district for Lots 1, 2 and 6, and to the R5 – Residential zoning district for Lots 3, 4, and 5, and approval of the minor subdivision final plat for Potter Pointe Subdivision, with the understanding that any modification of the parcels to increase the number of lots will require approval of a minor subdivision final plat.

Attachments

1. Draft Zoning Change Ordinance
2. Location Map
3. Aerial Map
4. Zoning and Plan Reference Map
5. Proposed Change to Zoning Map
6. Minor Subdivision Final Plat
7. Underlying plat with replatted portion

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

ORDINANCE NO. XXXX

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

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

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

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

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

Lots 1, 2 and 6, Block 1, Potter Pointe Subdivision

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

Lots 3, 4 and 5, Block 1, Potter Pointe Subdivision

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

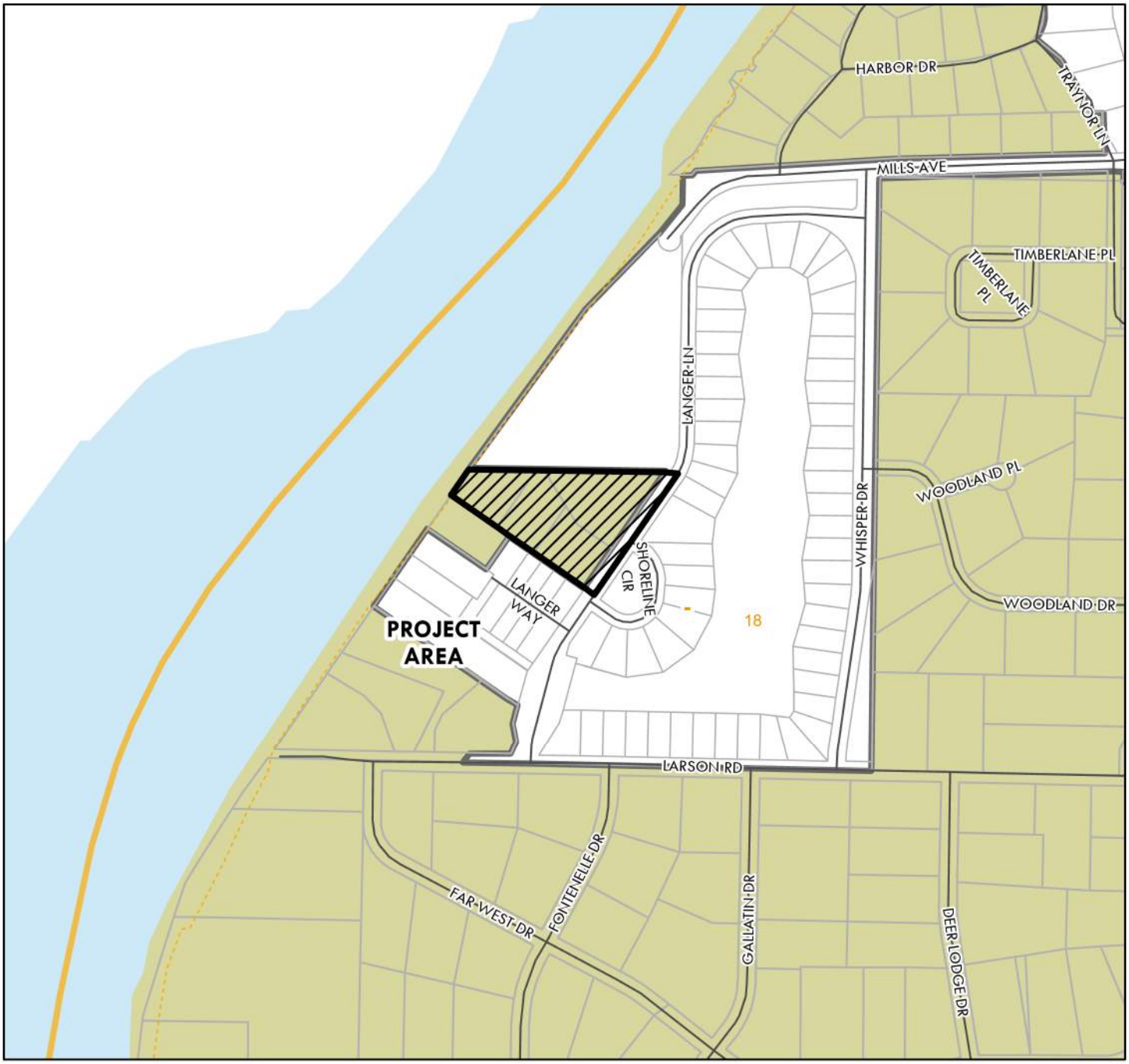
Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

DRAFT

Location Map

POTTER POINTE SUBDIVISION

ZC2020-017



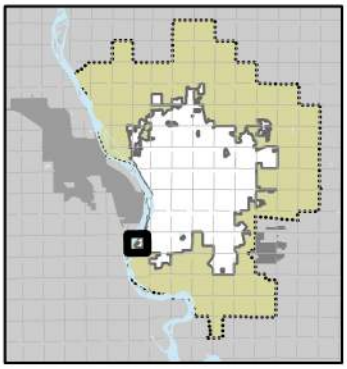
0 0.15 0.3 0.6 Miles

City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange



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

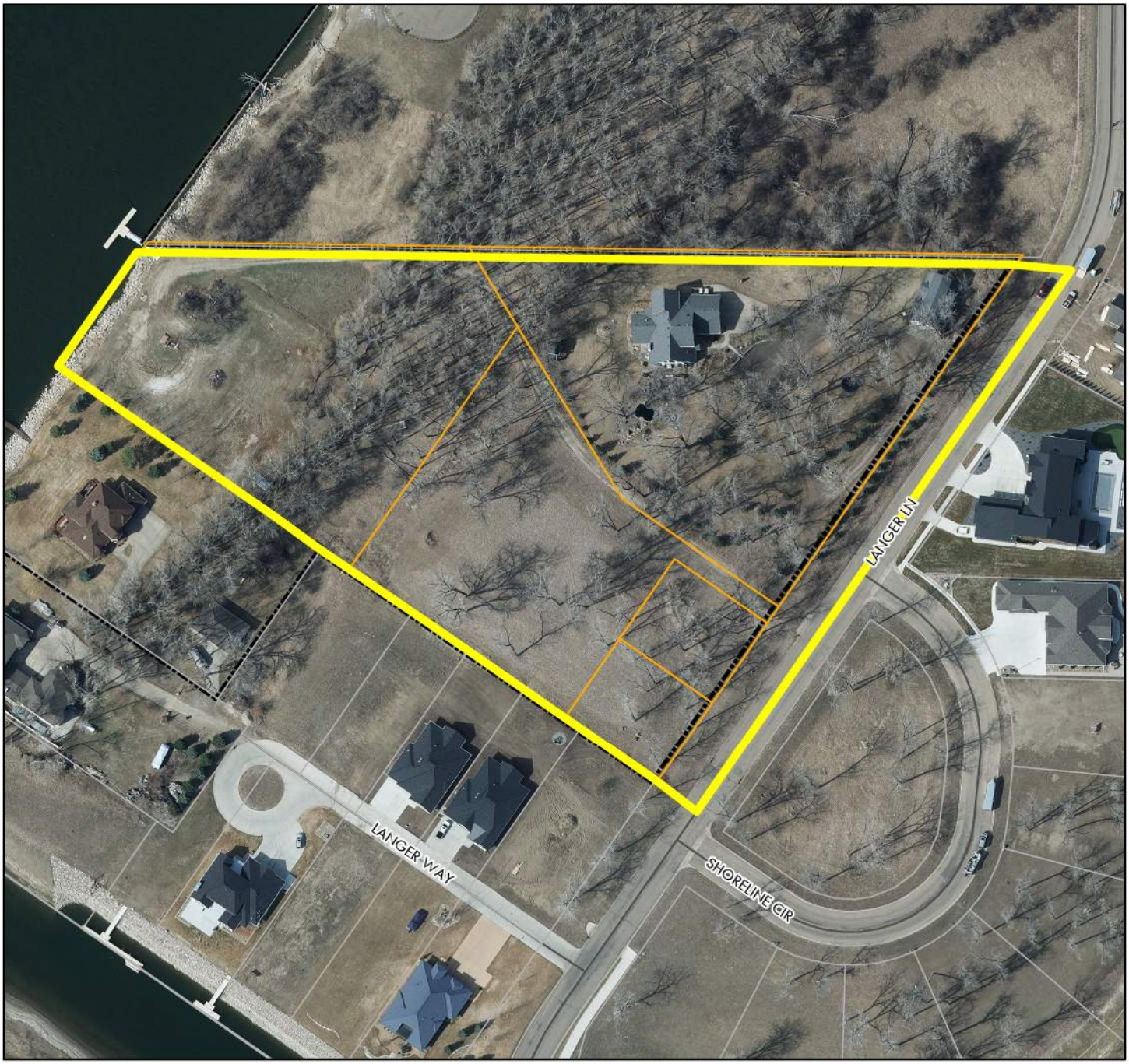
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

Bismarck

Aerial Map

POTTER POINTE SUBDIVISION

ZC2020-017

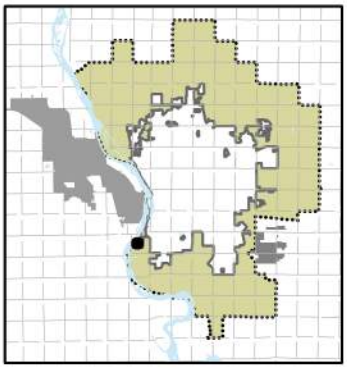


0 0.04 0.07 0.14 Miles

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
June 18, 2021

Zoning and Plan Reference Map

POTTER POINTE SUBDIVISION

ZC2020-017

Zoning Districts

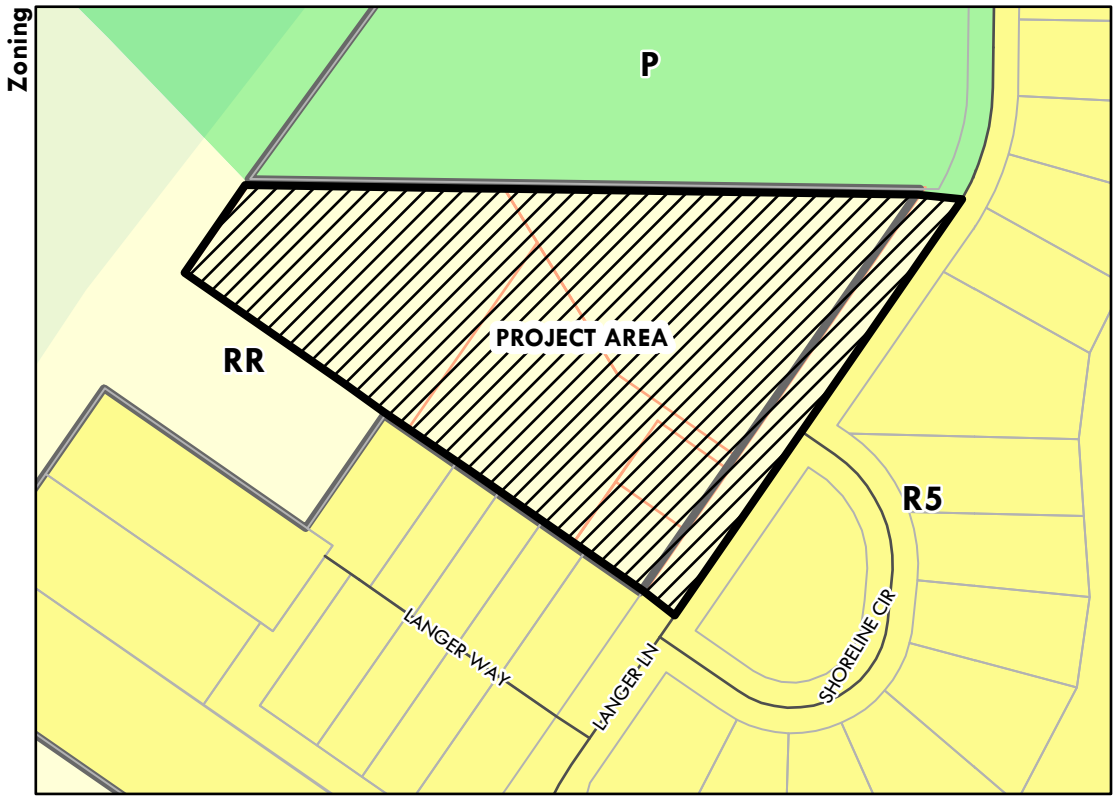
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

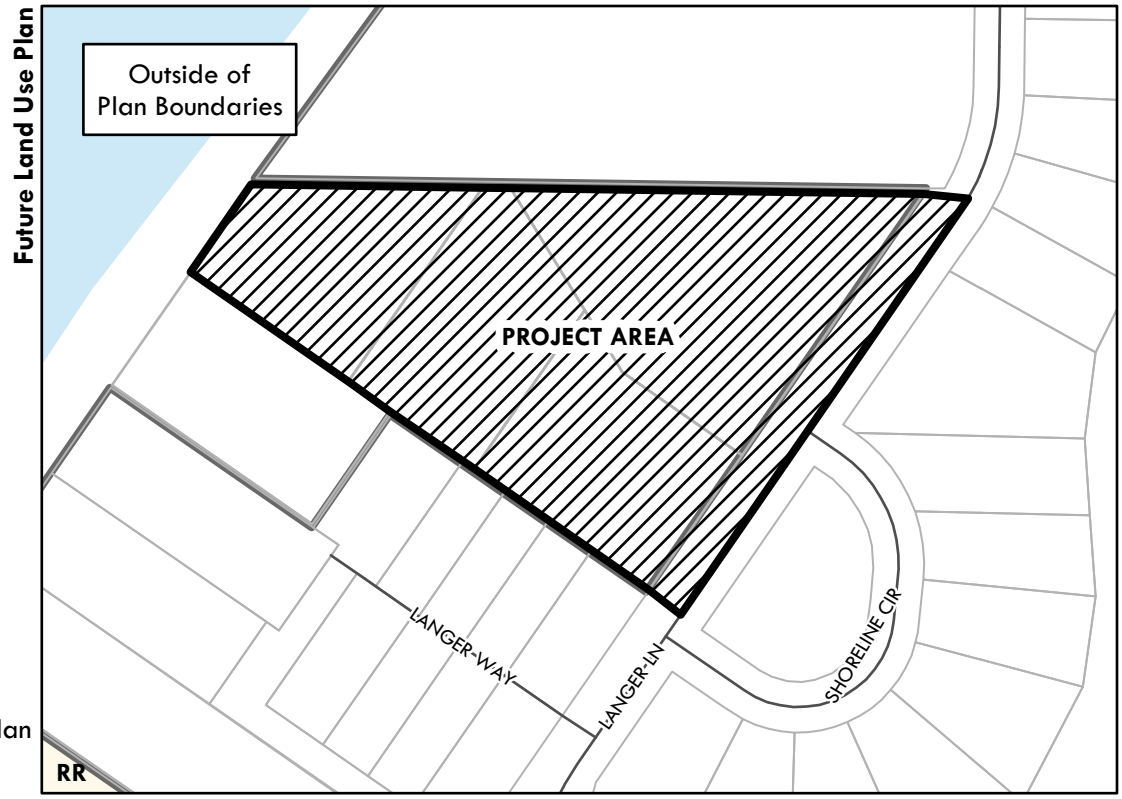
Future Land Use Plan

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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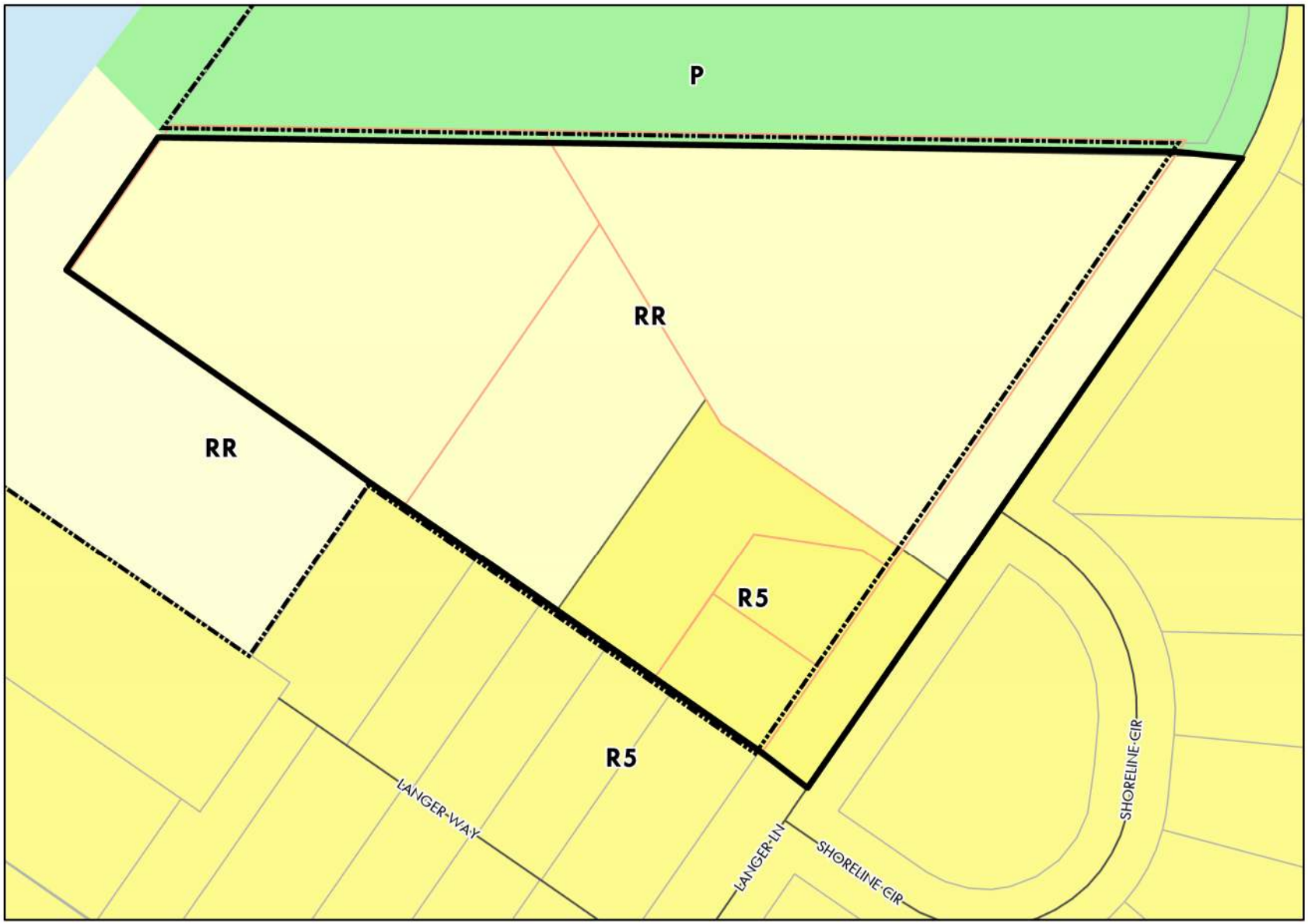
Miles
0 0.03 0.06 0.12

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

Potential Zoning Change
POTTER POINTE SUBDIVISION

ZC2020-017

Proposed New Zoning Map



Project Area (zoning within is proposed)

City Limits

Zoning Districts

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

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

0 0.04 0.09 0.17 Miles

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

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

REPLAT OF LOTS 1A, 2A, AND PART OF 3A OF MILLS FIRST SUBDIVISION

SECTION 18, T. 138 N., R. 80 W.

BURLEIGH COUNTY, NORTH DAKOTA

DESCRIPTION

LOTS 1A, 2A AND THE NORTHERLY 15.00 FEET OF THE WESTERLY 360.00 FEET OF LOT 3A, MILES FIRST SUBDIVISION, BISMARCK, NORTH DAKOTA CONTAINING 11.51 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 2nd DAY OF April, 2002, 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 OE THE PLANNING COMMISSION OF THE CITY OE BISMARCK.

DAVID BLADKSTEAD – CHAIRMAN

CARL D. HOKLNSTAD– 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 OE THE BOARD OF CITY COMMISSIONERS OF BISMARILK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE 14th DAY OF May, 2002.

ATIEST
W.C.WOCKEN–CITY ADMINISTRATOR

SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OE THE NOTES OF A SURVEY PERFORMED UNDLR MY SUPERVIDION AND COMPLETED ON FLBRUARY 1, 2001, AND THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BLEIEF.

TERRY BALTZER
REGISTERED LAND SURVEYOR
N.D. REGISTRATION NO. 3595

COUNTY OF BURLEIGH)
SS)
STATE OF NORTH DAKOTA)

ON THIS 17 DAY OE May, 2002, BEFORE ME PERSONALLY APPEARED TERRY BALTZER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXLCUTED THE FOREGOING SURVLYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXLCUTLD THE SAME.

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

APPROVAL OF CITY ENGINEER

I, MELVIN J. BULLINGER, P.E., CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "REPLAT OE PART OF MILS FIRST SUBDIVISION", BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

MELVIN J. BULLINGER P.E. 3/10/2003
CITY ENGINLER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT DON L. WILHELM, MARY L. WILHELM, DIANE A. HELFRICH AND JOHN M. HELFRICH FOR THE MARLENE M. HELFRICH FAMILY TRUST BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSLD THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "REPLAT OE LOTS 1A, 2A AND PART OF LOT 3A OF MILLS FIRST SUBDIVISION", BISMARCK, NORTH DAKOTA.

THEY ALSO DEDICATES LASEMENTS TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TLLEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY LASEMENTS.

IT FURTHERMORE GRANTS ACCESS LASEMENTS FOR ALL LAND OWNING PARTIES, THEIR TENANTS, VISITORS AND LICENSEES, IN COMMON ON THE PLAT. SAID EASEMENT TO INCLUDE THE FUEL AND FREE RIGHT EOR SAID PARTIES, THEIR TENANTS, VISITORS AND LICENSELS, IN COMMON WITH ALL OTHERS HAVING LIKE RIGHT AT ALL TIMLS HERLAFTER FOR ALL PURPOSES CONNECTED WITH THE USL OF SAID PARTIES, TO PASS AND RLPASS ALONG SAID EASLMLNT AND TO HOLD SAID EASEMENT TO SAID PARTIES, THEIR HEIRS AND ASSIGNS AND APPURTENANT TO THE LAND OE SAID PARTIES. IT ALSO DEDICATES SAID ACCESS EASEMENT TO AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, ITS OFFICERS AND EMPLOYEES FOR UTILTIES AND ANY OTHER GOVERNMENTAL USE OR USES IT DLEMS NECESSARY OR ADVISABLE, PROVIDED THE CITY SHALL NOT BE RESPONSIBLE IN ANY WAY TO FURNISH ANY CITY SERVICES IF SUCH ACCESS EASEMENTS ARE NOT PROPERLY MAINTAINLD OR ARE OBSTRUCTED BY THL OWNLRS OF PROPERTY IN THL SUBDIVISION.

DIANE A. HELFRICH
OWNER: LOT 1 BLOCK 1

MARLENE M. HELFRICH FAMILY TRUST
JOHN M. HELFRICH, TRUSTEE
OWNER: LOTS 2, 3 & 4 BLOCK 1
JOHN M. HELFRICH
OWNER: LOT 1 BLOCK 1

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

STATE OF NORTH DAKOTA)
SS)
COUNTY OF BURLEIGH)

ON THIS 13TH DAY OF DECEMBER, 2002, BEFORE ME PERSONALLY APPLARLD JOHN M.HELFRICH, DIANE A.HELFRICH AND JOHN M. HELFRICH, TRUSTEE FOR MARLENE M. HELFRICH FAMILY TRUST KNOWN TO ME TO BE THE PERSONS AND TRUSTLL LESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

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

DON L. WILHELM
OWNER: LOTS 5, 6 & 7 BLOCK 1

MARY L. WILHELM
OWNER: LOTS 5, 6 & 7 BLOCK 1

STATE OF NORTH DAKOTA)
SS)
COUNTY OF BURLEIGH)

ON THIS 26TH DAY OF NOVEMBER, 2002, BEFORE ME PLRSONALLY APPEARED MARY L. WILHELM AND LION L. WILHELM KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

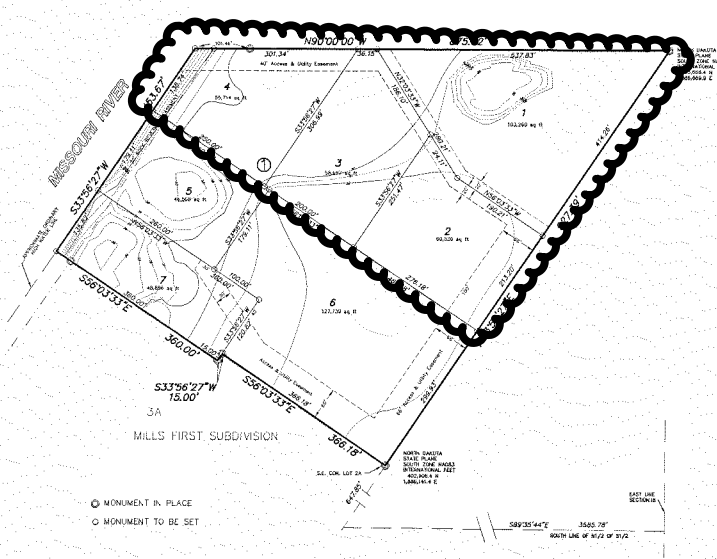
DAVID PATLNCE
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires AUGUST 24, 2004

DAVID PATIENCE, NOTARY PUBLIC
BURLLIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES 8-24-04

JANUARY 9, 2002
SCALL ~ 1"=100'

FLOOD PLAIN ELEV 1634.5
FLOOD INSURANCE RATE MAP
COMMUNITY PANEL NUMBER 380149 0025 A
DATED SEPTEMBER 18, 1985

11.51 ACRES	LOTS
0.00 ACRES	STREETS
11.51 ACRES	TOTAL



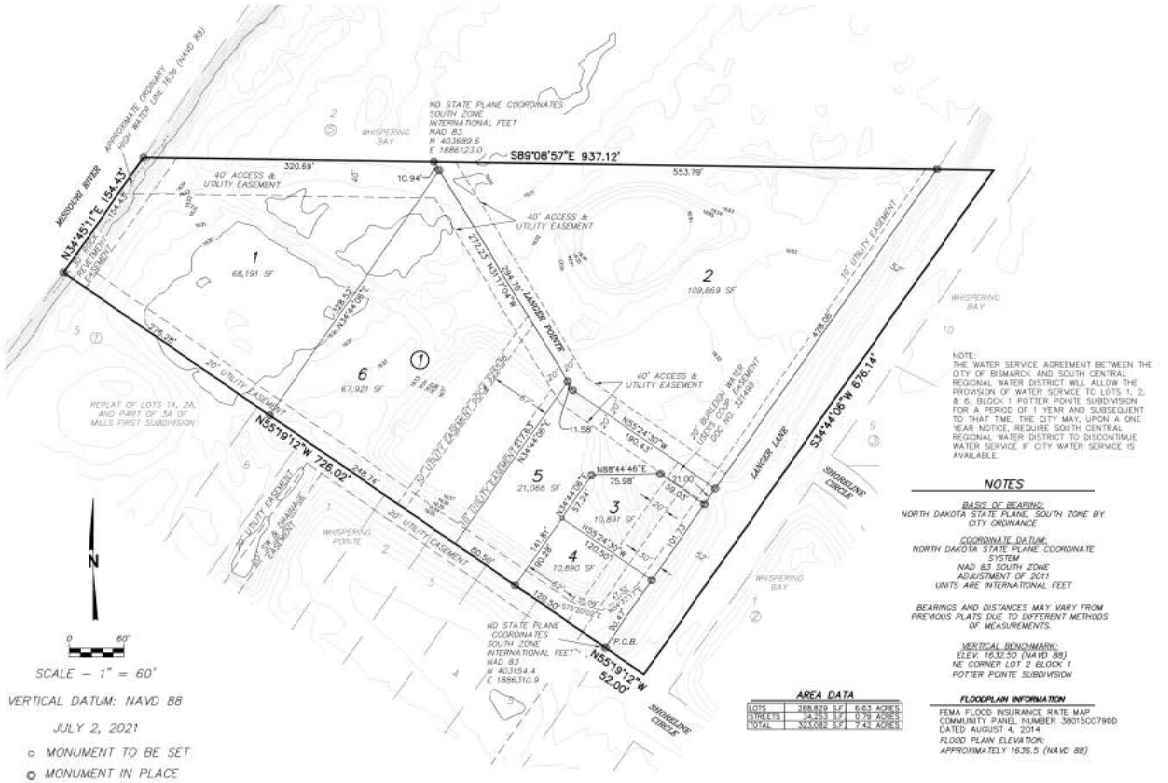
SWENSON, HAGEN & CO. P.C.
PLANNING CIVIL ENGINEERING SURVEYING
SITE DESIGN CONSTRUCTION MANAGEMENT
909 RAISIN AVE (701) 223-9580
P.O. BOX 1135 FAX (701) 223-2006
BISMARCK, N.D. 58504 E-MAIL shag@swensonhagen.com

Underlying Plat with replatted portion

POTTER POINTE SUBDIVISION

BEING A REPLAT OF PART OF THE WEST 52' OF LANGER LANE RIGHT-OF-WAY AND LOTS 1-4 BLOCK 1 OF REPLAT OF LOTS 1A, 2A, AND PART OF 3A OF MILLS FIRST SUBDIVISION OF THE SW 1/4 OF SECTION 18, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



NOTE:
THE WATER SERVICE AGREEMENT BETWEEN THE CITY OF BISMARCK AND SOUTH CENTRAL REGIONAL WATER DISTRICT WILL ALLOW THE PROVISION OF WATER SERVICE TO LOTS 1, 2, & 6, BLOCK 1 POTTER POINTE SUBDIVISION FOR A PERIOD OF 1 YEAR AND SUBSEQUENT TO THAT TIME, THE CITY MAY, UPON A ONE YEAR NOTICE, REQUIRE SOUTH CENTRAL REGIONAL WATER DISTRICT TO DISCONTINUE WATER SERVICE IF CITY WATER SERVICE IS AVAILABLE.

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 2011
UNITS ARE INTERNATIONAL FEET

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

VERTICAL BENCHMARK:
ELEV. 1632.50 (NAVD 88)
NE CORNER LOT 2 BLOCK 1
POTTER POINTE SUBDIVISION

AREA DATA

LOTS	268,829 SF	6.63 ACRES
STREETS	34,243 SF	0.79 ACRES
TOTAL	303,082 SF	7.42 ACRES

FLOODPLAIN INFORMATION

FEMA FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 38015C0798D DATED AUGUST 4, 2014
FLOOD PLAIN ELEVATION:
APPROXIMATELY 1636.5 (NAVD 88)

DESCRIPTION

BEING A REPLAT OF PART OF THE WEST 52' OF LANGER LANE RIGHT OF WAY AND LOTS 1-4 BLOCK 1 OF REPLAT OF LOTS 1A, 2A, AND PART OF 3A OF MILLS FIRST SUBDIVISION OF THE NW 1/4 OF SECTION 18, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIBED AS FOLLOWS:

BEGINNING AT THE EASTERNMOST CORNER OF LOT 5 BLOCK 1 WHISPERING POINTE; THENCE NORTH 55 DEGREES 19 MINUTES 12 SECONDS WEST, ALONG THE BOUNDARY OF WHISPERING POINT, A DISTANCE OF 726.02 FEET TO A SURVEY LINE AT THE HIGH BANK OF THE MISSOURI RIVER; THENCE NORTH 34 DEGREES 45 MINUTES 11 SECONDS EAST, ALONG SAID SURVEY LINE, A DISTANCE OF 154.43 FEET TO THE SOUTH LINE OF LOT 2 BLOCK 5 WHISPERING BAY; THENCE SOUTH 89 DEGREES 08 MINUTES 57 SECONDS EAST, CONTINUING ALONG SAID SOUTH LINE AND ITS EASTERLY EXTENSION, A DISTANCE OF 937.12 FEET TO THE CENTERLINE OF LANGER LANE RIGHT-OF-WAY; THENCE SOUTH 34 DEGREES 44 MINUTES 06 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 676.14 FEET TO THE SOUTHEASTERLY EXTENSION OF THE NORTHEASTERLY BOUNDARY OF WHISPERING POINTE; THENCE NORTH 55 DEGREES 19 MINUTES 12 SECONDS WEST, ALONG SAID SOUTHEASTERLY EXTENSION, A DISTANCE OF 52.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 7.42 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, TERRY BALTZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE APPROVED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON _____, 202__. THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

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

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

APPROVAL OF CITY PLANNING COMMISSION

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

MICHAEL J. SCHWARTZ – CHAIRMAN

ATTEST:
BEN EHRETH – SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE APPROVED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE APPROVED PLAT.
THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE _____ DAY OF _____, 2021.

ATTEST:
KEITH J. RUNKE – CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

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

GABRIEL J. SCHELL
CITY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT DANIEL POTTER, WAYNE HARVISON, & JENNIFER HARVISON, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "POTTER POINTE SUBDIVISION", 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 ALSO DEDICATE ACCESS EASEMENTS TO RUN WITH THE LAND FOR USE BY ADJOINING LAND-OWNING PARTIES OF POTTER POINTE SUBDIVISION, SPECIFICALLY LOTS 1, 2, 5, & 6 BLOCK 1 POTTER POINTE SUBDIVISION & THE OWNERS OF LOT 5 BLOCK 1 OF REPLAT OF LOTS 1A, 2A, AND PART OF 3A OF MILLS FIRST SUBDIVISION, THEIR TENANTS, VISITORS AND LICENSEES, TO PASS AND REPASS ALONG SAID EASEMENT, AND TO THE CITY OF BISMARCK AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, IT'S OFFICERS AND EMPLOYEES FOR EMERGENCY SERVICES AND ANY OTHER GOVERNMENTAL USE OR USES, PROVIDED THAT MAINTENANCE AND CLEARANCE OF THE EASEMENT IS THE RESPONSIBILITY OF THE LAND OWNING PARTIES AND THE CITY SHALL NOT BE RESPONSIBLE IN ANY WAY TO FURNISH ANY CITY SERVICES IF SUCH ACCESS EASEMENTS ARE NOT PROPERLY MAINTAINED OR ARE OBSTRUCTED BY THE OWNERS OF THE PROPERTY IN THE SUBDIVISION.

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

DANIEL POTTER
142 AMERICAN AVE
BISMARCK, ND 58504
OWNER LOTS 1, 3-6 BLOCK 1

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED DANIEL POTTER, 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 _____

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

WAYNE HARVISON
2800 LANGER LANE
BISMARCK, ND 58504
CO-OWNER LOT 2 BLOCK 1

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED WAYNE HARVISON, 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 _____

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

JENNIFER HARVISON
2800 LANGER LANE
BISMARCK, ND 58504
CO-OWNER LOT 2 BLOCK 1

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED JENNIFER HARVISON, 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 _____

SWENSON, HAGEN & COMPANY P.C.
909 Basin Avenue
Bismarck, North Dakota 58504
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management
dsmg@swensonhagen.com
Phone (701) 223-3600
Fax (701) 223-2616

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

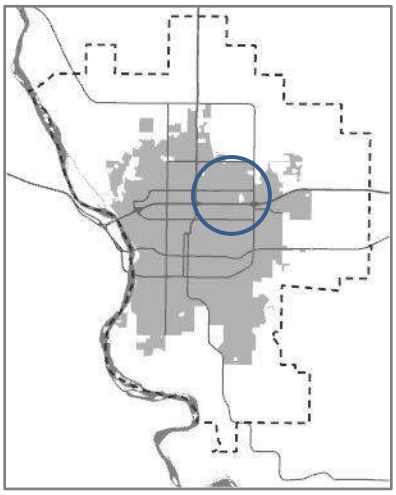
Agenda Item # 6
August 25, 2021

Application for: **Zoning Change**
Major Subdivision Final Plat

Project ID: **ZC2021-007**
FPLT2021-006

Project Summary

Title:	Fairview Cemetery Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Fairview Cemetery, Owner City of Bismarck, Owner Vertin, Applicant
Project Contact:	Landon Niemiller, Swenson, Hagen & Co.
Location:	In northeast Bismarck, north of Interstate 94 and west of Centennial Road on the south side of East Century Avenue
Project Size:	73.2 Acres
Request:	Plat and rezone the existing cemetery parcel and adjacent City-owned parcel to allow construction of new related uses and improve access to adjacent parcels



Site Information

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

(continued)

Max Density:	A – 1 unit / 40 acres A – 1 unit / 40 acres	*Max Density:*	P – N/A RT – 30 units / acre MA – N/A

Property History

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

Staff Analysis

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

The Planning and Zoning Commission at their meeting of May 26, 2021 tentatively approved the preliminary plat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 13th and 20th, and 60 letters were mailed to the owners of nearby properties on August 13th.

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

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

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

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

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

Required Findings of Fact (relating to land use)

Zoning Change

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide

(continued)

necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;

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

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 final plat is not an urban subdivision with residential zoning districts;
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands,
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval zoning change from the A – Agricultural and MA – Industrial zoning districts to the P – Public zoning district for Lot 1, Block 1, to the RT – Residential zoning district for Lots 2 and 3, Block 1, and to the MA – Industrial zoning district for Lot 4, Block 1 and approval of the major subdivision final plat for Fairview Cemetery Addition.

(continued)

Attachments

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Proposed Zoning Change Map
5. Final Plat
6. Preliminary Plat

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

ORDINANCE NO. XXXX

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

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

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

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

The following described property shall be excluded from the A – Agriculture zoning district and included in the P – Public zoning district:

Lot 1, Block 1, Fairview Cemetery Addition

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

Lots 2 and 3, Block 1, Fairview Cemetery Addition

The following described property shall be excluded from the MA – Industrial zoning district and included in the MA – Industrial zoning district:

Lot 4, Block 1, Fairview Cemetery Addition

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

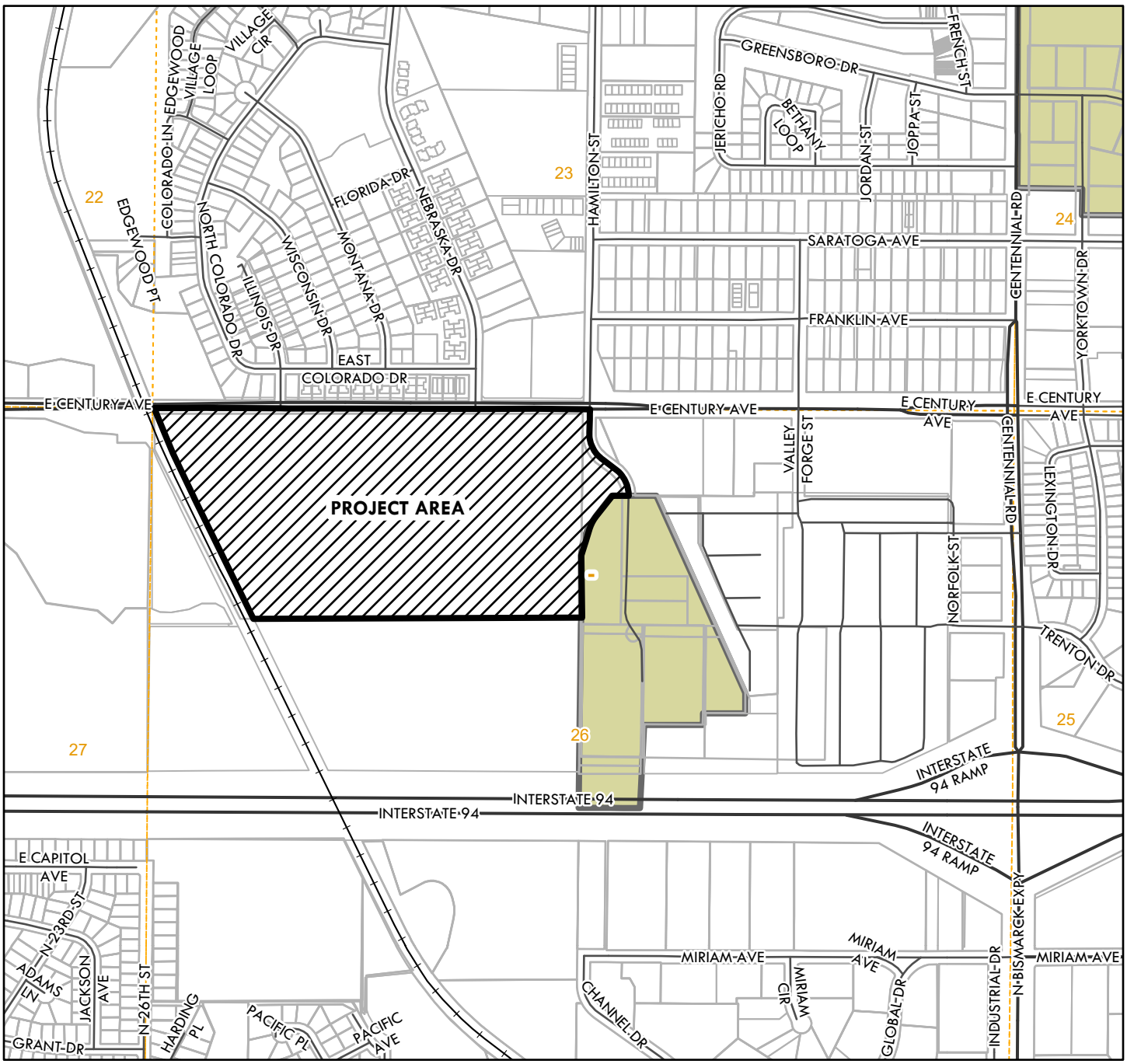
Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

DRAFT

Location Map

FAIRVIEW CEMETERY ADDITION

PPLT2021-004



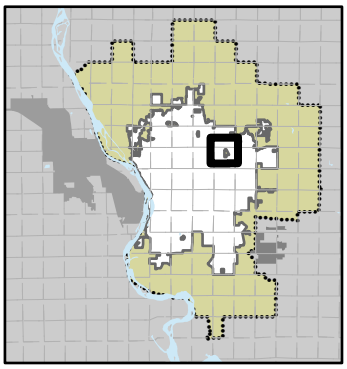
0 0.2 0.4 0.8 Miles

City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange



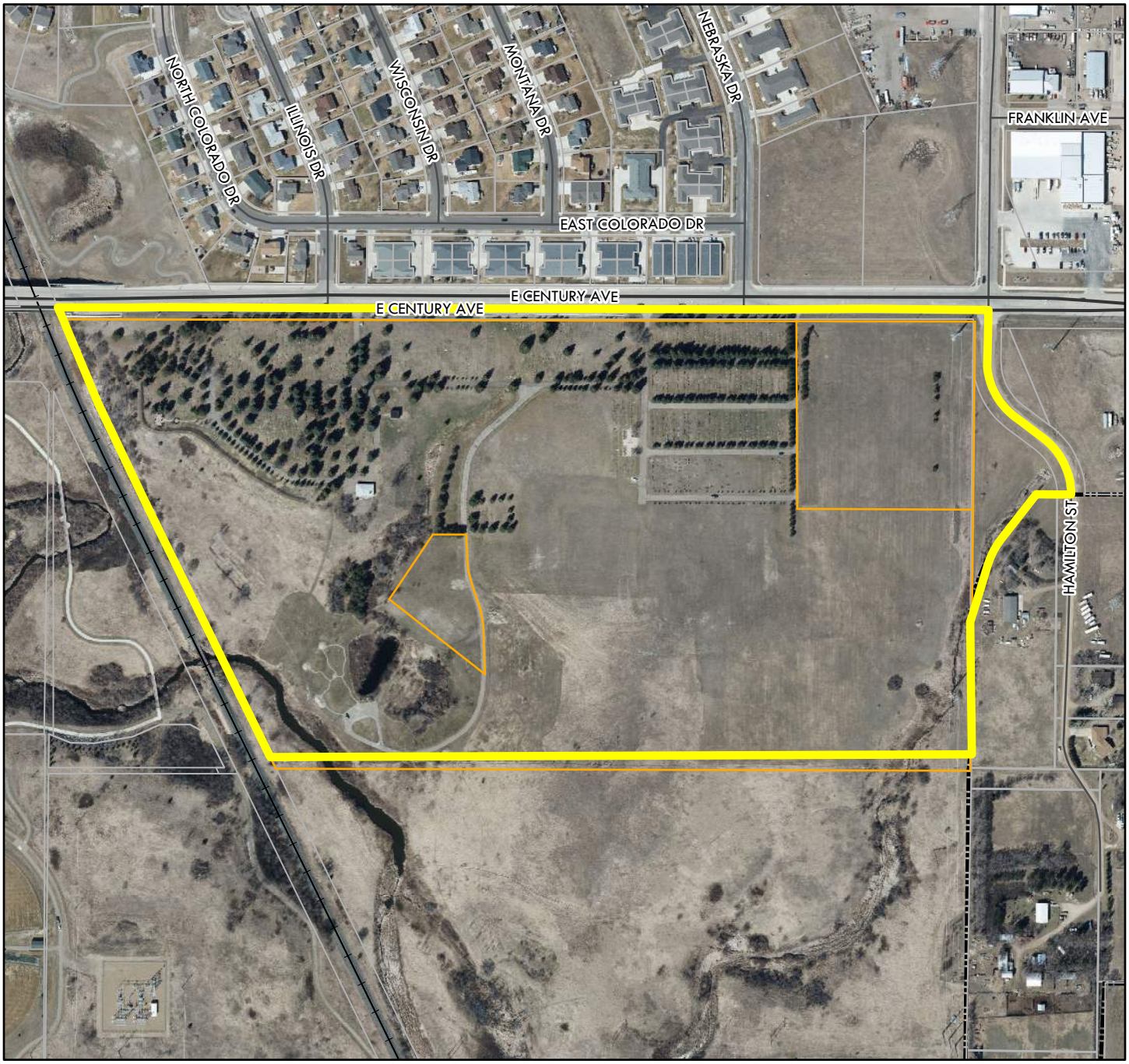
City of Bismarck
Community Development Department
Planning Division
May 18, 2021 (HLB)

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

Aerial Map

FAIRVIEW CEMETERY ADDITION

PPLT2021-004



0 0.1 0.2 0.4 Miles

City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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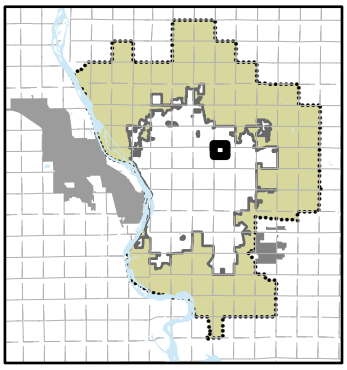


City of Bismarck
Community Development Department
Planning Division
May 18, 2021

Zoning and Plan Reference Map

FAIRVIEW CEMETERY ADDITION

PPLT2021-004

Zoning Districts

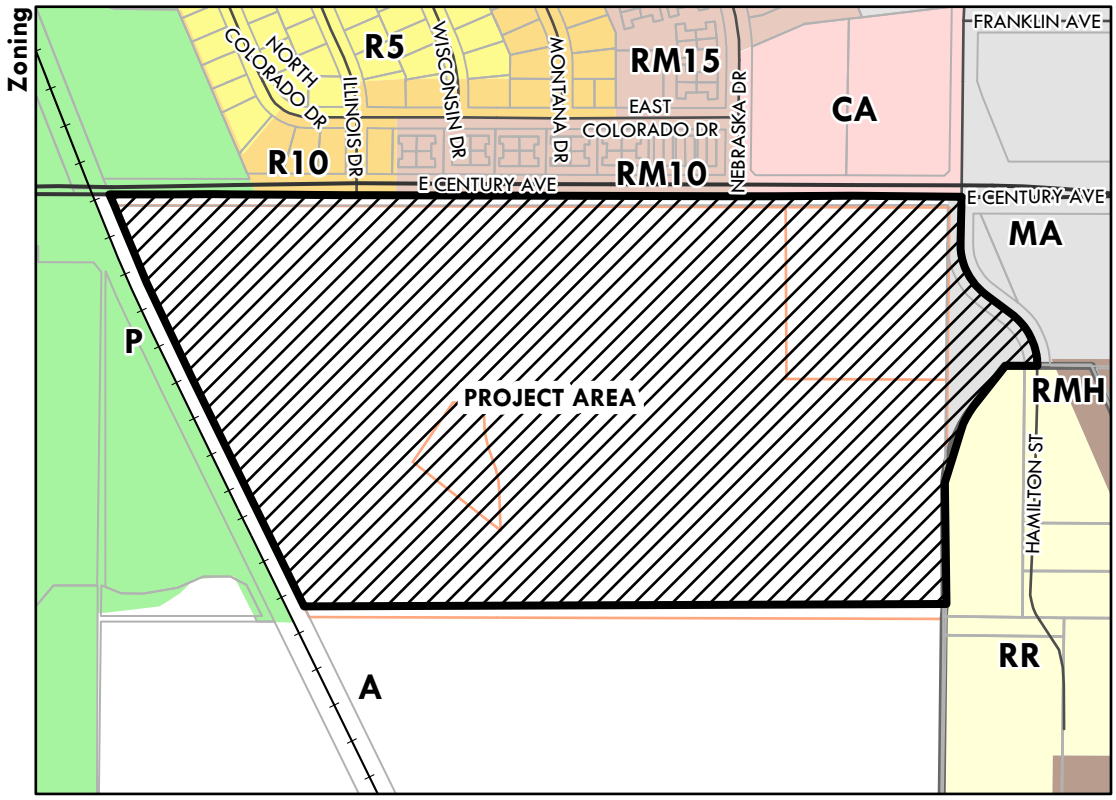
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

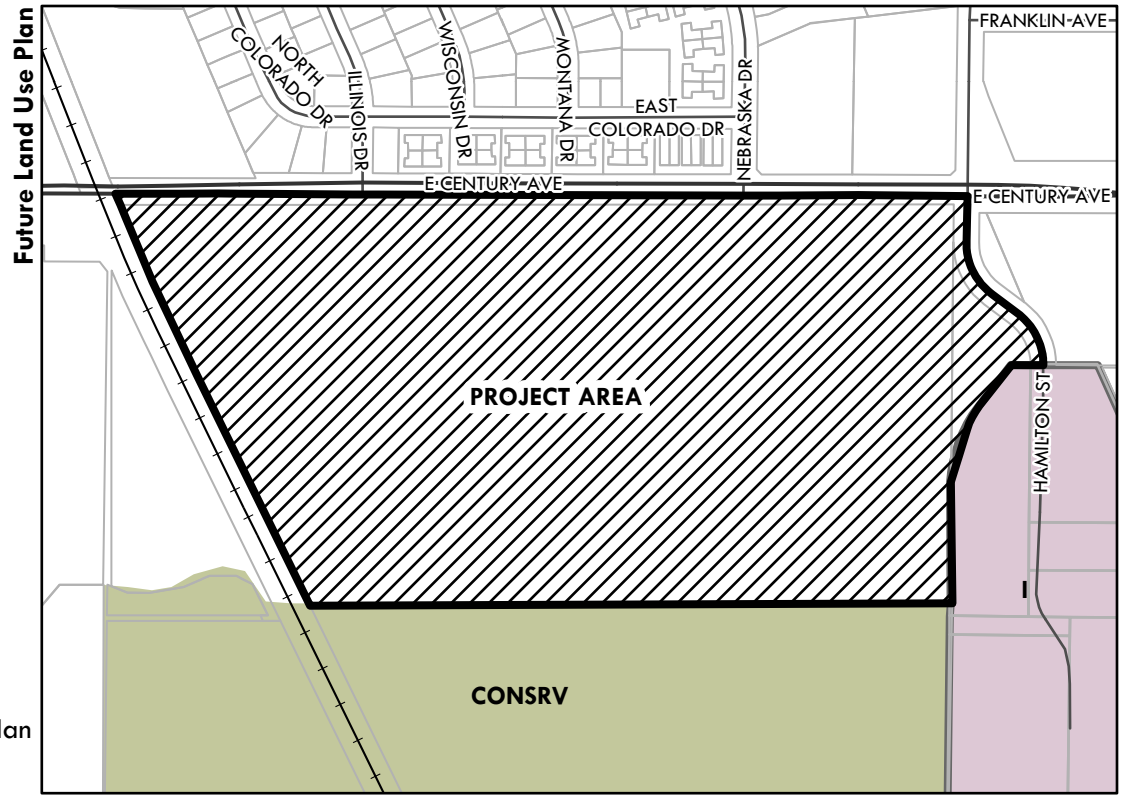
Future Land Use Plan

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

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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0 0.07 0.15 0.3 Miles

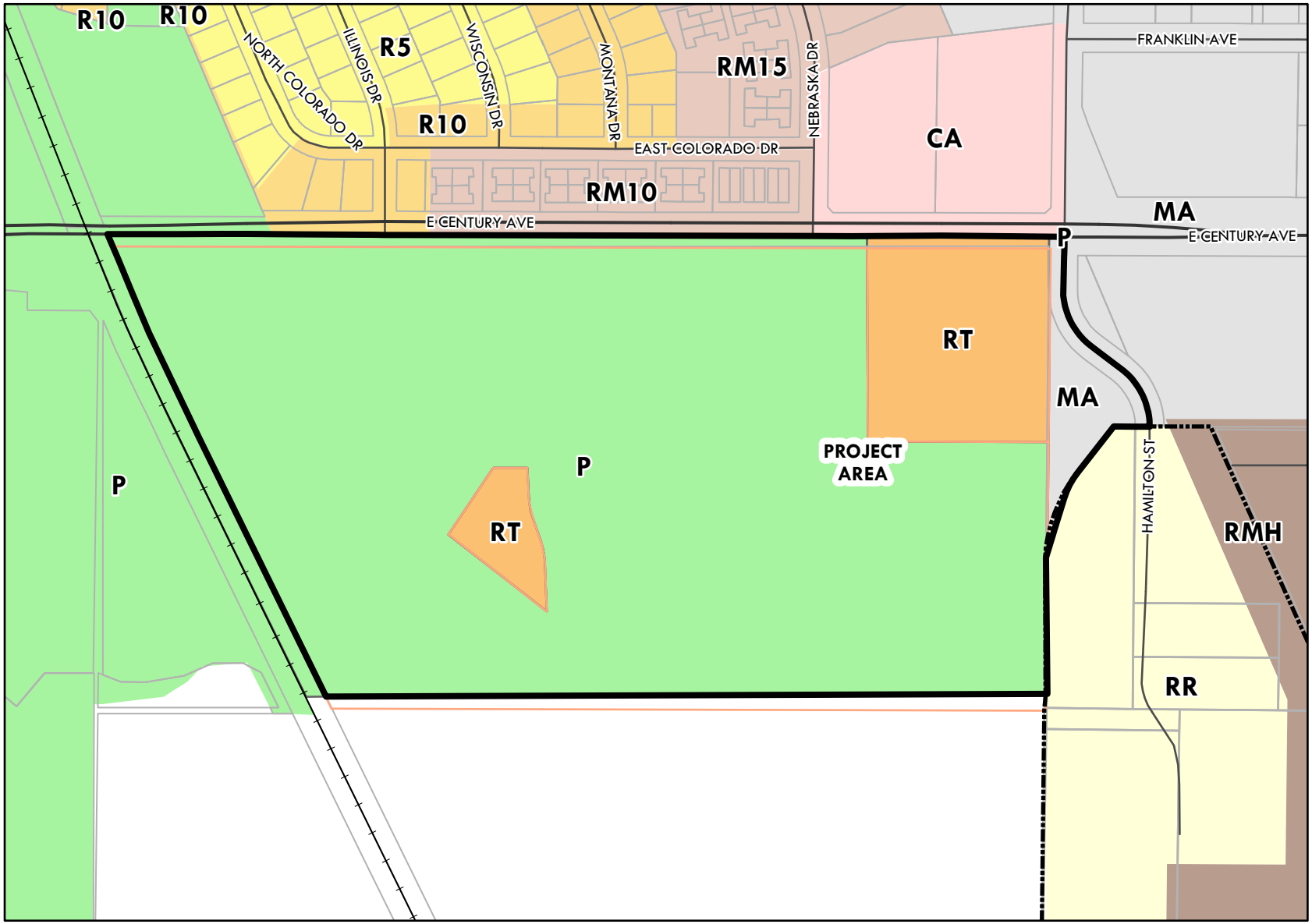
City of Bismarck
Community Development Dept.
Planning Division
May 18, 2021

Proposed Zoning Change

FAIRVIEW CEMETERY ADDITION

PPLT2021-004

Proposed New Zoning Map



Project Area (zoning within is proposed)

City Limits

Zoning Districts

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

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

0 0.13 0.25 0.5 Miles

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

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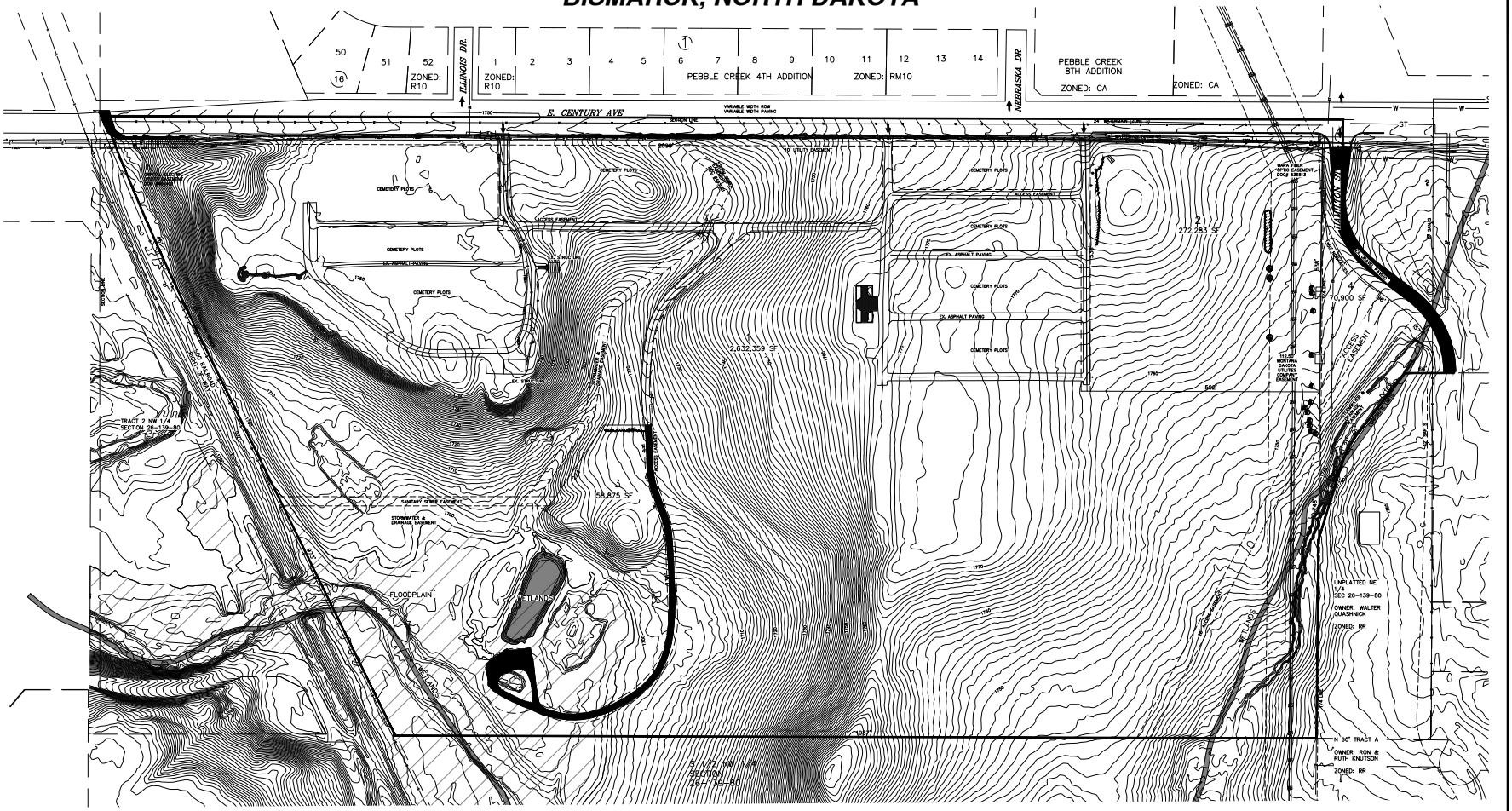
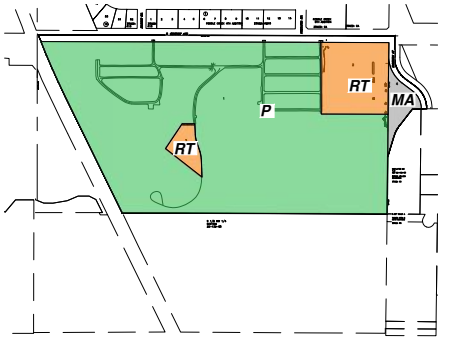
FAIRVIEW CEMETERY ADDITION

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

BISMARCK, NORTH DAKOTA



LOCATION MAP



56 ZONING MAP

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

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

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

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

N

0 100' 200'

SCALE – 1" = 100'

VERTICAL DATUM: NAVD 88

MAY 12, 2021

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

FAIRVIEW CEMETERY ADDITION

AUDITOR'S LOT A OF THE N 1/2 OF THE NW 1/4 AND PART OF THE SOUTH HALF OF CENTURY AVENUE RIGHT OF-WAY & LOT 1 BLOCK 1 REVOLUTIONARY ADDITION AND PART OF THE WEST HALF OF HAMILTON STREET RIGHT-OF-WAY OF THE NE 1/4 OF SECTION 26 TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIPTION

AUDITOR'S LOT A OF THE N 1/2 OF THE NW 1/4 AND PART OF THE SOUTH HALF OF CENTURY AVENUE RIGHT OF-WAY & LOT 1 BLOCK 1 REVOLUTIONARY ADDITION AND PART OF THE WEST HALF OF HAMILTON STREET RIGHT-OF-WAY OF THE NE 1/4 OF SECTION 26 TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID AUDITOR'S LOT A; THENCE NORTH 89 DEGREES 49 MINUTES 19 SECONDS WEST, ALONG THE SOUTH LINE OF SAID AUDITOR'S LOT A, A DISTANCE OF 1987.25 TO THE EAST LINE OF THE SOO RAILROAD RIGHT-OF-WAY; THENCE NORTH 26 DEGREES 03 MINUTES 24 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 973.29 FEET; THENCE NORTHWESTERLY AND TO THE RIGHT, CONTINUING ALONG SAID EAST LINE, ON A 5679.65 FOOT RADIUS CURVE, AN ARC LENGTH OF 504.44 FEET TO THE CENTERLINE OF EAST CENTURY AVENUE RIGHT-OF-WAY; THENCE SOUTH 89 DEGREES 49 MINUTES 44 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 2689.73 FEET TO THE CENTERLINE OF HAMILTON STREET RIGHT-OF-WAY; THENCE SOUTH 00 DEGREES 35 MINUTES 18 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 159.05 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 200.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 187.51 FEET; THENCE SOUTH 53 DEGREES 07 MINUTES 45 SECONDS EAST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 99.87 FEET; THENCE SOUTHERLY AND TO THE RIGHT, CONTINUING ALONG SAID CENTERLINE, ON A 202.96 FOOT RADIUS CURVE, AN ARC LENGTH OF 188.24 FEET TO THE EASTERLY EXTENSION OF THE SOUTHEAST MOST LINE OF SAID LOT 1 BLOCK 1 REVOLUTIONARY ADDITION; THENCE NORTH 89 DEGREES 57 MINUTES 42 SECONDS WEST, ALONG SAID EXTENSION AND THE BOUNDARY OF SAID LOT 1, A DISTANCE OF 99.91 FEET; THENCE SOUTH 38 DEGREES 10 MINUTES 37 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 161.55 FEET; THENCE SOUTHWESTERLY AND TO THE LEFT, CONTINUING ALONG SAID BOUNDARY, ON A 229.55 FOOT RADIUS CURVE, AN ARC LENGTH OF 84.10 FEET; THENCE SOUTH 17 DEGREES 02 MINUTES 00 SECONDS EAST, A DISTANCE OF 170.13 FEET TO THE EAST LINE OF SAID AUDITOR'S LOT A; THENCE SOUTH 00 DEGREES 35 MINUTES 18 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 426.77 FEET TO THE POINT OF BEGINNING.

CONTAINING 73.21 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

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

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

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

APPROVAL OF CITY PLANNING COMMISSION

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

_____ MICHAEL J. SCHWARTZ – CHAIRMAN

_____ ATTEST
BEN EHRETH – SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

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

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

_____
ATTEST
KEITH J. HUNKE – CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "FAIRVIEW CEMETERY ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AS SHOWN ON THE PLAT.

_____
GABRIEL J. SCHELL
CITY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT FAIRVIEW CEMETERY & THE CITY OF BISMARCK, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "FAIRVIEW CEMETERY ADDITION", 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 FURTHERMORE DEDICATE UNTO THE CITY OF BISMARCK "STORM WATER AND DRAINAGE EASEMENTS" TO RUN WITH THE LAND FOR THE PURPOSE OF STORM SEWER AND SURFACE WATER DRAINAGE UNDER, OVER, THROUGH AND/OR ACROSS THOSE AREAS DEDICATED HEREON AS "STORM WATER AND DRAINAGE EASEMENTS" FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, ENLARGING AND MAINTAINING STORM WATER MANAGEMENT FACILITIES TOGETHER WITH NECESSARY APPURTENANCES THERETO FOR STORM WATER, STORM SEWER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORM WATER FLOW IN A MANNER THAT WILL PERMIT THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER, OVER AND/OR ACROSS THE EASEMENT AREA.

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

_____
ROBERT EASTGATE
FAIRVIEW CEMETERY
OWNER, LOTS 1-3 BLOCK 1 FAIRVIEW CEMETERY ADDITION

ON THIS _____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED ROBERT EASTGATE OF FAIRVIEW CEMETERY, 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.

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

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

_____
MAYOR STEVE BAKKEN
CITY OF BISMARCK
221 N. 5TH ST
BISMARCK, ND 58506
OWNER, LOT 4 BLOCK 1 FAIRVIEW CEMETERY ADDITION

ON THIS ____ DAY OF _____, 2021, BEFORE ME PERSONALLY APPEARED MAYOR STEVE BAKKEN OF THE CITY OF BISMARCK, 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 _____

WESTERN AREA POWER ADMINISTRATION EASEMENT RESTRICTIONS

THE UNITED STATES GOVERNMENT (WESTERN AREA POWER ADMINISTRATION) HOLDS TWO SEPARATE 125 FOOT WIDE EASEMENTS FOR THE RIGHT TO OPERATE, PATROL, REPAIR, MAINTAIN, USE, CONSTRUCT, AND RECONSTRUCT ELECTRICAL TRANSMISSION LINES.

THE FOLLOWING ACTIVITIES ARE PROHIBITED WITHIN THE TRANSMISSION LINE EASEMENTS, UNLESS REVIEWED AND APPROVED BY WESTERN AREA POWER ADMINISTRATION (IN WRITING).

1. OWNER SHALL NOT ERECT ANY STRUCTURES. STRUCTURES, BY WAY OF EXAMPLE, NOT BY LIMITATION, SHALL MEANS BUILDINGS, MOBILE HOMES, STORAGE TANKS, SEPTIC SYSTEMS, SWIMMING POOLS, TENNIS COURTS, OR SIMILAR FACILITIES.
2. OWNER SHALL NOT DRILL WELLS OR CONDUCT MINING OPERATIONS.
3. OWNER SHALL NOT GRANT PERMISSION TO THE PUBLIC FOR THE USE OF THE EASEMENT AREA. SUCH PROHIBITED USE SHALL INCLUDE ROADS, PARKING AREAS, STORAGE FACILITIES, AND RECREATION FACILITIES.
4. OWNER SHALL NOT APPRECIABLY CHANGE THE CHARACTER OF EXISTING TOPOGRAPHY. NORMAL GARDENING PRACTICES MAY BE CONDUCTED. HOWEVER, OWNER SHALL NOT PLANT ANY TREES WITHIN THE TRANSMISSION LINE EASEMENTS WITHOUT FIRST OBTAINING WRITTEN PERMISSION FROM THE WESTERN AREA POWER ADMINISTRATION (WAPA) OR ITS ASSIGNS.
5. OWNER SHALL NOT ERECT OR INSTALL FENCES ON OR ACROSS THE EASEMENT AREAS WITHOUT FIRST SUBMITTING THE FENCE PLANS TO WESTERN AND OBTAINING WESTERN'S WRITTEN APPROVAL.
6. OWNERS SHALL NOT PLANT TREES WITHIN THE RIGHT-OF-WAY.
7. REQUESTS FOR PERMISSION TO USE THE TRANSMISSION LINE RIGHT-OF-WAY SHOULD BE SUBMITTED TO:

WESTERN AREA POWER ADMINISTRATION
NORTH DAKOTA MAINTENANCE OFFICE
PO BOX 1173
BISMARCK, ND 58502-1173

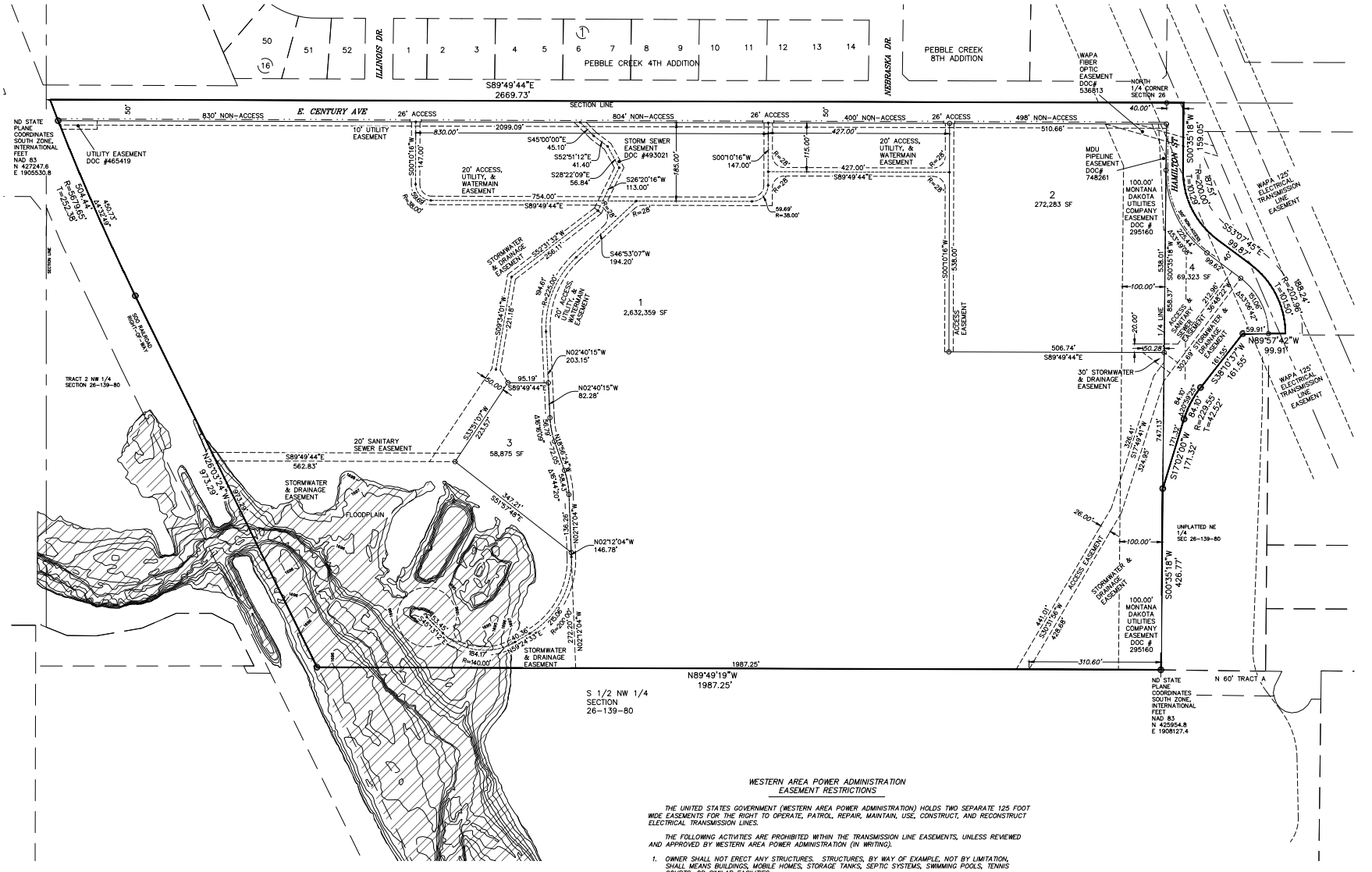
PLEASE CONTACT AL WOOD OR JERRY PAULSON WITH ANY QUESTIONS AT (701) 221-4500

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

FAIRVIEW CEMETERY ADDITION

AUDITOR'S LOT A OF THE N 1/2 OF THE NW 1/4 AND PART OF THE SOUTH HALF OF CENTURY AVENUE RIGHT OF-WAY & LOT 1 BLOCK 1 REVOLUTIONARY ADDITION AND PART OF THE WEST HALF OF HAMILTON STREET RIGHT-OF-WAY OF THE NE 1/4 OF SECTION 26 TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA


PEBBLE CREEK 4TH ADDITION
PEBBLE CREEK 8TH ADDITION
ILLINOIS DR.
NEBRASKA DR.
HAMILTON ST.
E. CENTURY AVE
SECTION LINE
S89°49'44"E 2669.73'
830' NON-ACCESS
804' NON-ACCESS
400' NON-ACCESS
498' NON-ACCESS
26' ACCESS
510.66'
40.00'
NORTH 1/4 CORNER SECTION 26
WAPA FIBER OPTIC EASEMENT DOC# 536813
MDU PIPELINE EASEMENT DOC# 748261
100.00' MONTANA DAKOTA UTILITIES COMPANY EASEMENT DOC # 295160
10' UTILITY EASEMENT
UTILITY EASEMENT DOC #465419
20' ACCESS, UTILITY, & WATERMAIN EASEMENT
STORM SEWER EASEMENT DOC #493021
S45°00'00"E 45.10'
S52°51'12"E 41.40'
S28°22'09"E 56.84'
S26°20'16"W 113.00'
S00°10'16"W 147.00'
754.00'
427.00'
S89°49'44"E
59.69' R=38.00'
S46°53'07"W 194.20'
STORMWATER & DRAINAGE EASEMENT
S53°31'32"W 456.11'
S39°54'01"W 221.18'
20' ACCESS, UTILITY, & WATERMAIN EASEMENT
N02°40'15"W 203.15'
N02°40'15"W 82.28'
95.19'
S89°49'44"E
S37°50'07"W 224.57'
20' SANITARY SEWER EASEMENT
562.83'
N28°13'24"W 973.29'
STORMWATER & DRAINAGE EASEMENT
FLOODPLAIN
S51°57'48"E 341.21'
N02°12'04"W 146.78'
N02°12'04"W 136.26'
N89°24'33"E 272.20'
184.17'
R=140.00'
1987.25'
N89°49'19"W 1987.25'
S 1/2 NW 1/4 SECTION 26-139-80
TRACT 2 NW 1/4 SECTION 26-139-80
ND STATE PLANE COORDINATES SOUTH ZONE, INTERNATIONAL FEET NAD 83 N 427247.6 E 1905530.8
ND STATE PLANE COORDINATES SOUTH ZONE, INTERNATIONAL FEET NAD 83 N 425954.8 E 1908127.4
1 2,632,359 SF
2 272,283 SF
3 58,875 SF
4 69,323 SF
S00°10'16"W 538.00'
S00°35'18"W 538.01'
S00°35'18"W 159.05'
S00°35'18"W 426.77'
S53°07'45"E 90.87'
N89°57'42"W 99.91'
S38°10'37"W 161.55'
S17°02'00"W 171.32'
S17°49'44"W 324.68'
S30°31'06"W 428.66'
441.01'
310.60'
506.74'
S89°49'44"E
30' STORMWATER & DRAINAGE EASEMENT
ACCESS EASEMENT
UNPLATTED NE 1/4 SEC 26-139-80
N 60' TRACT A
WAPA 125' ELECTRICAL TRANSMISSION LINE EASEMENT
R=200.00' T=47.50'
R=400.96' T=43.52'
R=229.55' T=42.52'
R=228.00'
R=38.00'
R=28'
R=235'
R=78'
R=20'
R=140.00'
R=260.00'
R=272.00'
Δ=14°20'
Δ=45°42'27"
Δ=43°06'42"
Δ=84°10'
Δ=84°10'32"
Δ=43°25'25"
Δ=45°04'09"
Δ=45°51'31"
Δ=89°24'33"
Δ=89°24'33"
Δ=89°24'33

Agenda Item # 7
August 25, 2021

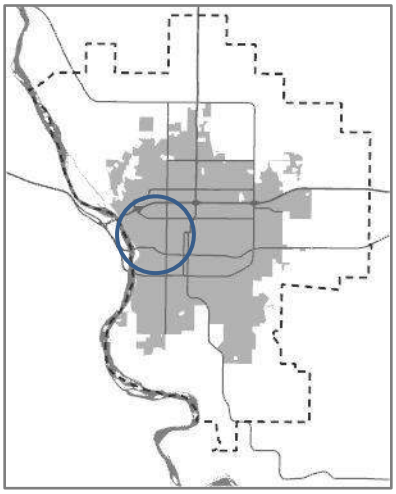
STAFF REPORT

Application for: **PUD Amendment**
Special Use Permit

Project ID: **PUDA2021-002**
SUP2021-019

Project Summary

Title:	Hughes Addition
Status:	Planning & Zoning Commission – Public Hearing
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 and clarify provisions for future signage, and a special use permit for an electronic message center monument sign



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	4 lots in 4 blocks	*Number of Lots:*	4 lots in 4 blocks
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 and a special use permit for an electronic message center monument sign on Lot 1, Block 1, Hughes Addition. Electronic message center signs are only allowed adjacent to residential districts with a special use permit and subject to additional restrictions to protect nearby residences.

The Planning and Zoning Commission, at their July 28, 2021 meeting, considered the zoning change and called for a hearing on the request.

The public has been duly notified of these requests. A notice was published in the Bismarck Tribune on August 13th and 20th, and 133 letters were mailed to the owners of nearby properties on August 13th.

Adjacent uses include single-family residential to east across North Washington Street, to the south across East Avenue D, to the west and to the north across Mason Avenue.

PUD Amendment

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 monument sign that includes an electronic message center (EMC). Since the PUD does not include any reference to signage, the PUD needs to be amended to address which zoning district signage requirements would follow. 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.

As most publicly owned properties, including public schools, are zoned P – Public, it is reasonable to apply that standard to the Hughes Administration building for purposes of signage.

SUP – Electronic Message Center Sign

For properties within the Public zoning district, residential sign standards are followed when the property is adjacent to a residential zoning district. Electronic message center signs are only allowed in residential districts with a special use permit and subject to additional restrictions to protect nearby residences. An existing pole sign with changeable copy letters along North Washington Street near the entrance to the Hughes Administration building, and a new monument sign would be placed in a similar location.

The following criteria from Section 14-03.1-07(5)(d) of the City Code of Ordinances (Signs/ Residential Zoning District Standards apply for electronic message centers in residential areas:

1. *"Special Use Permit. A special use permit shall be required, subject to all procedures of Section 14-03-08 (Special Uses) of the City Code of Ordinances."*

   A special use permit has been requested.

2. *"Sign Type. Electronic message center signs may only be incorporated into on-premise pole signs, monument signs, or wall signs. Electronic message center signs shall not be located on projecting signs, portable signs, or any other temporary signs, with the exception of demonstrations allowed by No off-premise*

(continued)

advertising may occur on electronic message center signs."

The proposed EMC would be incorporated into a monument sign that complies with all requirements in residential zoning districts. As required by ordinance, additional landscaping would be planted at the base of the sign.

3. *"Number of Signs. Only one (1) electronic message center sign shall be allowed per parcel."*

   One EMC sign is proposed for this parcel.

4. *"Area of Signs. the electronic message center portion of a sign shall not exceed thirty-two (32) square feet in area."*

   The EMC portion of the sign would be 24 square feet in size, within the allowable limit.

5. *"Proportion of Sign. Electronic message centers may only be included on pole signs that also contain static content. The electronic portion of the sign may not exceed fifty (50) percent of the entire sign area, and must be entirely below the static portion of the sign. Electronic Message Center signs used as wall signs are exempt from this requirement."*

   Although not required by ordinance, approximately 35 square feet of additional static sign content would be included with the sign. The ancillary off-premise content used for sponsorship is allowable in the ordinance for public or non-profit entities, such as Bismarck Public Schools.

6. *"Operational Requirements. Electronic message center signs shall be subject to the following operational requirements:*

   a. *Brightness. The sign shall not exceed a maximum illumination level of 0.3 foot-candles above ambient light levels.*

   b. *Frame Hold Time. The sign shall have a frame hold time of no less than three (3) seconds between 7:00 a.m. and 9:00 p.m. The sign shall hold on a constant frame or be turned off between 9:00 p.m. and 7:00 a.m.*

   c. *Effects. The sign shall be limited to instantaneous or continuous fading transitions from one static frame to another static frame without the use of any frame entrance, exit or hold effects or the use of any animation or background animation.*

   d. *Video. The use of streaming video or full-motion video on any electronic message center sign is prohibited."*

   The applicant is aware of the operational requirements and intends to comply.

1. *"Sign Features. Electronic message center signs shall be equipped with the following features:*

   a. *A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and*

   b. *A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell"*

   The sign will be equipped with the required features.

This sign would be classified as a monument sign and is exempt from setback requirements that apply to pole signs in the residential zoning districts.

(continued)

In addition to the provisions cited above specific to electronic message centers in residential areas, all signs must meet the following public safety provision in Section 14-03.1-05(7):

> *"A sign shall not resemble or interfere, to any degree, with the effectiveness of a traffic control device, sign or signal; shall not be placed beside or behind a traffic control device in a location or at a height that makes a motorist's view of a traffic control device indistinguishable from the sign; shall not obstruct or interfere with a motorist's view of approaching, merging or intersecting traffic within the operational area of an intersection; and shall not have distracting flashing or moving lights so designed or lighted as to create a traffic hazard."*

Electronic message centers must receive written verification from both the City Engineer and the Chief of Police, or designees, that this condition is met. Both of these written verifications have been received.

Required Findings of Fact (relating to land use)

PUD Amendment

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

Special Use Permit (EMC Sign)

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;

(continued)

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

Staff Recommendation

Based on the above findings, staff recommends approval of the PUD amendment for Hughes Addition as outlined in the attached draft PUD amendment document and approval of the special use permit to allow an electronic message center sign on Lot 1, Block 1, Hughes Addition (Hughes Administration Building), as indicated on the submitted attachments and in accordance with the provisions of Section 14-03.1-07 (5)(d) of the City Code of Ordinances (Signs/Residential Zoning District Standards).

Attachments

1. Draft PUD Amendment Document
2. Location Map
3. Aerial Map
4. Zoning and Plan Reference Map
5. Site Plan Exhibit
6. Design Exhibit for Sign

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 monument 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.

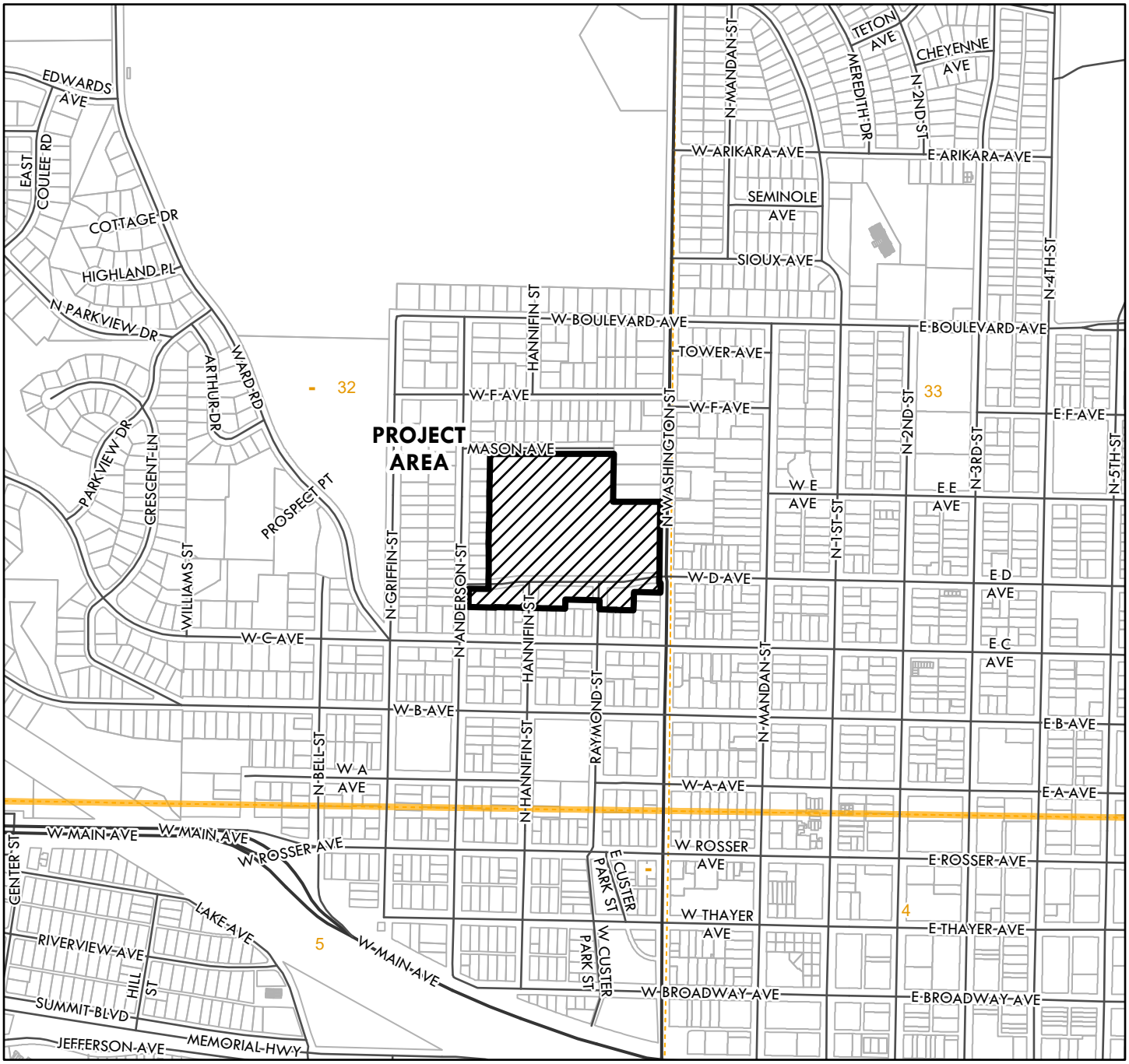
3. *Signage.* Signage for the property shall be allowed in accordance with the provisions of Chapter 14-03.1 of the City Code of Ordinances (Signs) for a property within the P-Public zoning district.

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.

Location Map

HUGHES ADDITION

PUDA2021-002
SUP2021-019



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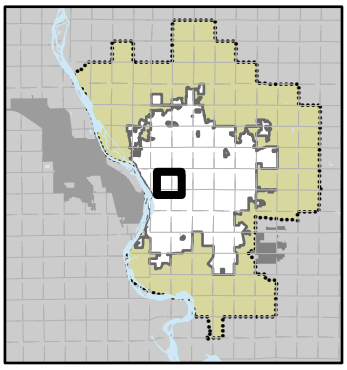
City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange



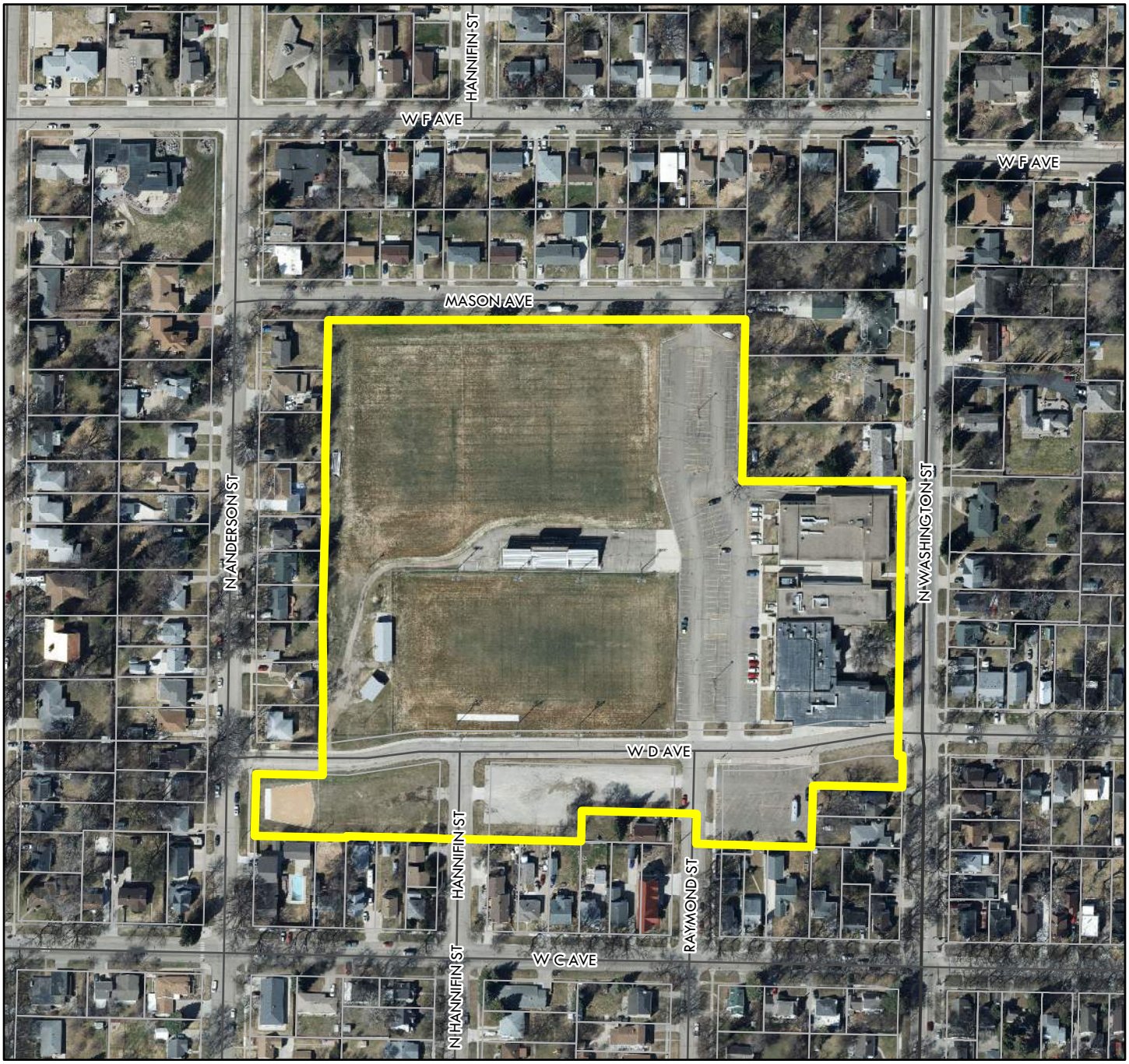
City of Bismarck
Community Development Department
Planning Division
August 10, 2021 (HLB)

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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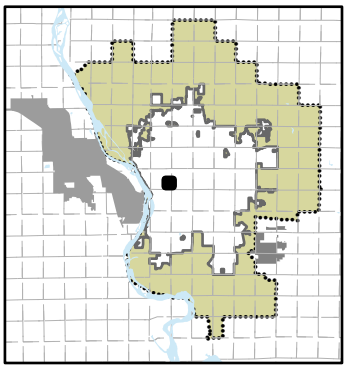


City of Bismarck
Community Development Department
Planning Division
July 23, 2021

Zoning and Plan Reference Map

HUGHES ADDITION

PUDA2021-002

Zoning Districts

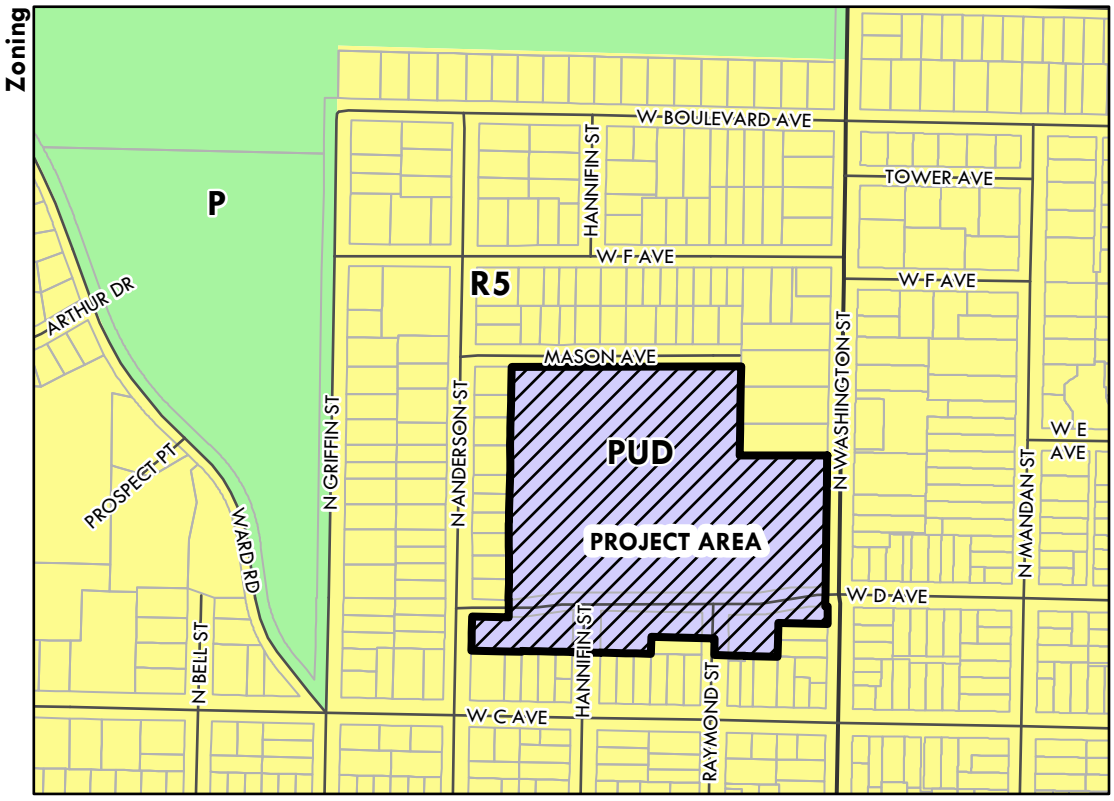
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

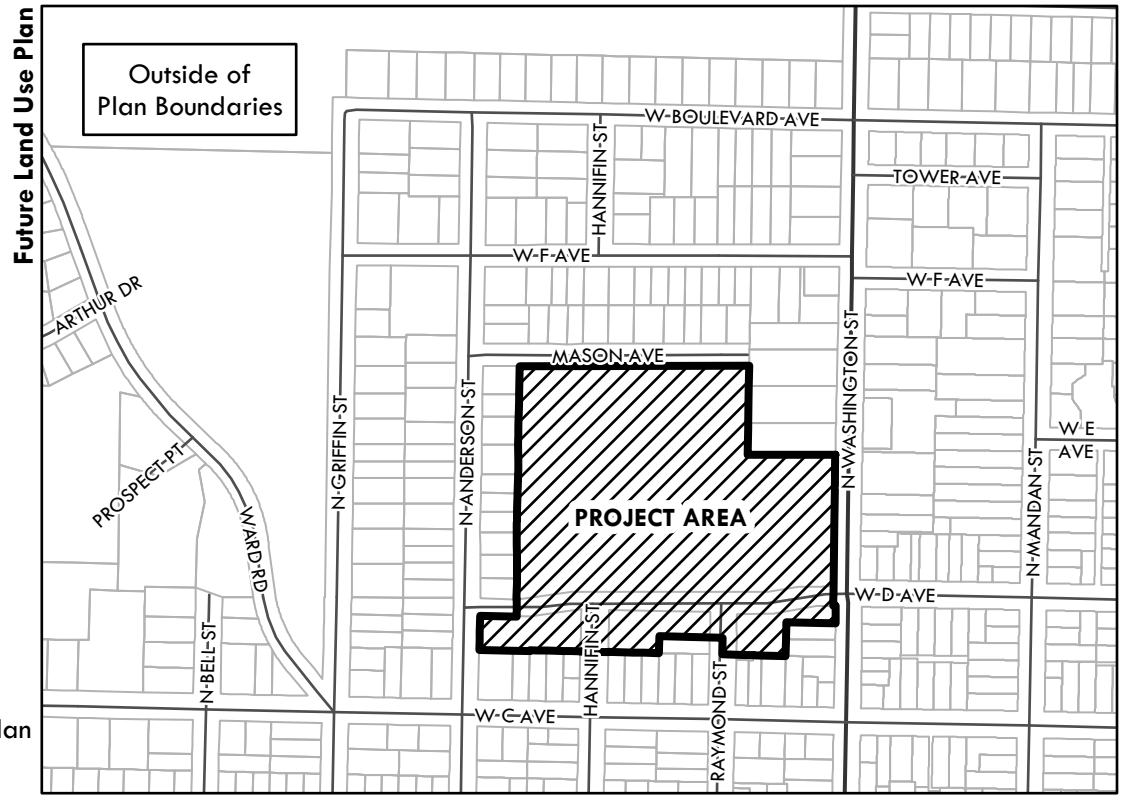
Future Land Use Plan

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





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.

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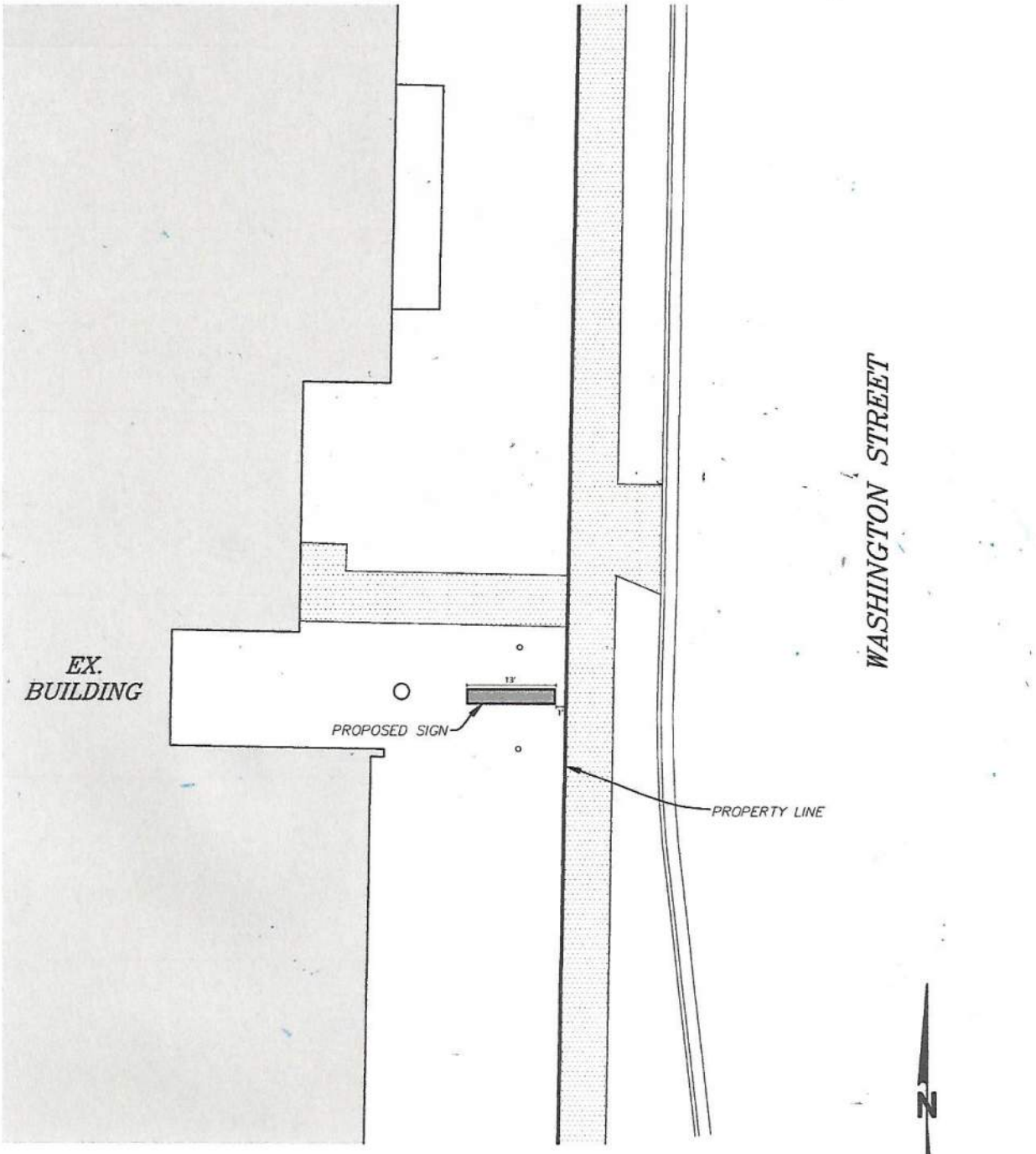
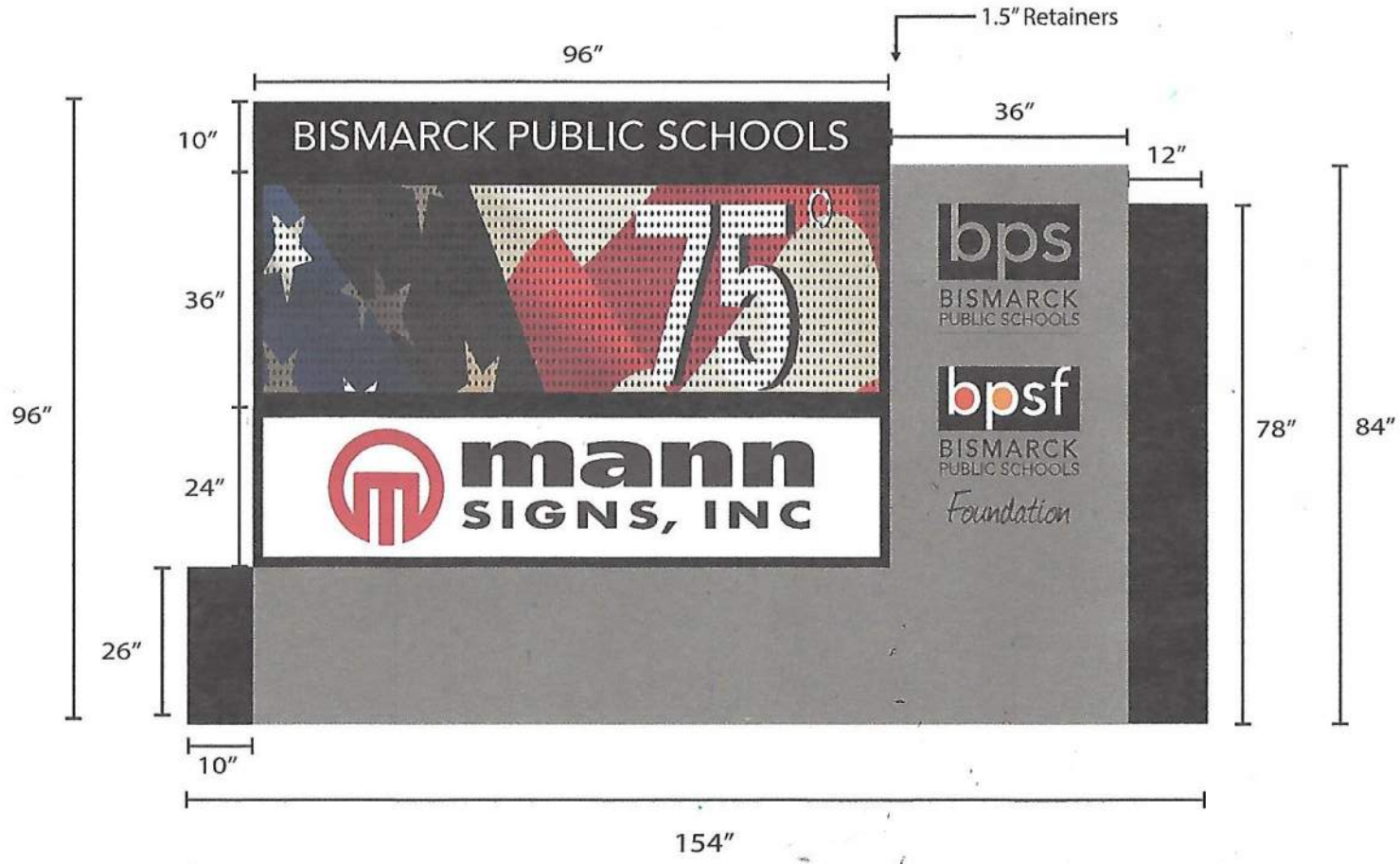
City of Bismarck
Community Development Dept.
Planning Division
July 23, 2021



SCALE 1" = 20'

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

LOT 1 BLOCK 1
HUGHES ADDITION
SITE SIGNAGE LOCATION MAP



mann
SIGNS, INC
1507 Continental Ave
bismarck, nd 58504
701-355-1111
www.mannsignsinc.com

CLIENT: Bismarck Public Schools

APPROVAL: X

WORK ORDER: 37904

DUE TO VARIATIONS IN OUTPUT DEVICES, THE COLORS SHOWN HERE MAY NOT REFLECT ACTUAL COLORS.

THE CONCEPTS REPRESENTED IN THIS ARTWORK ARE THE PROPERTY OF MANN SIGNS, INC. AND MAY NOT BE USED IN WHOLE OR PART WITHOUT WRITTEN CONSENT FROM MANN SIGNS, INC.

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

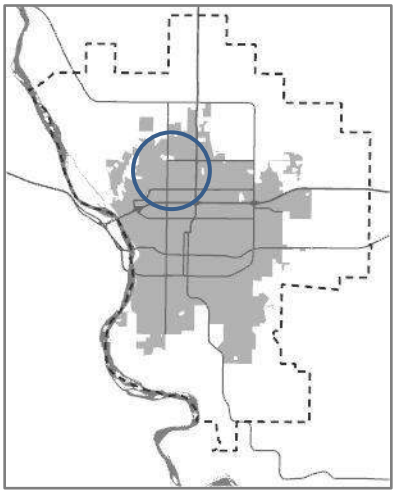
Agenda Item # 8
August 25, 2021

Application for: **Special Use Permit**

Project ID: **SUP2021-008**

2Project Summary

Title:	Lot 1, Block 1, First Evangelical Free Church (Gracepoint Church)
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Gracepoint Church
Project Contact:	Derwin Mann, Mann Signs
Location:	In north Bismarck, in the southeast quadrant of the intersection of North Washington Street and 43rd Avenue NE (205 43rd Avenue NE)
Project Size:	Approximately 52 square foot sign
Request:	Install an electronic message center pole sign in a residential zoning district



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	*Number of Lots:*	1 lot in 1 block
Land Use:	Religious institution	*Land Use:*	Religious institution
Future Land Use:	Already zoned. Not in Future Land Use Plan	*Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	RM15 – Residential	*Zoning:*	RM15 – Residential
Uses Allowed:	RM15 – Multi-family residential	*Uses Allowed:*	RM15 – Multi-family residential
Max Density:	RM15 – 15 units / acre	*Max Density:*	RM15 – 15 units / acre

Property History

Zoned:	01/2004	*Platted:*	01/2004	*Annexed:*	01/2004

(continued)

Staff Analysis

First Evangelical Free Church (aka Gracepoint Church) is requesting approval of a special use permit to allow an electronic message center pole sign on Lot 1, Block 1, First Evangelical Free Church. This property is in the RM15 – Residential zoning district. Electronic message center signs are only allowed in residential districts with a special use permit and subject to additional restrictions to protect nearby residences.

An existing pole sign at the corner of North Washington Street and 43rd Avenue NE would be removed. The new pole sign would be placed next to the existing location, just outside of the 10-foot utility easement on the property.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 13th and 20th, and 28 letters were mailed to the owners of nearby properties on August 13th.

The following criteria from Section 14-03.1-07(5)(d) of the City Code of Ordinances (Signs/ Residential Zoning District Standards apply for electronic message centers in residential areas:

1. *"Special Use Permit. A special use permit shall be required, subject to all procedures of Section 14-03-08 (Special Uses) of the City Code of Ordinances."*

   A special use permit has been requested.

2. *"Sign Type. Electronic message center signs may only be incorporated into on-premise pole signs, monument signs, or wall signs. Electronic message center signs shall not be located on projecting signs, portable signs, or any other temporary signs, with the exception of demonstrations allowed by No off-premise advertising may occur on electronic message center signs."*

   The proposed electronic message center would be incorporated into an existing pole sign that complies with all requirements in residential zoning districts.

3. *"Number of Signs. Only one (1) electronic message center sign shall be allowed per parcel."*

   One electronic message center sign is proposed for this parcel.

4. *"Area of Signs. the electronic message center portion of a sign shall not exceed thirty-two (32) square feet in area."*

   The EMC portion of the sign would be 32 square feet in size, as defined as the visual area of the screen. This is within the allowable limit.

5. *"Proportion of Sign. Electronic message centers may only be included on pole signs that also contain static content. The electronic portion of the sign may not exceed fifty (50) percent of the entire sign area, and must be entirely below the static portion of the sign. Electronic Message Center signs used as wall signs are exempt from this requirement."*

   Approximately 70 square feet of additional static sign content would be included with the sign, which renders the sign compliant with the area requirements.

6. *"Operational Requirements. Electronic message center signs shall be subject to the following operational requirements:*

   a. *Brightness. The sign shall not exceed a maximum illumination level of 0.3 foot-candles above ambient light levels.*

   b. *Frame Hold Time. The sign shall have a frame hold time of no less than three (3) seconds between*

(continued)

7:00 a.m. and 9:00 p.m. The sign shall hold on a constant frame or be turned off between 9:00 p.m. and 7:00 a.m.

c. *Effects. The sign shall be limited to instantaneous or continuous fading transitions from one static frame to another static frame without the use of any frame entrance, exit or hold effects or the use of any animation or background animation.*

d. *Video. The use of streaming video or full-motion video on any electronic message center sign is prohibited."*

The applicant is aware of the operational requirements and intends to comply.

1. *"Sign Features. Electronic message center signs shall be equipped with the following features:*

   a. *A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and*

   b. *A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell"*

The sign will be equipped with the required features.

Signs that are greater than eight feet in height are defined in the ordinance as pole signs, and pole signs are required to be set back at least the height of the sign from all property lines in residential zoning districts. The proposed sign would be set back at least the height of the sign and would be located outside of the sight-triangle.

In addition to the provisions cited above specific to electronic message centers in residential areas, all signs must meet the following public safety provision in Section 14-03.1-05(7):

"A sign shall not resemble or interfere, to any degree, with the effectiveness of a traffic control device, sign or signal; shall not be placed beside or behind a traffic control device in a location or at a height that makes a motorist's view of a traffic control device indistinguishable from the sign; shall not obstruct or interfere with a motorist's view of approaching, merging or intersecting traffic within the operational area of an intersection; and shall not have distracting flashing or moving lights so designed or lighted as to create a traffic hazard."

Electronic message centers, in particular, must receive written verification from both the City Engineer and the Chief of Police, or designees, that this condition is met. Both of these written verifications have been received.

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

(continued)

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

Staff Recommendation

Based on the above findings, staff recommends staff recommends approval of the special use permit to allow an electronic message center sign on Lot 1, Block 1, First Evangelical Free Church (Gracepoint Church), as indicated on the submitted attachments and in accordance with the provisions of Section 14-03.1-07(5)(d) of the City Code of Ordinances.

Attachments

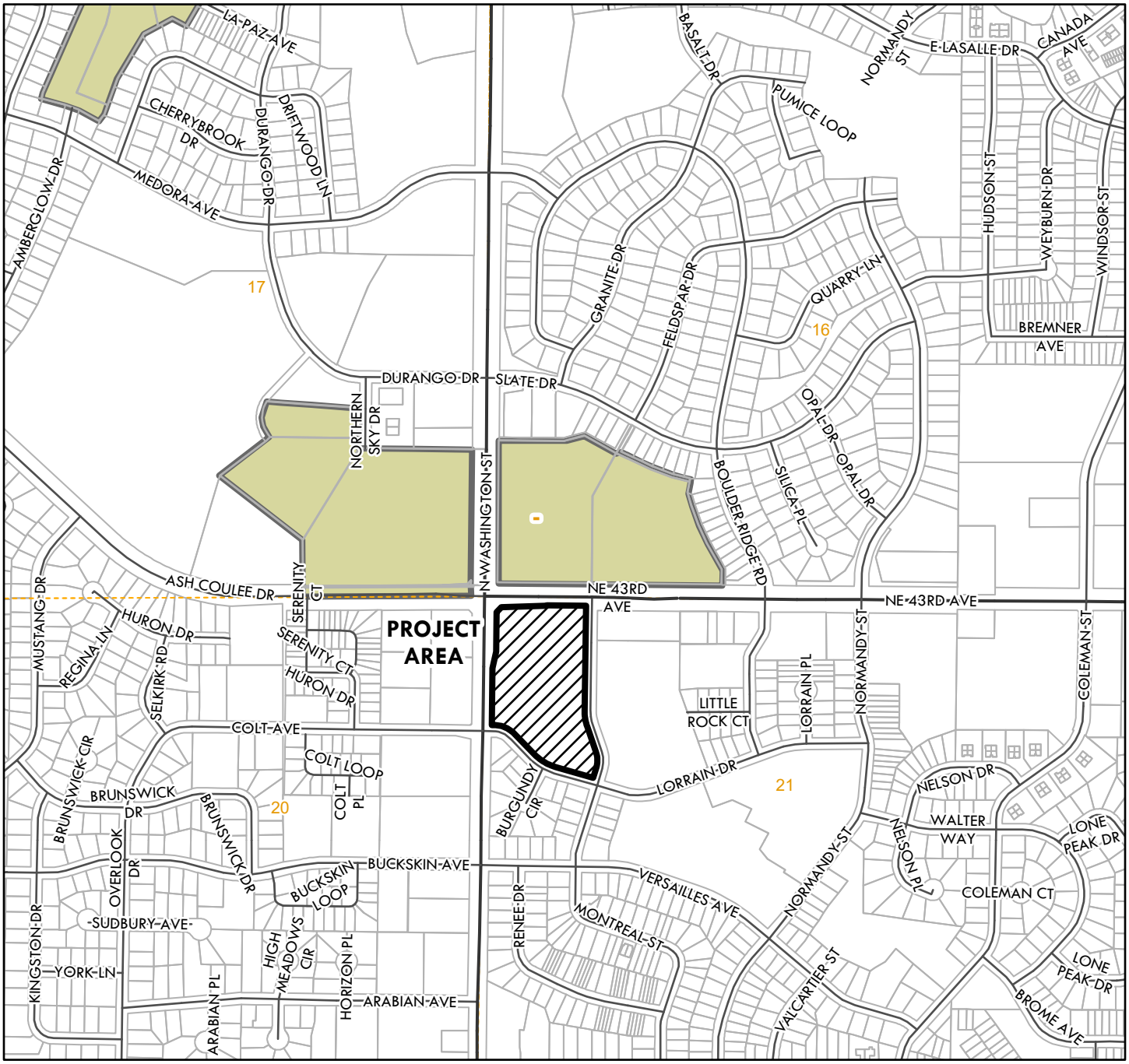
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan Exhibit
5. Design Exhibit for Sign

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

Location Map

FIRST EVANGELICAL FREE CHURCH, L1, B1

SUP2021-008



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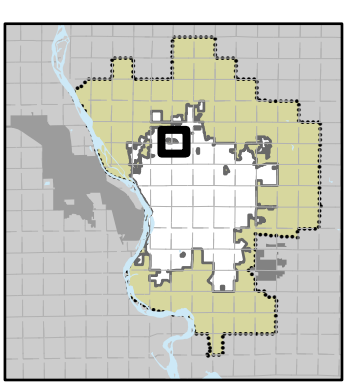


City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

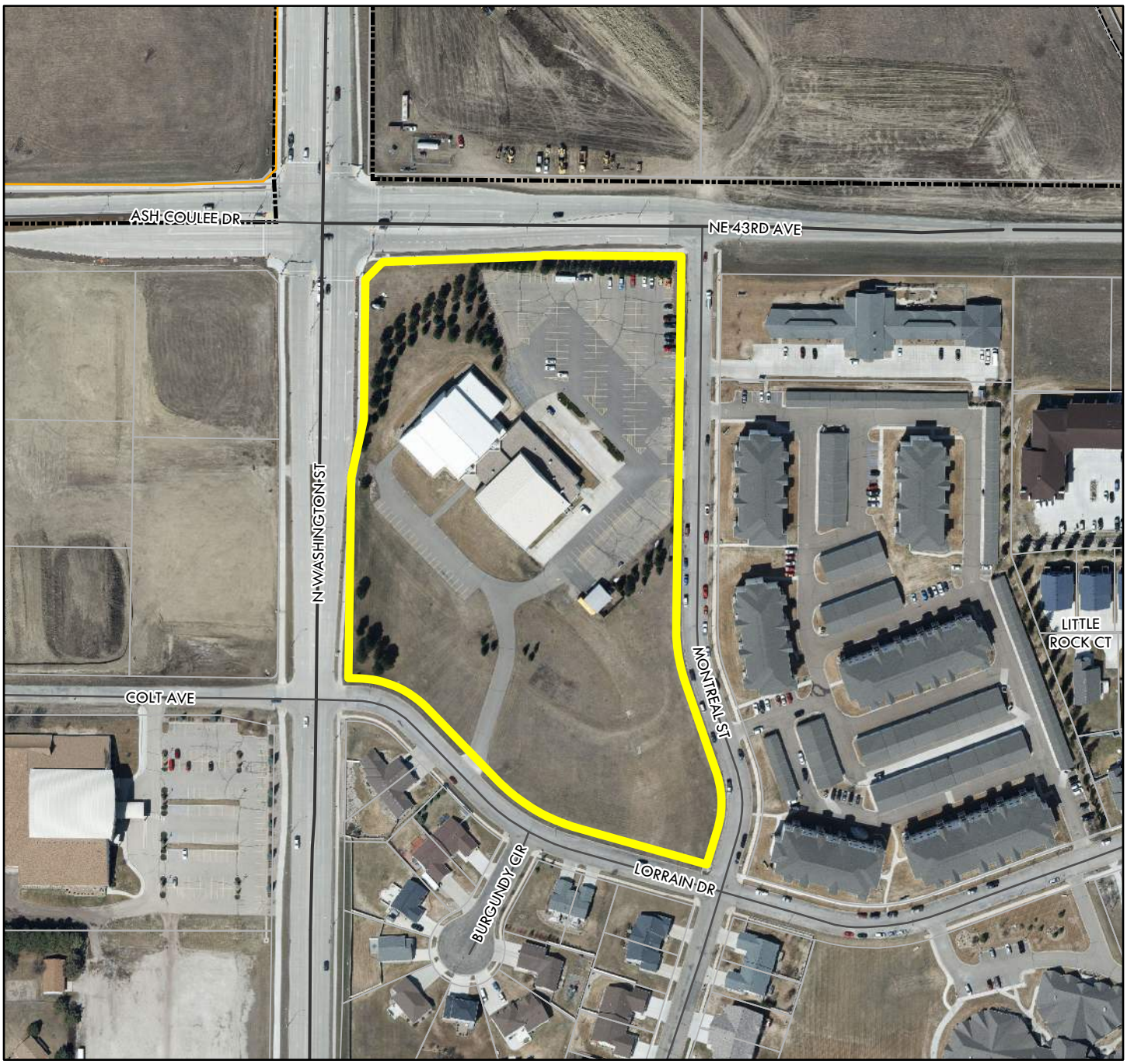
City of Bismarck
Community Development Department
Planning Division
June 15, 2021 (HLB)

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

FIRST EVANGELICAL FREE CHURCH, L1, B1

SUP2021-008



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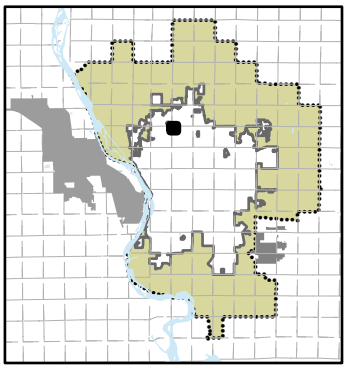
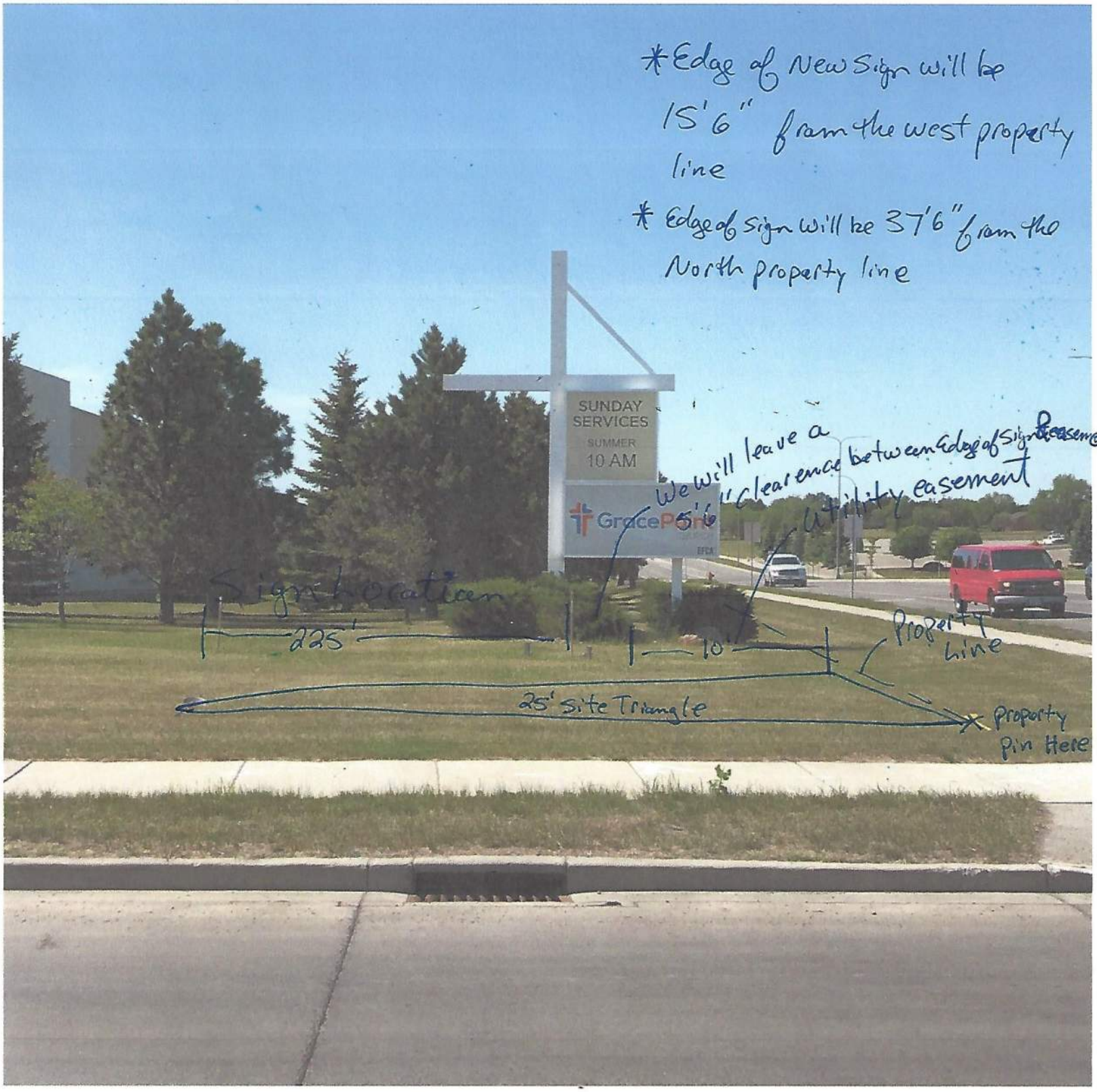
City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

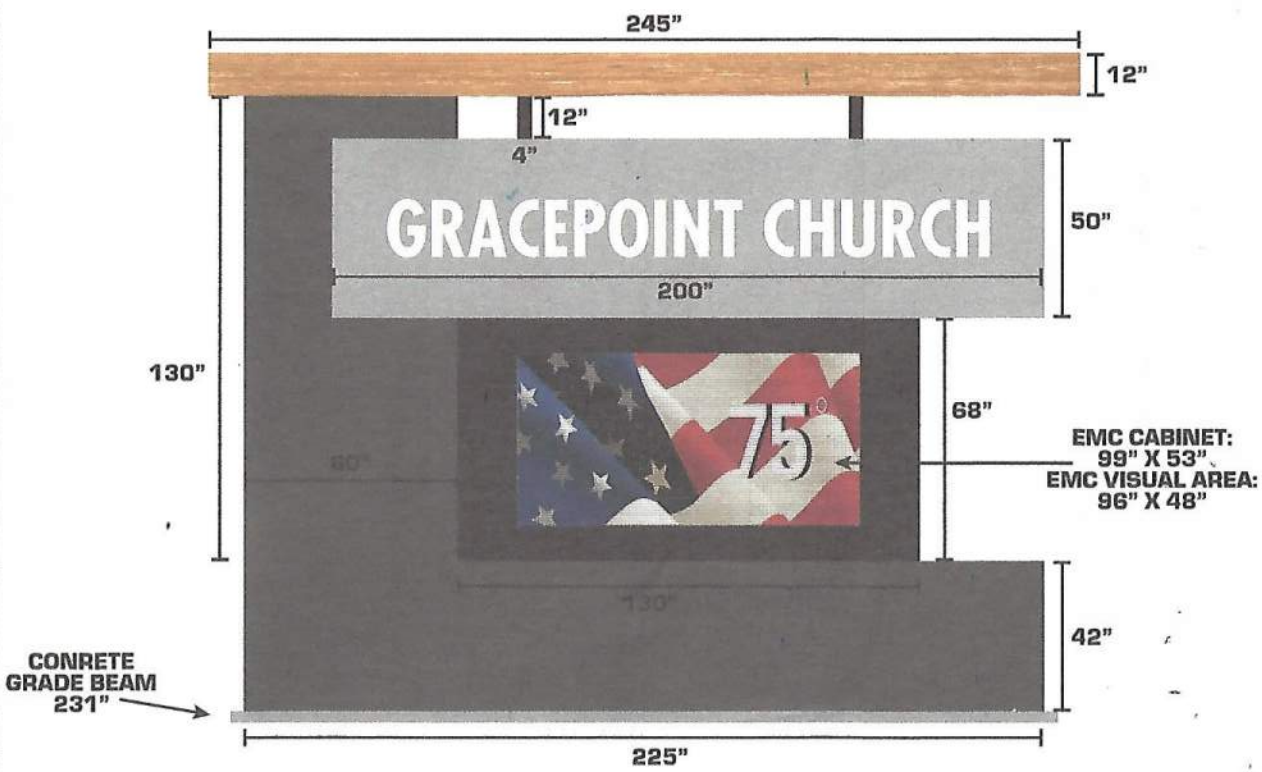
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



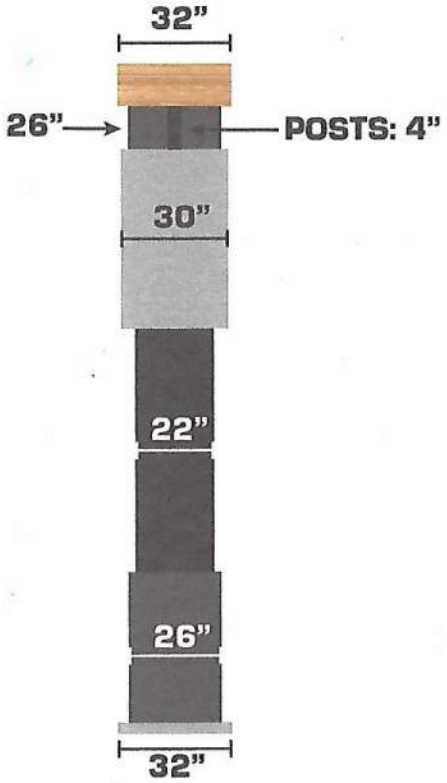
City of Bismarck
Community Development Department
Planning Division
July 20, 2021


*Edge of New Sign will be 15'6" from the west property line
* Edge of Sign will be 37'6" from the North property line
SUNDAY SERVICES
SUMMER
10 AM
We will leave a 5'6" clearance between Edge of Sign & Easement
Utility easement
Sign location
225'
10'
Property line
25' site Triangle
Property Pin Here

FACE VIEW:



SIDE VIEW:
DEPTH MEASUREMENTS



mann
SIGNS, INC
1507 Continental Ave
bismarck, nd 58504
701-355-1111
www.mannsignsinc.com

CLIENT:	APPROVAL:	WORK ORDER:
GRACEPOINT CHURCH	X	37852

DUE TO VARIATIONS IN OUTPUT DEVICES, THE COLORS SHOWN HERE MAY NOT REFLECT ACTUAL COLORS.

THE CONCEPTS REPRESENTED IN THIS ARTWORK ARE THE PROPERTY OF MANN SIGNS, INC. AND MAY NOT BE USED IN WHOLE OR PART WITHOUT WRITTEN CONSENT FROM MANN SIGNS, INC.

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

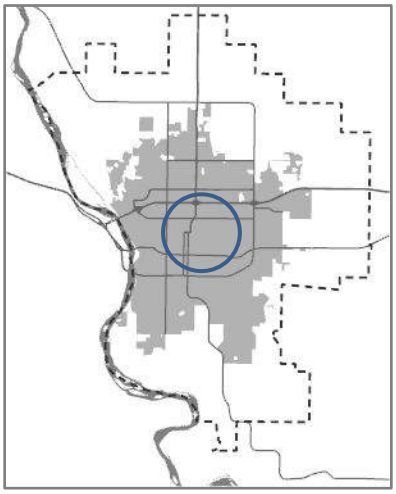
Agenda Item # 9
August 25, 2021

Application for: **Special Use Permit**

Project ID: **SUP2021-012**

Project Summary

Title:	Blocks 53-54, McKenzie and Coffins Addition and Blocks 65-66, Northern Pacific 2nd Addition (Bismarck High School)
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Bismarck Public Schools
Project Contact:	Darin Scherr, Bismarck Public Schools Derwin Mann, Mann Signs
Location:	In central Bismarck, between North 7th Street and North 9th Street and East Avenue E and East Avenue C (723 N 7th Street)
Project Size:	Approximately 52 square feet sign
Request:	Install an electronic message center pole sign adjacent to a residential zoning district



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 parcel	*Number of Lots:*	1 parcel
Land Use:	High School	*Land Use:*	High School
Future Land Use:	Already zoned. Not in Future Land Use Plan	*Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	P – Public Use	*Zoning:*	P – Public Use
Uses Allowed:	P – Parks, open space, stormwater facilities, and other public uses	*Uses Allowed:*	P – Parks, open space, stormwater facilities, and other public uses
Max Density:	P – N/A	*Max Density:*	P – N/A

Property History

Zoned:	Pre-1980	*Platted:*	Pre-1980	*Annexed:*	Pre-1980

(continued)

Staff Analysis

Bismarck Public Schools is requesting approval of a special use permit to allow an electronic message center sign for Bismarck High School on Blocks 53-54, McKenzie and Coffins Addition and Blocks 65-66, Northern Pacific Addition, and adjacent vacated rights-of-way. This property is in the P – Public zoning district, and residential sign standards are followed because it is adjacent to a residential zoning district. Electronic message center signs are only allowed in residential districts with a special use permit and subject to additional restrictions to protect nearby residences.

An existing pole sign with changeable copy letters at the corner of North 7th Street and East Avenue C would be removed, and the new sign would be placed in a similar location. Because the new sign has a solid base, it will be placed outside of intersection sight triangles to preserve visibility.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 13th and 20th, and 134 letters were mailed to the owners of nearby properties on August 13th.

Adjacent uses include a mix of single-family and multifamily residential in all directions across North 7th Street, North 9th Street, East Avenue E, and East Avenue C.

The following criteria from Section 14-03.1-07(5)(d) of the City Code of Ordinances (Signs/ Residential Zoning District Standards apply for electronic message centers in residential areas:

1. *"Special Use Permit. A special use permit shall be required, subject to all procedures of Section 14-03-08 (Special Uses) of the City Code of Ordinances."*

   A special use permit has been requested.

2. *"Sign Type. Electronic message center signs may only be incorporated into on-premise pole signs, monument signs, or wall signs. Electronic message center signs shall not be located on projecting signs, portable signs, or any other temporary signs, with the exception of demonstrations allowed by No off-premise advertising may occur on electronic message center signs. "*

   The proposed electronic message center would be incorporated into a pole sign that complies with all requirements in residential zoning districts.

3. *"Number of Signs. Only one (1) electronic message center sign shall be allowed per parcel."*

   One electronic message center sign is proposed for this parcel.

4. *"Area of Signs. the electronic message center portion of a sign shall not exceed thirty-two (32) square feet in area."*

   The electronic message center portion of the sign, as defined as the visual area of the screen, would be 32 square feet in size, which is within the allowable limit.

5. *"Proportion of Sign. Electronic message centers may only be included on pole signs that also contain static content. The electronic portion of the sign may not exceed fifty (50) percent of the entire sign area, and must be entirely below the static portion of the sign. Electronic Message Center signs used as wall signs are exempt from this requirement."*

   Approximately 37 square feet of additional static sign content would be included with the sign, which renders the sign compliant with the area requirements. The ancillary off-premise content used for sponsorship is allowable in the ordinance or public or

(continued)

non-profit entities, such as Bismarck Public Schools.

6. *"Operational Requirements. Electronic message center signs shall be subject to the following operational requirements:*

    a. *Brightness. The sign shall not exceed a maximum illumination level of 0.3 foot-candles above ambient light levels.*

    b. *Frame Hold Time. The sign shall have a frame hold time of no less than three (3) seconds between 7:00 a.m. and 9:00 p.m. The sign shall hold on a constant frame or be turned off between 9:00 p.m. and 7:00 a.m.*

    c. *Effects. The sign shall be limited to instantaneous or continuous fading transitions from one static frame to another static frame without the use of any frame entrance, exit or hold effects or the use of any animation or background animation.*

    d. *Video. The use of streaming video or full-motion video on any electronic message center sign is prohibited."*

The applicant is aware of the operational requirements and intends to comply.

1. *"Sign Features. Electronic message center signs shall be equipped with the following features:*

    a. *A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and*

    b. *A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell"*

The sign will be equipped with the required features.

Signs that are greater than eight feet in height are defined in the ordinance as pole signs, and pole signs are required to be set back at least the height of the sign from all property lines in residential zoning districts. The proposed sign would be set back at least the height of the sign and would be located outside of the sight-triangle.

In addition to the provisions cited above specific to electronic message centers in residential areas, all signs must meet the following public safety provision in Section 14-03.1-05(7):

> *"A sign shall not resemble or interfere, to any degree, with the effectiveness of a traffic control device, sign or signal; shall not be placed beside or behind a traffic control device in a location or at a height that makes a motorist's view of a traffic control device indistinguishable from the sign; shall not obstruct or interfere with a motorist's view of approaching, merging or intersecting traffic within the operational area of an intersection; and shall not have distracting flashing or moving lights so designed or lighted as to create a traffic hazard."*

Electronic message centers, in particular, must receive written verification from both the City Engineer and the Chief of Police, or designees, that this condition is met. Both of these written verifications have been received.

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;

(continued)

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

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit to allow an electronic message center sign on Blocks 53-54, McKenzie and Coffins Addition and Blocks 65-66, Northern Pacific 2nd Addition, and adjacent vacated rights-of-way (Bismarck High School) as indicated on the submitted attachments and in accordance with the provisions of Section 14-03.1-07(5)(d) of the City Code of Ordinances.

Attachments

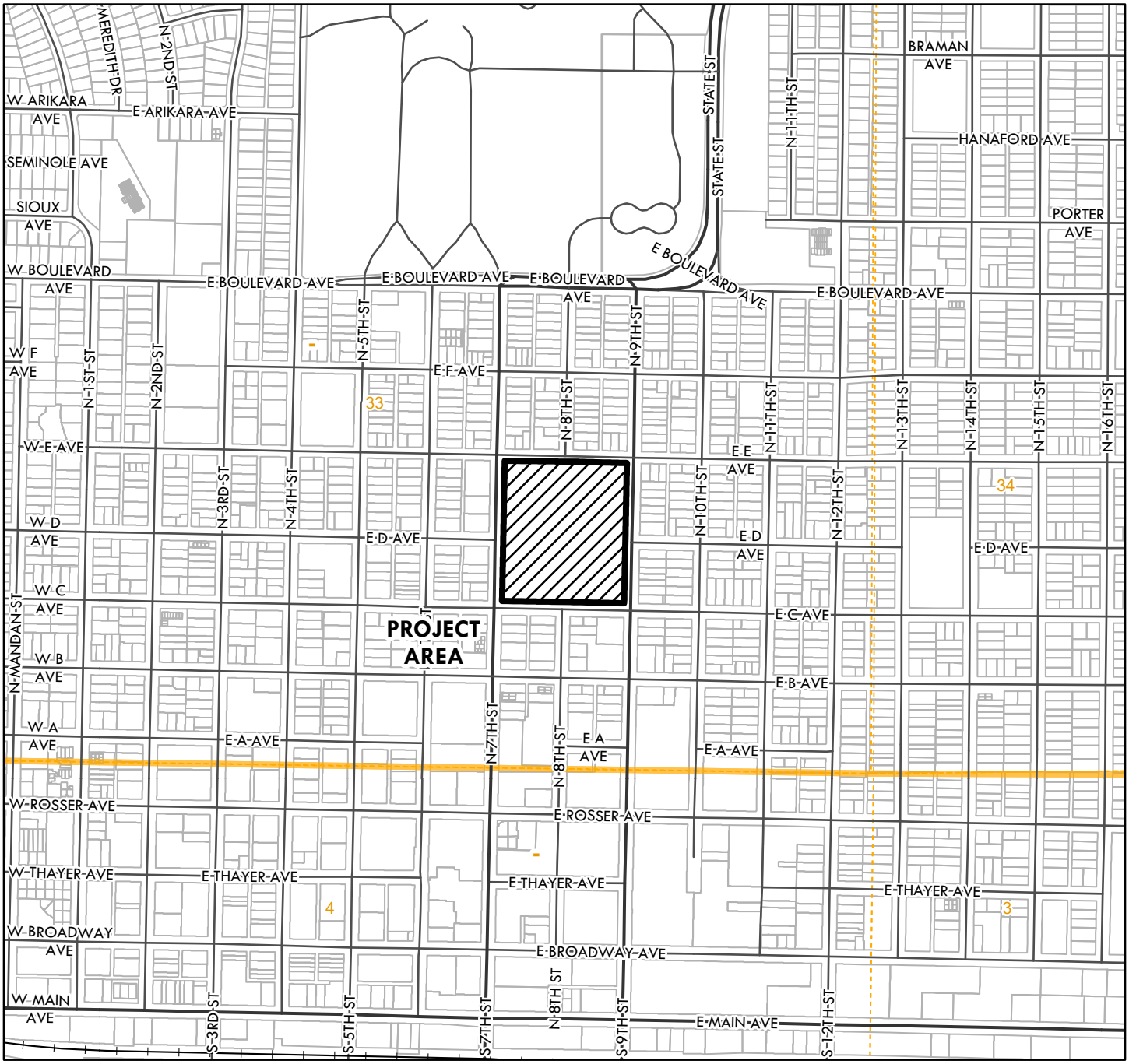
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan Exhibit
5. Design Exhibit for Sign

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

Location Map

SUP2021-012

MCKENZIE & COFFINS, B53-54; & NORTHERN PACIFIC 2ND, B65-66



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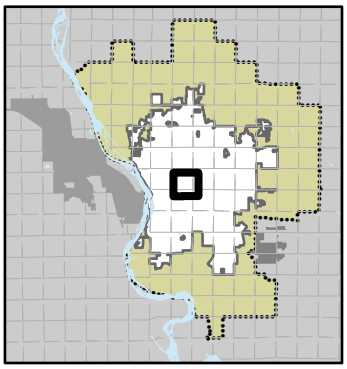


City Limits

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

MCKENZIE & COFFINS, B53-54; & NORTHERN PACIFIC 2ND, B65-66

SUP2021-012

Miles

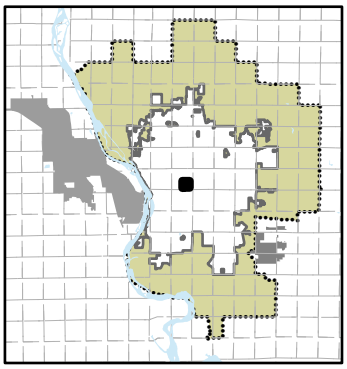
0 0.05 0.1 0.2

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

MCKENZIE & COFFINS, B53-54; & NORTHERN PACIFIC 2ND, B65-66

SUP2021-012

Zoning Districts

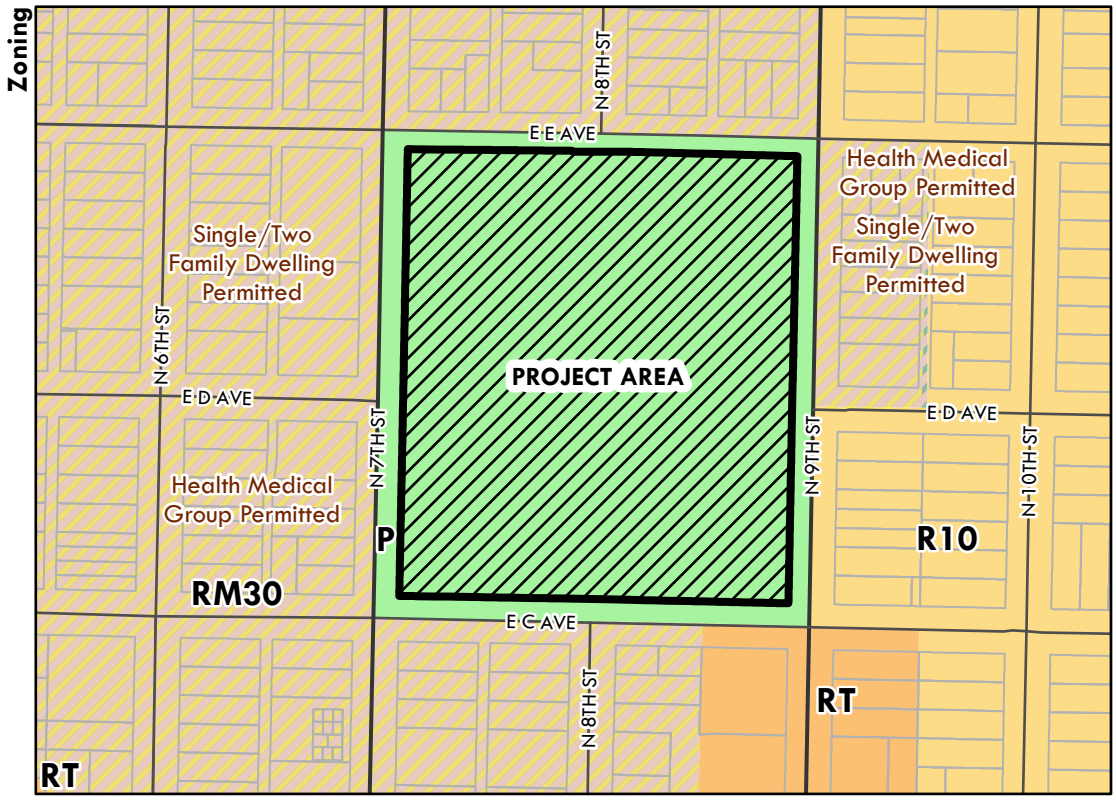
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

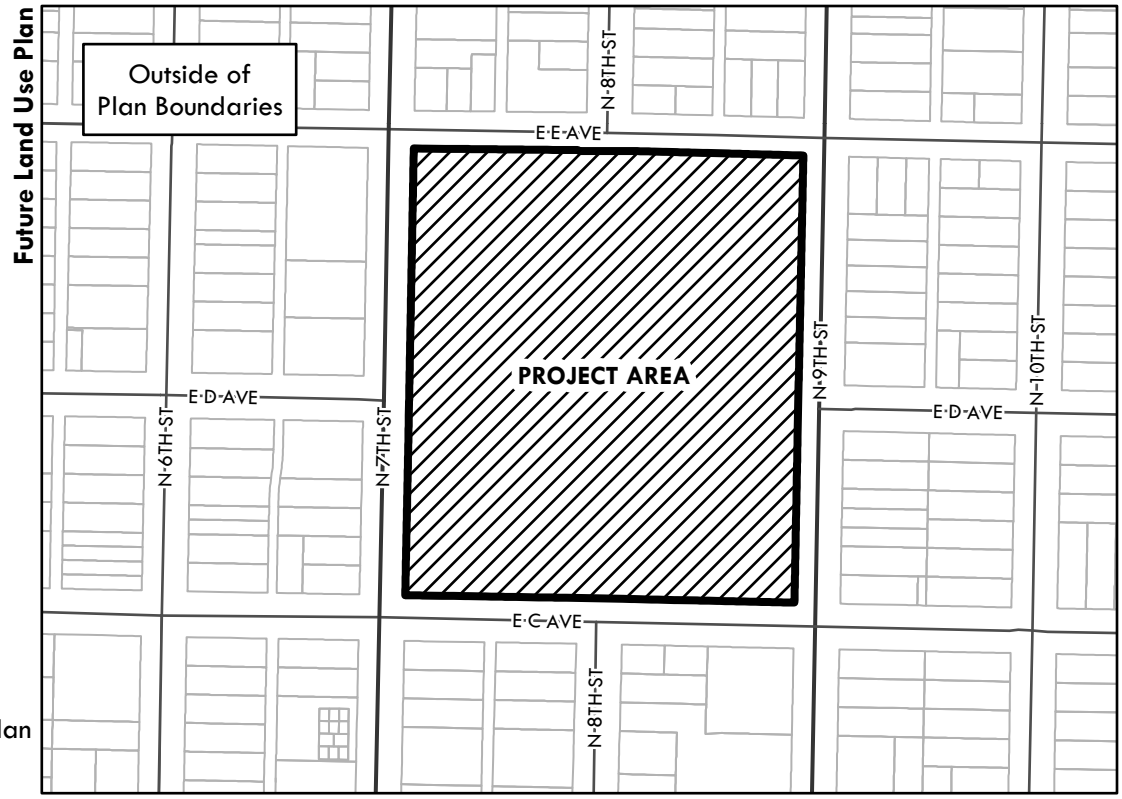
Future Land Use Plan

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

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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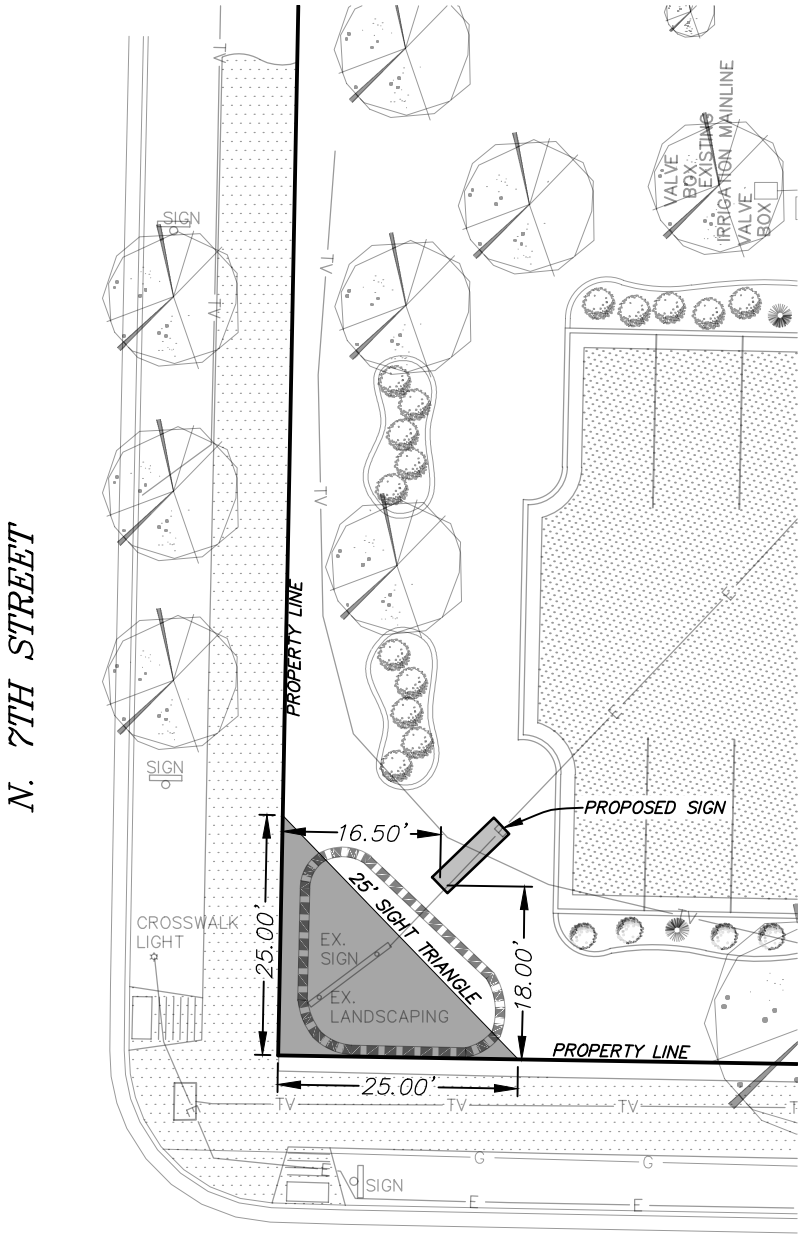
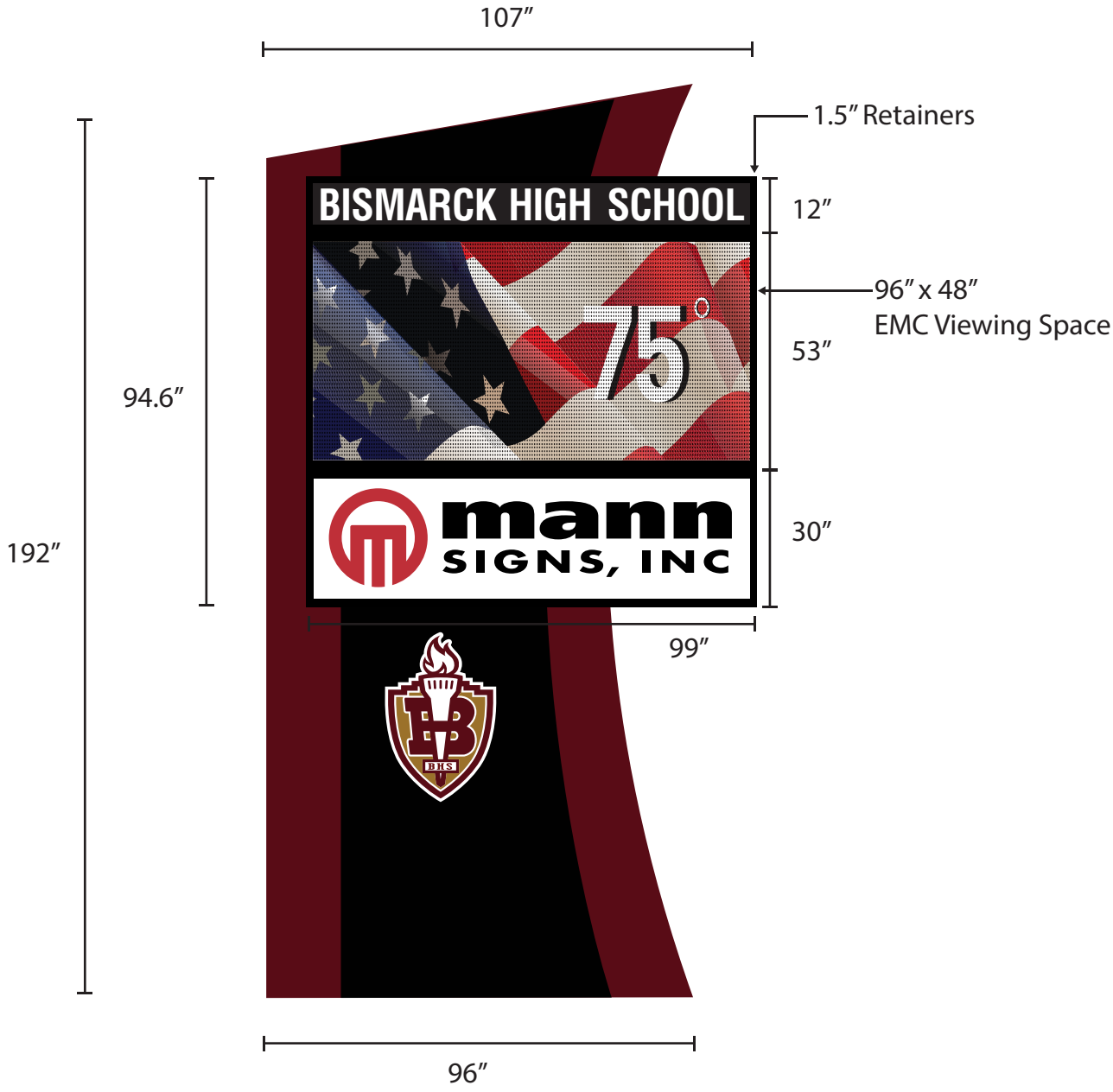
City of Bismarck
Community Development Dept.
Planning Division
July 20, 2021



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

BISMARCK HIGH SCHOOL
SITE SIGNAGE LOCATION MAP



mann
SIGNS, INC
1507 Continental Ave
bismarck, nd 58504
701-355-1111
www.mannsignsinc.com

CLIENT: Bismarck Public Schools

APPROVAL: X

WORK ORDER: 37683

DUE TO VARIATIONS IN OUTPUT DEVICES, THE COLORS SHOWN HERE MAY NOT REFLECT ACTUAL COLORS.

THE CONCEPTS REPRESENTED IN THIS ARTWORK ARE THE PROPERTY OF MANN SIGNS, INC. AND MAY NOT BE USED IN WHOLE OR PART WITHOUT WRITTEN CONSENT FROM MANN SIGNS, INC.

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

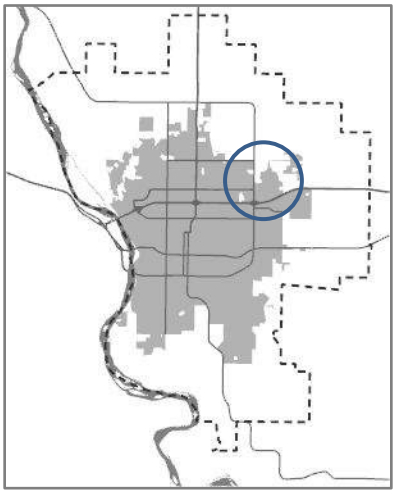
Agenda Item # 10
August 25, 2021

Application for: **Special Use Permit**

Project ID: **SUP2021-013**

Project Summary

Title:	Lot 1, Block 4, Edgewood Village 7th Addition (Legacy High School)
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Bismarck Public Schools
Project Contact:	Darin Scherr, Bismarck Public Schools Derwin Mann, Mann Signs
Location:	In northeast Bismarck, west of Centennial Road on the north side of East Calgary Avenue and the east side of Nebraska Drive (3400 East Calgary Avenue).
Project Size:	Approximately 52 square feet sign
Request:	Install an electronic message center pole sign adjacent to a residential zoning district



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	*Number of Lots:*	1 lot in 1 block
Land Use:	High School	*Land Use:*	High School
Future Land Use:	Already zoned. Not in Future Land Use Plan	*Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	P – Public Use	*Zoning:*	P – Public Use
Uses Allowed:	P – Parks, open space, stormwater facilities, and other public uses	*Uses Allowed:*	P – Parks, open space, stormwater facilities, and other public uses
Max Density:	P – N/A	*Max Density:*	P – N/A

Property History

Zoned:	04/2013	*Platted:*	04/2013	*Annexed:*	04/2013

(continued)

Staff Analysis

Bismarck Public Schools is requesting approval of a special use permit to allow an electronic message center sign for Legacy High School on Lot 1, Block 2, Edgewood Village 7th Addition. This property is in the P – Public zoning district, and residential signs standards are followed because it is adjacent to a residential zoning district. Electronic message center signs are only allowed in residential districts with a special use permit and subject to additional restrictions to protect nearby residences.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 13th and 20th, and 70 letters were mailed to the owners of nearby properties on August 13th.

Adjacent uses include developing two-family and multifamily residential to the north, multifamily residential and a campground to the east, multifamily and developing single-family residential to the south, and single-family residential to the west.

The following criteria from Section 14-03.1-07(5)(d) of the City Code of Ordinances (Signs/ Residential Zoning District Standards apply for electronic message centers in residential areas:

1. *"Special Use Permit. A special use permit shall be required, subject to all procedures of Section 14-03-08 (Special Uses) of the City Code of Ordinances."*

   A special use permit has been requested.

2. *"Sign Type. Electronic message center signs may only be incorporated into on-premise pole signs, monument signs, or wall signs. Electronic message center signs shall not be located on projecting signs, portable signs, or any other temporary signs, with the exception of demonstrations allowed by No off-premise advertising may occur on electronic message center signs."*

   The proposed electronic message center would be incorporated into a pole sign that complies with all requirements in residential zoning districts. The sign would be approximately 14 feet in height, below the 20-foot limit.

3. *"Number of Signs. Only one (1) electronic message center sign shall be allowed per parcel."*

   One electronic message center sign is proposed for this parcel.

4. *"Area of Signs. the electronic message center portion of a sign shall not exceed thirty-two (32) square feet in area."*

   The electronic message center portion of the sign, as defined as the visual area of the screen, would be 24 square feet in size, within the allowable limit.

5. *"Proportion of Sign. Electronic message centers may only be included on pole signs that also contain static content. The electronic portion of the sign may not exceed fifty (50) percent of the entire sign area, and must be entirely below the static portion of the sign. Electronic Message Center signs used as wall signs are exempt from this requirement."*

   Approximately 24 square feet of additional static sign content would be included with the sign, which renders the sign compliant with area requirements. Ancillary off-premise content used for sponsorship is allowable in the ordinance for public or non-profit entities, such as Bismarck Public Schools.

6. *"Operational Requirements. Electronic message center signs shall be subject to the following operational requirements:*

(continued)

a. *Brightness. The sign shall not exceed a maximum illumination level of 0.3 foot-candles above ambient light levels.*

b. *Frame Hold Time. The sign shall have a frame hold time of no less than three (3) seconds between 7:00 a.m. and 9:00 p.m. The sign shall hold on a constant frame or be turned off between 9:00 p.m. and 7:00 a.m.*

c. *Effects. The sign shall be limited to instantaneous or continuous fading transitions from one static frame to another static frame without the use of any frame entrance, exit or hold effects or the use of any animation or background animation.*

d. *Video. The use of streaming video or full-motion video on any electronic message center sign is prohibited."*

The applicant is aware of the operational requirements and intends to comply.

1. *"Sign Features. Electronic message center signs shall be equipped with the following features:*

   a. *A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and*

   b. *A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell"*

The sign will be equipped with the required features.

Signs that are greater than eight feet in height are defined in the ordinance as pole signs, and pole signs are required to be set back at least the height of the sign from all property lines in residential zoning districts. The proposed sign would be set back at least the height of the sign and would be located outside of the sight-triangle.

In addition to the provisions cited above specific to electronic message centers in residential areas, all signs must meet the following public safety provision in Section 14-03.1-05(7):

> *"A sign shall not resemble or interfere, to any degree, with the effectiveness of a traffic control device, sign or signal; shall not be placed beside or behind a traffic control device in a location or at a height that makes a motorist's view of a traffic control device indistinguishable from the sign; shall not obstruct or interfere with a motorist's view of approaching, merging or intersecting traffic within the operational area of an intersection; and shall not have distracting flashing or moving lights so designed or lighted as to create a traffic hazard."*

Electronic message centers must receive written verification from both the City Engineer and the Chief of Police, or designees, that this condition is met. Both of these written verifications have been received.

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

(continued)

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

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit to allow an electronic message center sign on Lot 1, Block 2, Edgewood Village 7th Addition (Legacy High School) as indicated on the submitted attachments and in accordance with the provisions of Section 14-03.1-07(5)(d) of the City Code of Ordinances..

Attachments

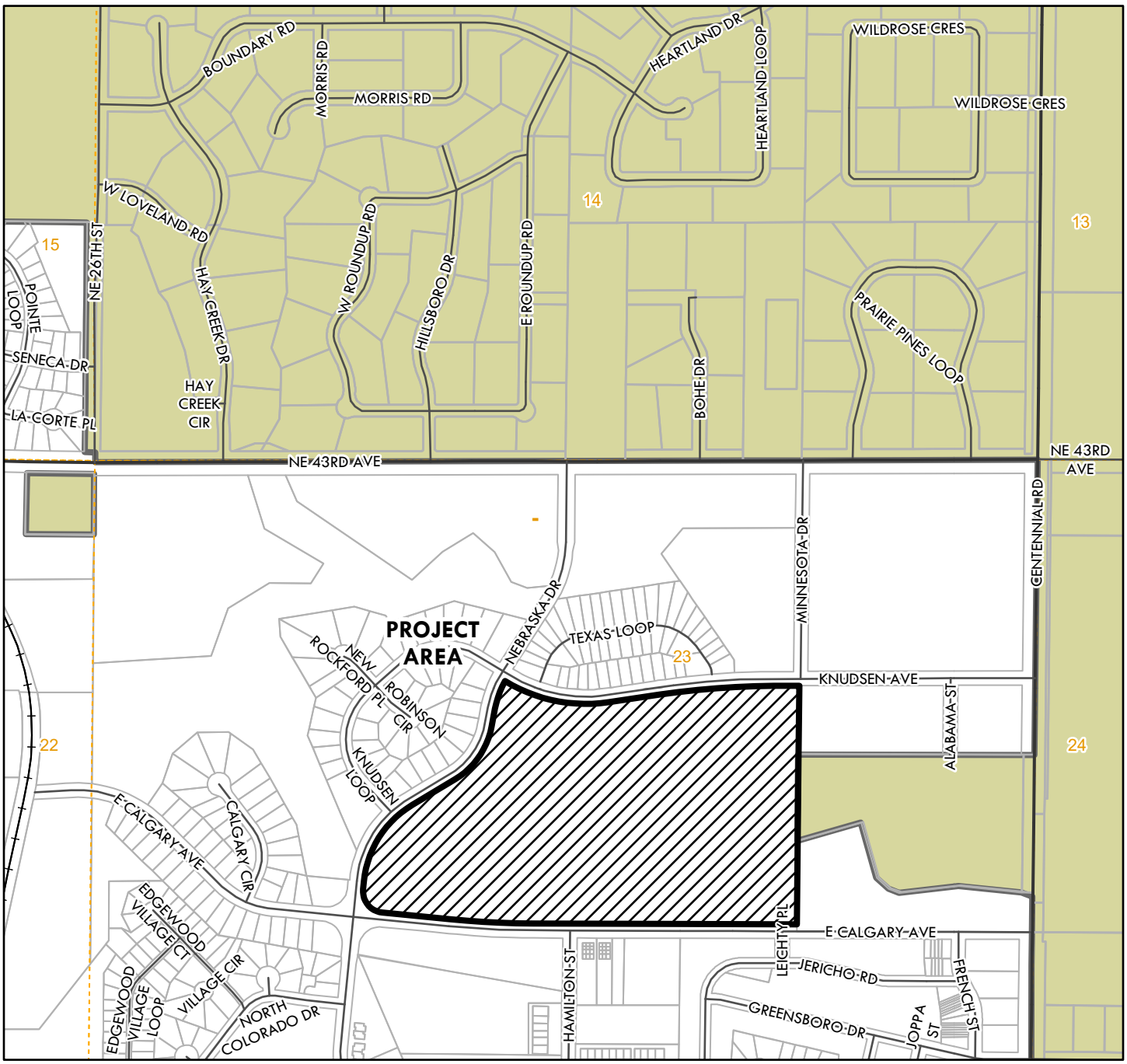
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan Exhibit
5. Design Exhibit for Sign

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

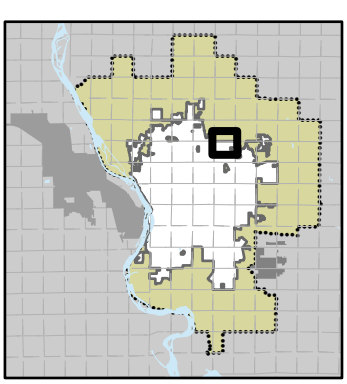
Location Map

EDGEWOOD VILLAGE 7TH ADDITION, L1, B4

SUP2021-013



0 0.17 0.35 0.7 Miles



City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

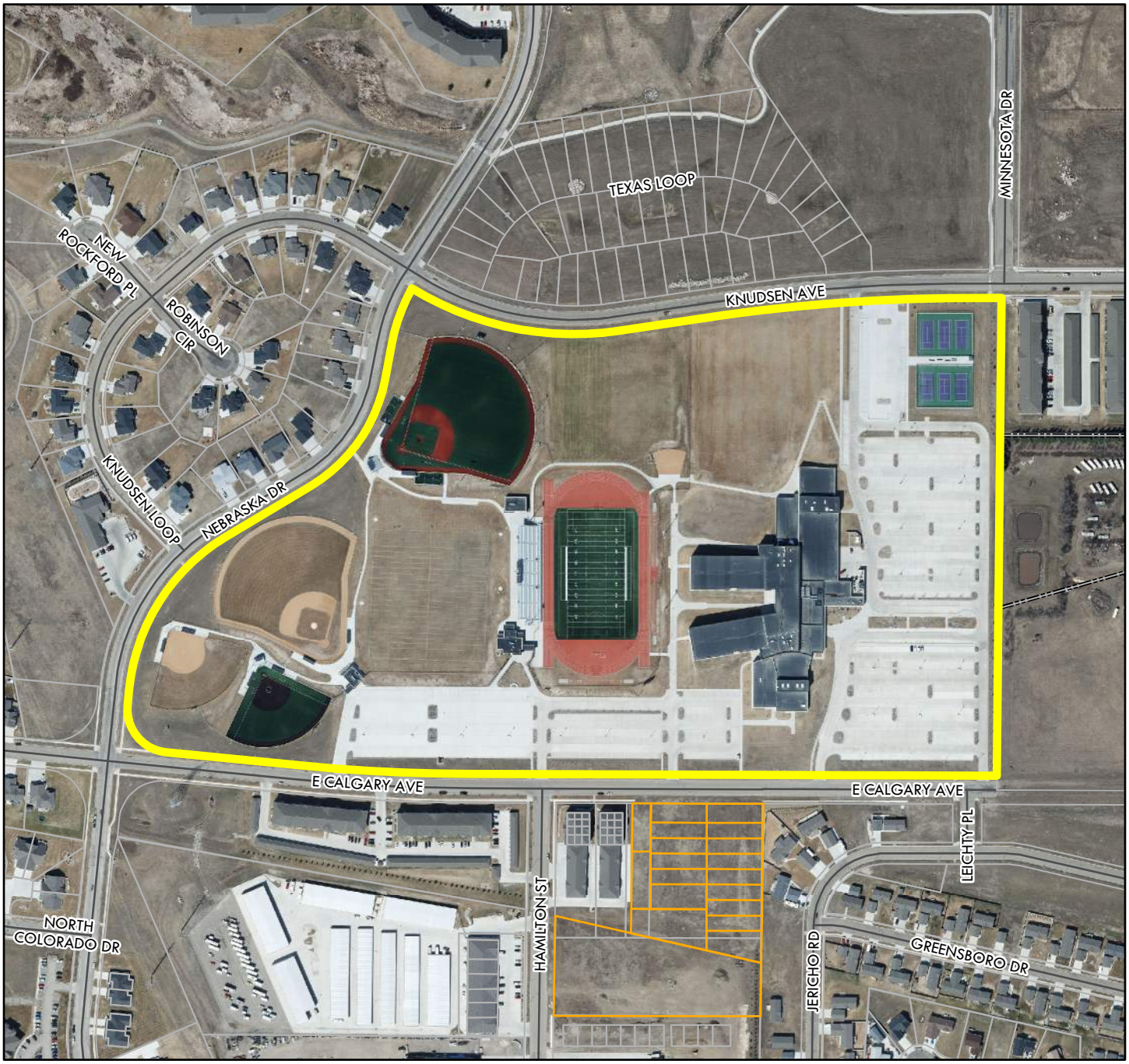
City of Bismarck
Community Development Department
Planning Division
June 28, 2021 (HLB)

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

EDGEWOOD VILLAGE 7TH ADDITION, L1, B4

SUP2021-013



Miles

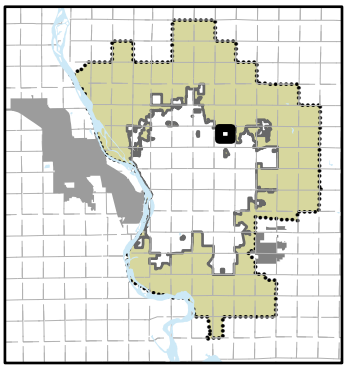
0 0.1 0.2 0.4

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

EDGEWOOD VILLAGE 7TH ADDITION, L1, B4

SUP2021-013

Zoning Districts

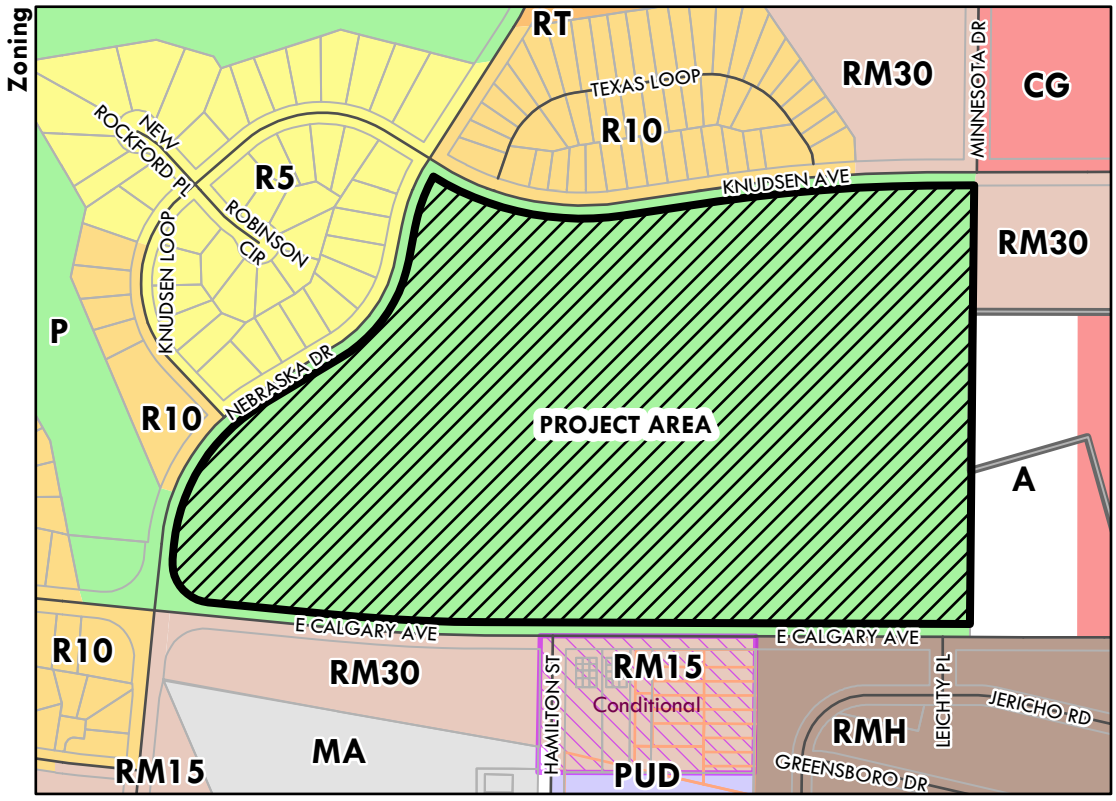
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

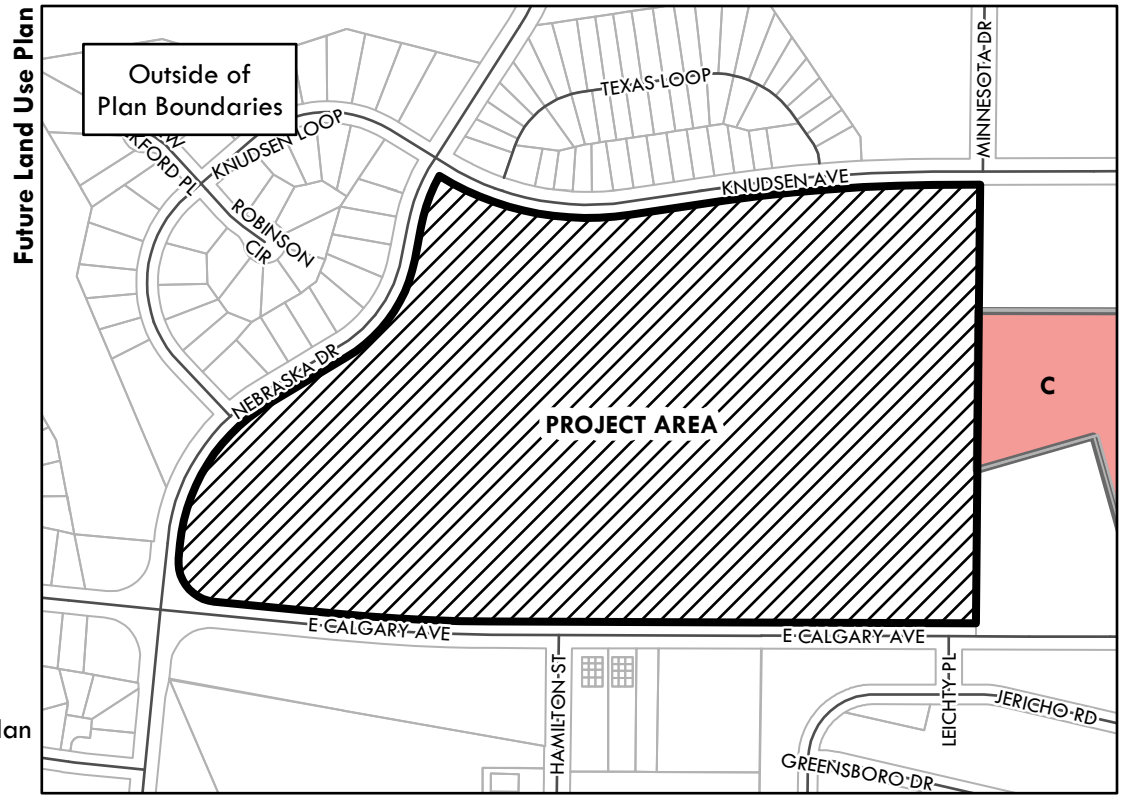
Future Land Use Plan

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



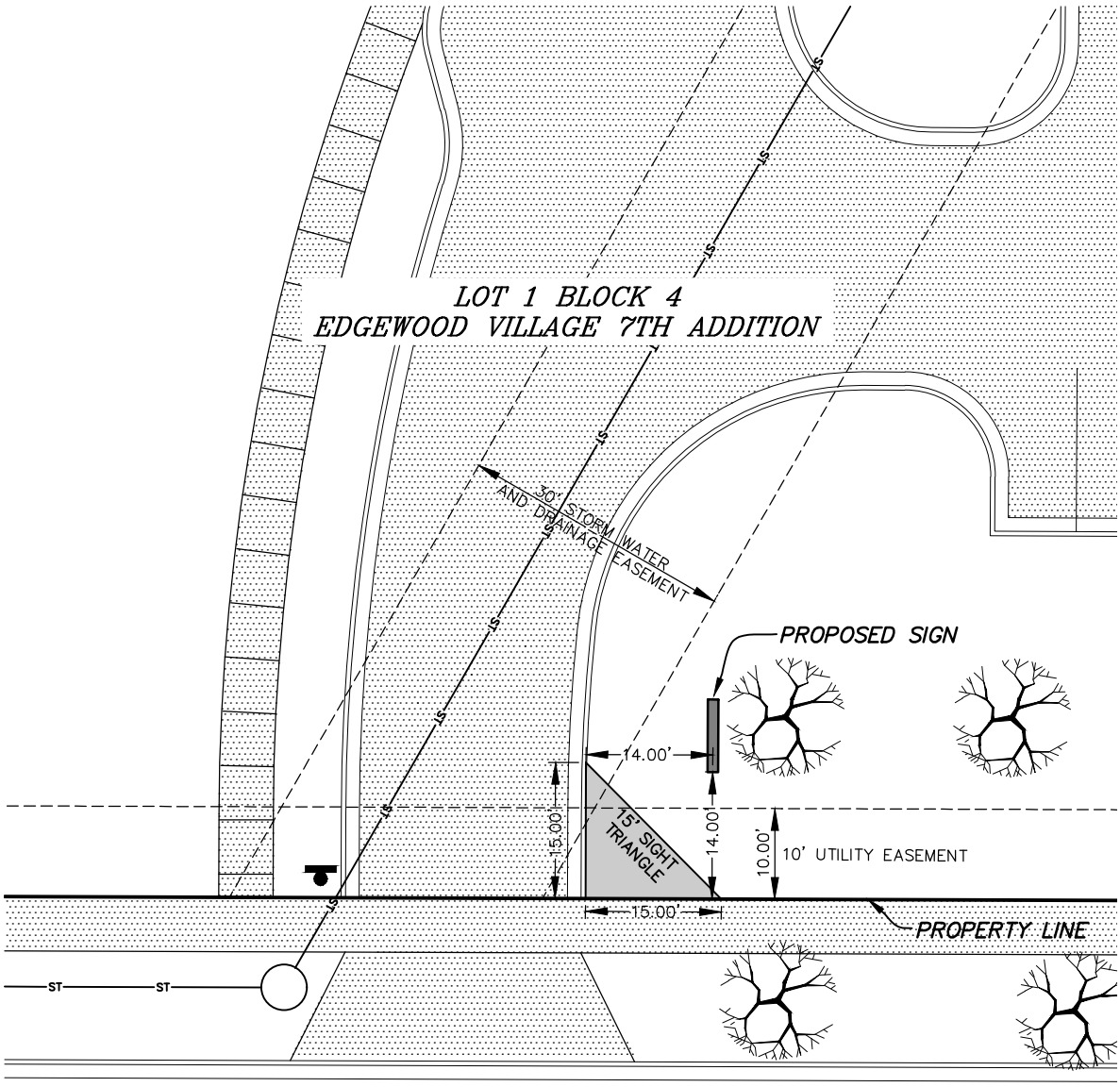


This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

0 0.05 0.1 0.2 Miles

N

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



CALGARY AVENUE

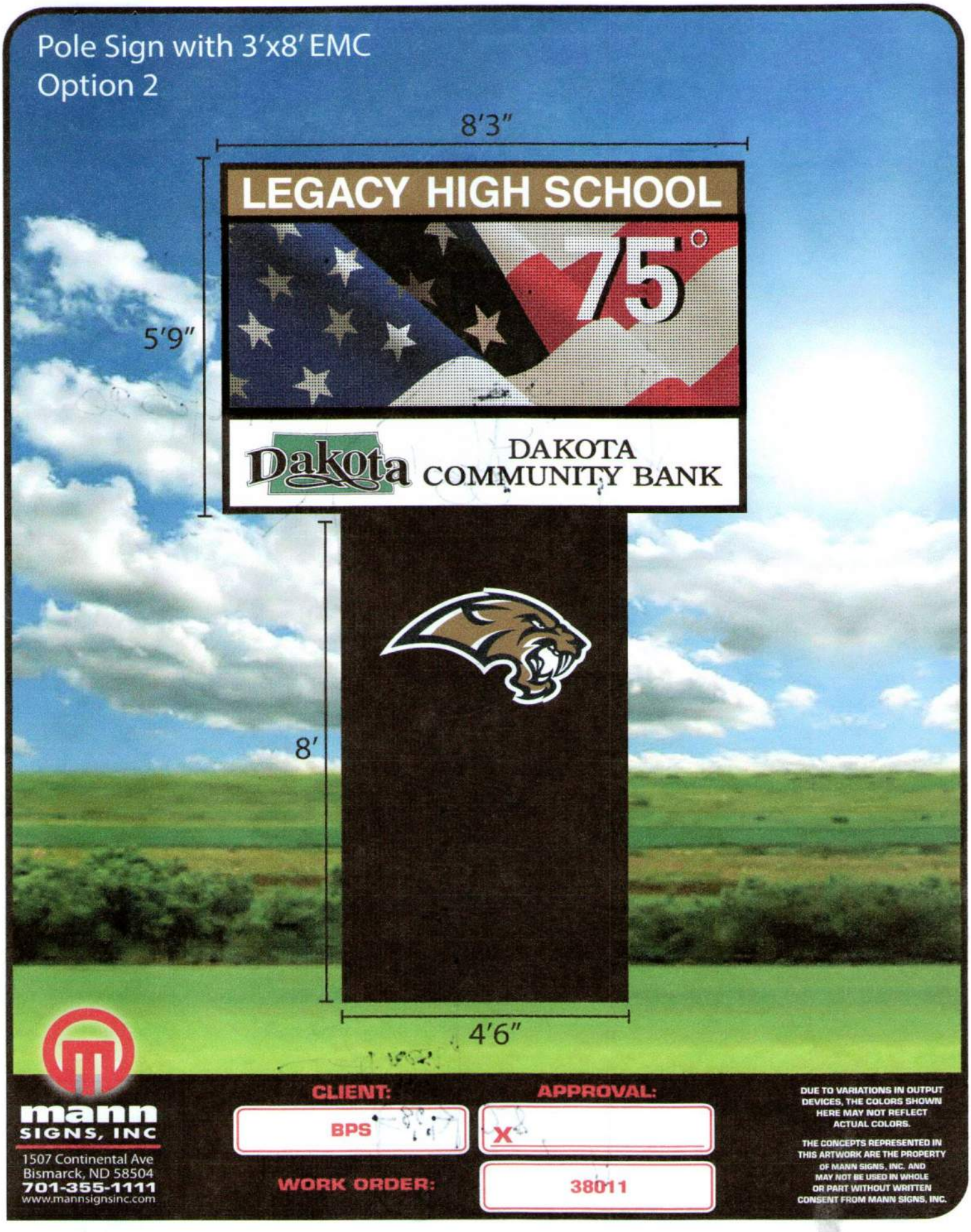
N

SCALE 1" = 20'

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

LEGACY HIGH SCHOOL
SITE SIGNAGE LOCATION MAP

Pole Sign with 3'x8' EMC
Option 2



mann
SIGNS, INC
1507 Continental Ave
Bismarck, ND 58504
701-355-1111
www.mannsignsinc.com

CLIENT: BPS

APPROVAL: X

WORK ORDER: 38011

DUE TO VARIATIONS IN OUTPUT DEVICES, THE COLORS SHOWN HERE MAY NOT REFLECT ACTUAL COLORS.

THE CONCEPTS REPRESENTED IN THIS ARTWORK ARE THE PROPERTY OF MANN SIGNS, INC. AND MAY NOT BE USED IN WHOLE OR PART WITHOUT WRITTEN CONSENT FROM MANN SIGNS, INC.

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

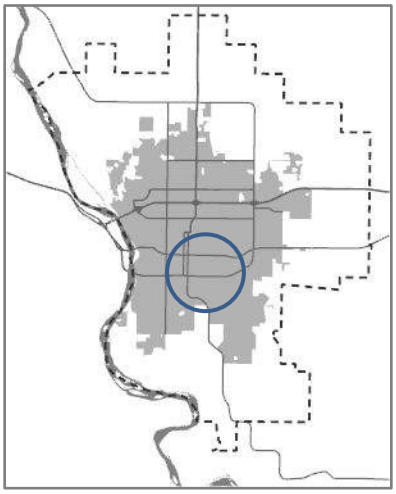
Agenda Item # 11
August 25, 2021

Application for: **Special Use Permit**

Project ID: **SUP2021-014**

Project Summary

Title:	Auditor's Lot 1 of the SW¼ of Section 3, T138N-R80W/City Lands (Jannette Myhre Elementary School)
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Bismarck Public Schools
Project Contact:	Darin Scherr, Bismarck Public Schools Derwin Mann, Mann Signs
Location:	In south Bismarck, in the Northeast corner of the intersection of East Bismarck Expressway and South 12th Street (919 South 12th Street)
Project Size:	Approximately 52 square foot sign
Request:	Install an electronic message center monument sign adjacent to a residential zoning district



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 parcel	*Number of Lots:*	1 parcel
Land Use:	Elementary School	*Land Use:*	Elementary School
Future Land Use:	Already zoned. Not in Future Land Use Plan	*Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	P – Public Use	*Zoning:*	P – Public Use
Uses Allowed:	P – Parks, open space, stormwater facilities, and other public uses	*Uses Allowed:*	P – Parks, open space, stormwater facilities, and other public uses
Max Density:	P – N/A	*Max Density:*	P – N/A

Property History

Zoned:	Pre-1980	*Platted:*	Pre-1980	*Annexed:*	Pre-1980

Staff Analysis

(continued)

Bismarck Public Schools is requesting approval of a special use permit to allow an electronic message center sign for Jeanette Myhre Elementary School on Auditor's Lot 1 of the SW¼ of Section 3, T138N-R80W/City Lands. This property is in the P – Public zoning district, and residential signs standards are followed because it is adjacent to a residential zoning district. Electronic message center signs are only allowed in residential districts with a special use permit and subject to additional restrictions to protect nearby residences.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 13th and 20th, and 11 letters were mailed to the owners of nearby properties on August 13th.

Adjacent uses include a manufactured home park to the to the north, a park to the east, commercial to the south across East Bismarck Expressway, and commercial to the west across South12th Street.

The following criteria from Section 14-03.1-07(5)(d) of the City Code of Ordinances (Signs/ Residential Zoning District Standards apply for electronic message centers in residential areas:

1. *"Special Use Permit. A special use permit shall be required, subject to all procedures of Section 14-03-08 (Special Uses) of the City Code of Ordinances."*

   A special use permit has been requested.

2. *"Sign Type. Electronic message center signs may only be incorporated into on-premise pole signs, monument signs, or wall signs. Electronic message center signs shall not be located on projecting signs, portable signs, or any other temporary signs, with the exception of demonstrations allowed by No off-premise advertising may occur on electronic message center signs."*

   The proposed electronic message center would be incorporated into a monument sign that complies with all requirements in residential zoning districts. As required by ordinance, additional landscaping would be planted at the base of the sign.

3. *"Number of Signs. Only one (1) electronic message center sign shall be allowed per parcel."*

   One electronic message center sign is proposed for this parcel.

4. *"Area of Signs. the electronic message center portion of a sign shall not exceed thirty-two (32) square feet in area."*

   The electronic message center portion of the sign would be 24 square feet in size, which is within the allowable limit.

5. *"Proportion of Sign. Electronic message centers may only be included on pole signs that also contain static content. The electronic portion of the sign may not exceed fifty (50) percent of the entire sign area, and must be entirely below the static portion of the sign. Electronic Message Center signs used as wall signs are exempt from this requirement."*

   Although not required by ordinance, approximately 20 square feet of additional static sign content would be included with the sign. The ancillary off-premise content used for sponsorship is allowable in the ordinance for public or non-profit entities, such as Bismarck Public Schools.

6. *"Operational Requirements. Electronic message center signs shall be subject to the following operational requirements:*

   a. *Brightness. The sign shall not exceed a maximum illumination level of 0.3 foot-candles above ambient light levels.*

(continued)

b. *Frame Hold Time. The sign shall have a frame hold time of no less than three (3) seconds between 7:00 a.m. and 9:00 p.m. The sign shall hold on a constant frame or be turned off between 9:00 p.m. and 7:00 a.m.*

c. *Effects. The sign shall be limited to instantaneous or continuous fading transitions from one static frame to another static frame without the use of any frame entrance, exit or hold effects or the use of any animation or background animation.*

d. *Video. The use of streaming video or full-motion video on any electronic message center sign is prohibited."*

The applicant is aware of the operational requirements and intends to comply.

1. *"Sign Features. Electronic message center signs shall be equipped with the following features:*

   a. *A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and*

   b. *A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell"*

The sign will be equipped with the required features.

This sign would be classified as a monument sign, and is thus exempt from setback requirements that apply to pole signs in the residential zoning districts.

In addition to the provisions cited above specific to electronic message centers in residential areas, all signs must meet the following public safety provision in Section 14-03.1-05(7):

> *"A sign shall not resemble or interfere, to any degree, with the effectiveness of a traffic control device, sign or signal; shall not be placed beside or behind a traffic control device in a location or at a height that makes a motorist's view of a traffic control device indistinguishable from the sign; shall not obstruct or interfere with a motorist's view of approaching, merging or intersecting traffic within the operational area of an intersection; and shall not have distracting flashing or moving lights so designed or lighted as to create a traffic hazard."*

Electronic message centers must receive written verification from both the City Engineer and the Chief of Police, or designees, that this condition is met. Because the location of the sign is proposed to be set back 400-feet from the intersection of East Bismarck Expressway and South12th Street, the Traffic Engineer and Police Department can support this location.

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;

(continued)

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

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit to allow an electronic message center sign on Auditor's Lot 1 of the SW¼ of Section 3, T138N-R80W/City Lands (Jannette Myhre Elementary School) as indicated on the submitted attachments and in accordance with the provisions of Section 14-03.1-07(5)(d) of the City Code of Ordinances..

Attachments

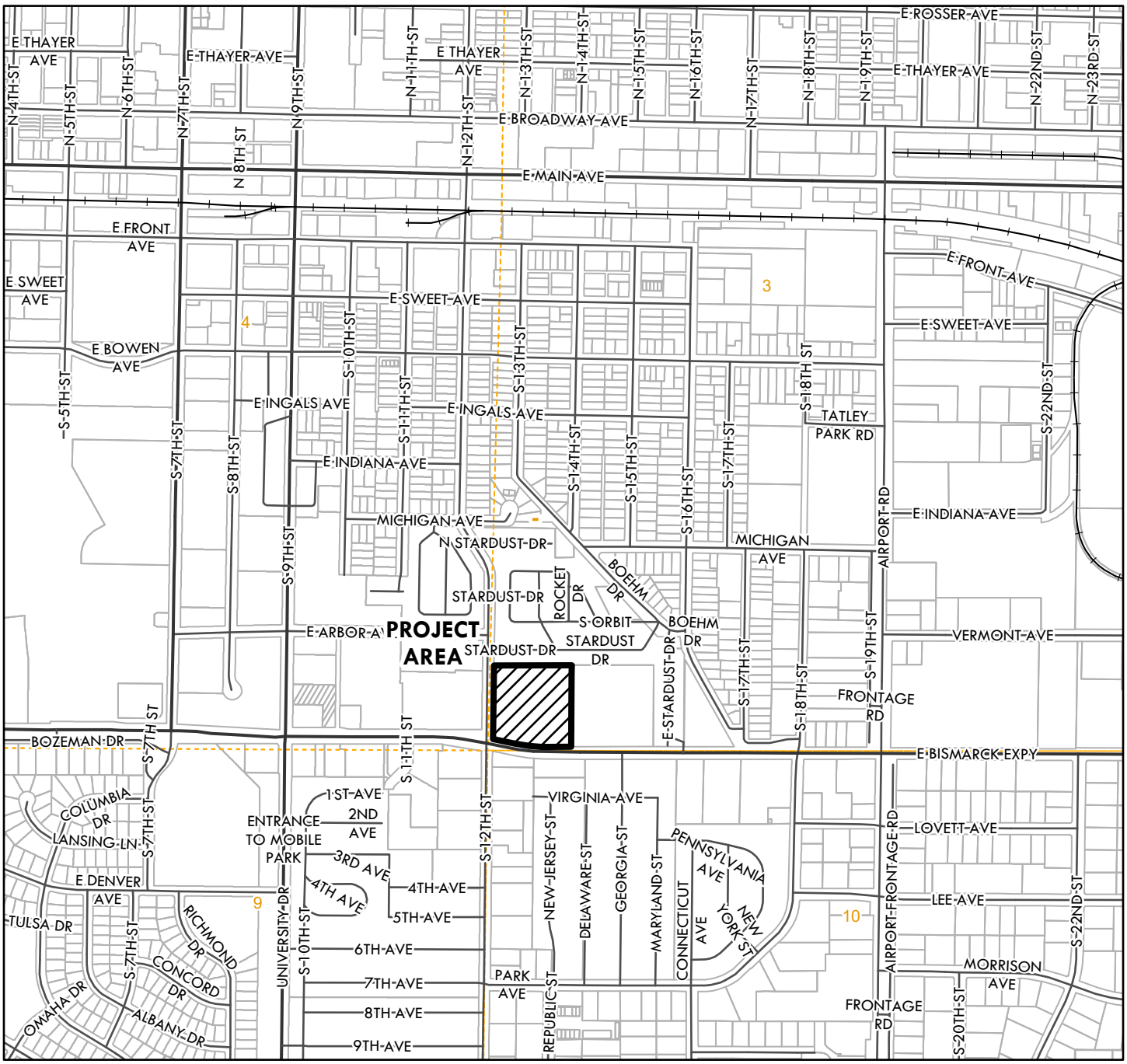
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan Exhibit
5. Design Exhibits for Sign

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

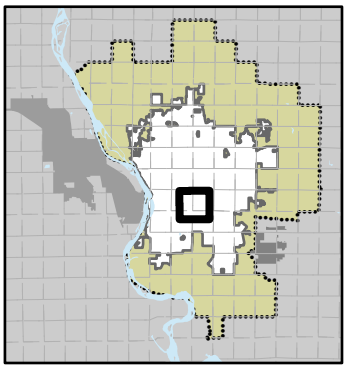
Location Map

CITY LANDS, PT L1, B3

SUP2021-014



0 0.23 0.45 0.9 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

CITY LANDS, PT L1, B3

SUP2021-014

0 0.05 0.1 0.2 Miles

City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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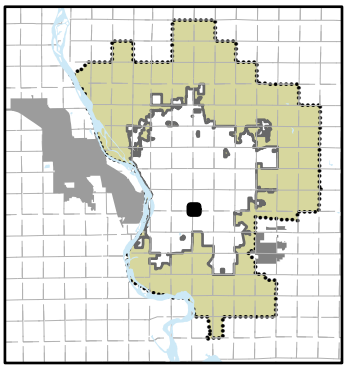


City of Bismarck
Community Development Department
Planning Division
July 20, 2021

Zoning and Plan Reference Map

CITY LANDS, PT L1, B3

SUP2021-014

Zoning Districts

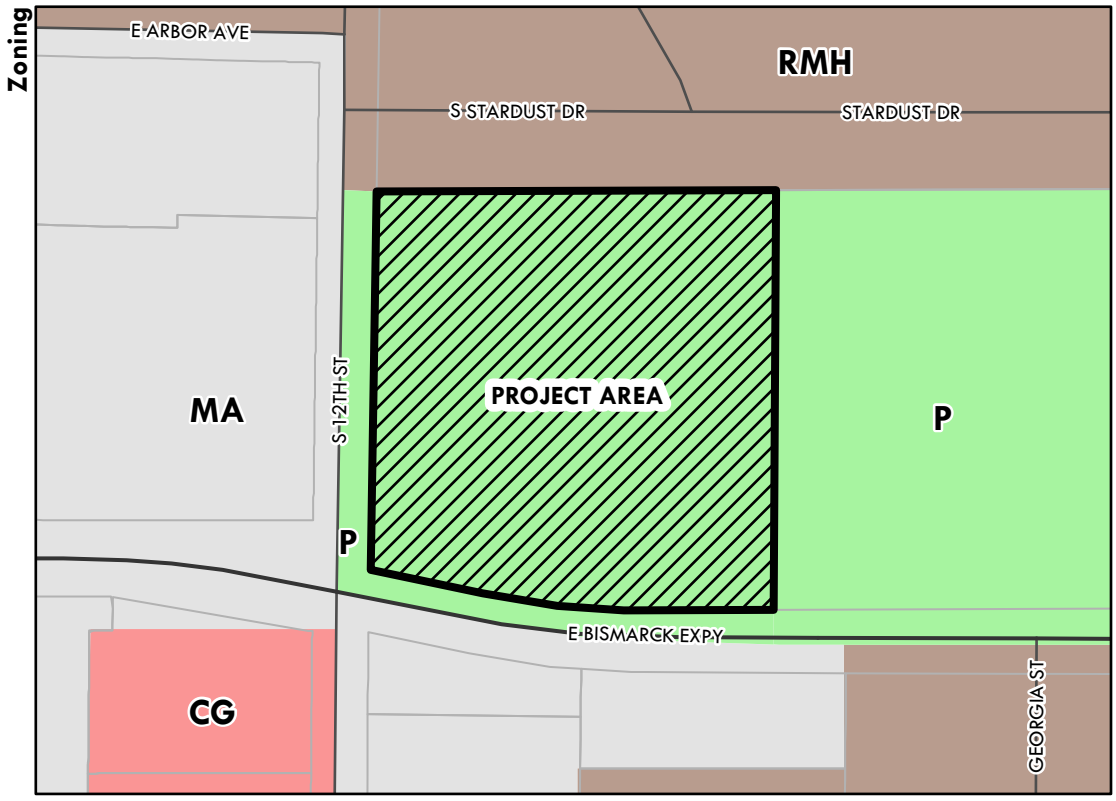
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

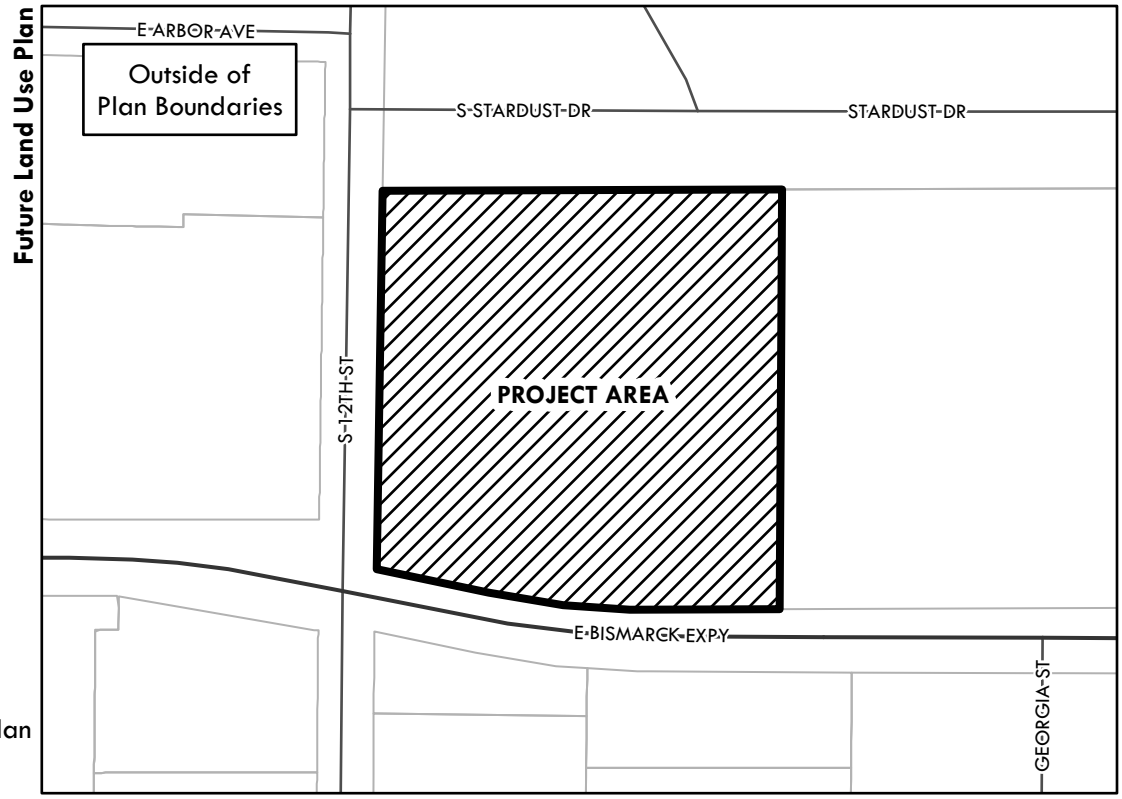
Future Land Use Plan

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 0.03 0.06 0.12

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

1" = 40'

N

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

JEANNETTE MYHRE
SITE SIGNAGE LOCATION MAP

Monument Sign
Day Mock

mann
SIGNS, INC
1507 Continental Ave
Bismarck, ND 58504
701-355-1111
www.mannsignsinc.com

CLIENT:	APPROVAL:	WORK ORDER:
BPS	X	38012

DUE TO VARIATIONS IN OUTPUT DEVICES, THE COLORS SHOWN HERE MAY NOT REFLECT ACTUAL COLORS.

THE CONCEPTS REPRESENTED IN THIS ARTWORK ARE THE PROPERTY OF MANN SIGNS, INC. AND MAY NOT BE USED IN WHOLE OR PART WITHOUT WRITTEN CONSENT FROM MANN SIGNS, INC.

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

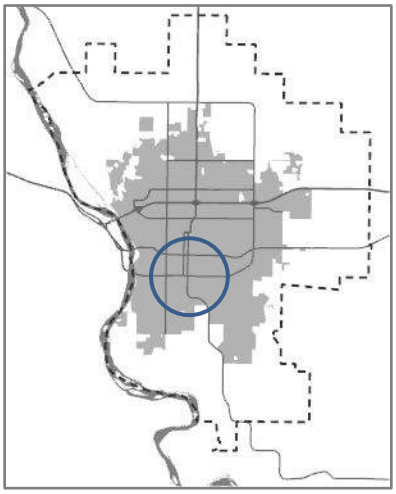
Agenda Item # 12
August 25, 2021

Application for: **Special Use Permit**

Project ID: **SUP2021-015**

Project Summary

Title:	Part of Lot 3, Block 1, Meadow Valley Addition (Wachter Middle School)
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Bismarck Public Schools
Project Contact:	Darin Scherr, Bismarck Public Schools Derwin Mann, Mann Signs
Location:	In south Bismarck, south of East Bismarck Expressway and west of University Drive on the east side of South 7th Street (1107 South 7th Street)
Project Size:	Approximately 47 square foot sign
Request:	Install an electronic message center pole sign adjacent to a residential zoning district



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	*Number of Lots:*	1 lot in 1 block
Land Use:	Middle School	*Land Use:*	Middle School
Future Land Use:	Already zoned. Not in Future Land Use Plan	*Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	P – Public Use	*Zoning:*	P – Public Use
Uses Allowed:	P – Parks, open space, stormwater facilities, and other public uses	*Uses Allowed:*	P – Parks, open space, stormwater facilities, and other public uses
Max Density:	P – N/A	*Max Density:*	P – N/A

Property History

Zoned:	Pre-1980	*Platted:*	Pre-1980	*Annexed:*	Pre-1980

(continued)

Staff Analysis

Bismarck Public Schools is requesting approval of a special use permit to allow an electronic message center sign for Wachter Middle School on Part of Lot 3, Block 1, Meadow Valley Addition. This property is in the P – Public zoning district, and residential signs standards are followed because it is adjacent to a residential zoning district. Electronic message center signs are only allowed in residential districts with a special use permit and subject to additional restrictions to protect nearby residences.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 13th and 20th, and 44 letters were mailed to the owners of nearby properties on August 13th.

Adjacent uses include commercial to the north across East Bismarck Expressway, a manufactured home part to the east across University Drive, single-family residences and a church to the south, and single-family residences to the west across South 7th Street.

The following criteria from Section 14-03.1-07(5)(d) of the City Code of Ordinances (Signs/ Residential Zoning District Standards apply for electronic message centers in residential areas:

1. *"Special Use Permit. A special use permit shall be required, subject to all procedures of Section 14-03-08 (Special Uses) of the City Code of Ordinances."*

   A special use permit has been requested.

2. *"Sign Type. Electronic message center signs may only be incorporated into on-premise pole signs, monument signs, or wall signs. Electronic message center signs shall not be located on projecting signs, portable signs, or any other temporary signs, with the exception of demonstrations allowed by No off-premise advertising may occur on electronic message center signs."*

   The proposed electronic message center would be incorporated into a pole sign that complies with all requirements in residential zoning districts. The sign would be approximately 14 feet in height, below the 20-foot limit.

3. *"Number of Signs. Only one (1) electronic message center sign shall be allowed per parcel."*

   One electronic message center sign is proposed for this parcel.

4. *"Area of Signs. the electronic message center portion of a sign shall not exceed thirty-two (32) square feet in area."*

   The electronic message center portion of the sign, as defined as the visual area of the screen, would be 24 square feet in size, which is within the allowable limit.

5. *"Proportion of Sign. Electronic message centers may only be included on pole signs that also contain static content. The electronic portion of the sign may not exceed fifty (50) percent of the entire sign area, and must be entirely below the static portion of the sign. Electronic Message Center signs used as wall signs are exempt from this requirement."*

   Approximately 23 square feet of additional static sign content would be included with the sign, which renders the sign compliant with area requirements. Ancillary off-premise content used for sponsorship is allowable in the ordinance for public or non-profit entities, such as Bismarck Public Schools.

6. *"Operational Requirements. Electronic message center signs shall be subject to the following operational requirements:*

(continued)

a. *Brightness. The sign shall not exceed a maximum illumination level of 0.3 foot-candles above ambient light levels.*

b. *Frame Hold Time. The sign shall have a frame hold time of no less than three (3) seconds between 7:00 a.m. and 9:00 p.m. The sign shall hold on a constant frame or be turned off between 9:00 p.m. and 7:00 a.m.*

c. *Effects. The sign shall be limited to instantaneous or continuous fading transitions from one static frame to another static frame without the use of any frame entrance, exit or hold effects or the use of any animation or background animation.*

d. *Video. The use of streaming video or full-motion video on any electronic message center sign is prohibited."*

The applicant is aware of the operational requirements and intends to comply.

1. *"Sign Features. Electronic message center signs shall be equipped with the following features:*

   a. *A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and*

   b. *A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell"*

The sign will be equipped with the required features.

Signs that are greater than eight feet in height are defined in the ordinance as pole signs, and pole signs are required to be set back at least the height of the sign from all property lines in residential zoning districts. The proposed sign would be set back at least the height of the sign and would be located outside of the sight-triangle.

In addition to the provisions cited above specific to electronic message centers in residential areas, all signs must meet the following public safety provision in Section 14-03.1-05(7):

> *"A sign shall not resemble or interfere, to any degree, with the effectiveness of a traffic control device, sign or signal; shall not be placed beside or behind a traffic control device in a location or at a height that makes a motorist's view of a traffic control device indistinguishable from the sign; shall not obstruct or interfere with a motorist's view of approaching, merging or intersecting traffic within the operational area of an intersection; and shall not have distracting flashing or moving lights so designed or lighted as to create a traffic hazard."*

Electronic message centers must receive written verification from both the City Engineer and the Chief of Police, or designees, that this condition is met. Both of these written verifications have been received.

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

(continued)

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

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit to allow an electronic message center sign on Part of Lot 3, Block 1, Meadow Valley Addition (Wachter Middle School) as indicated on the submitted attachments and in accordance with the provisions of Section 14-03.1-07(5)(d) of the City Code of Ordinances..

Attachments

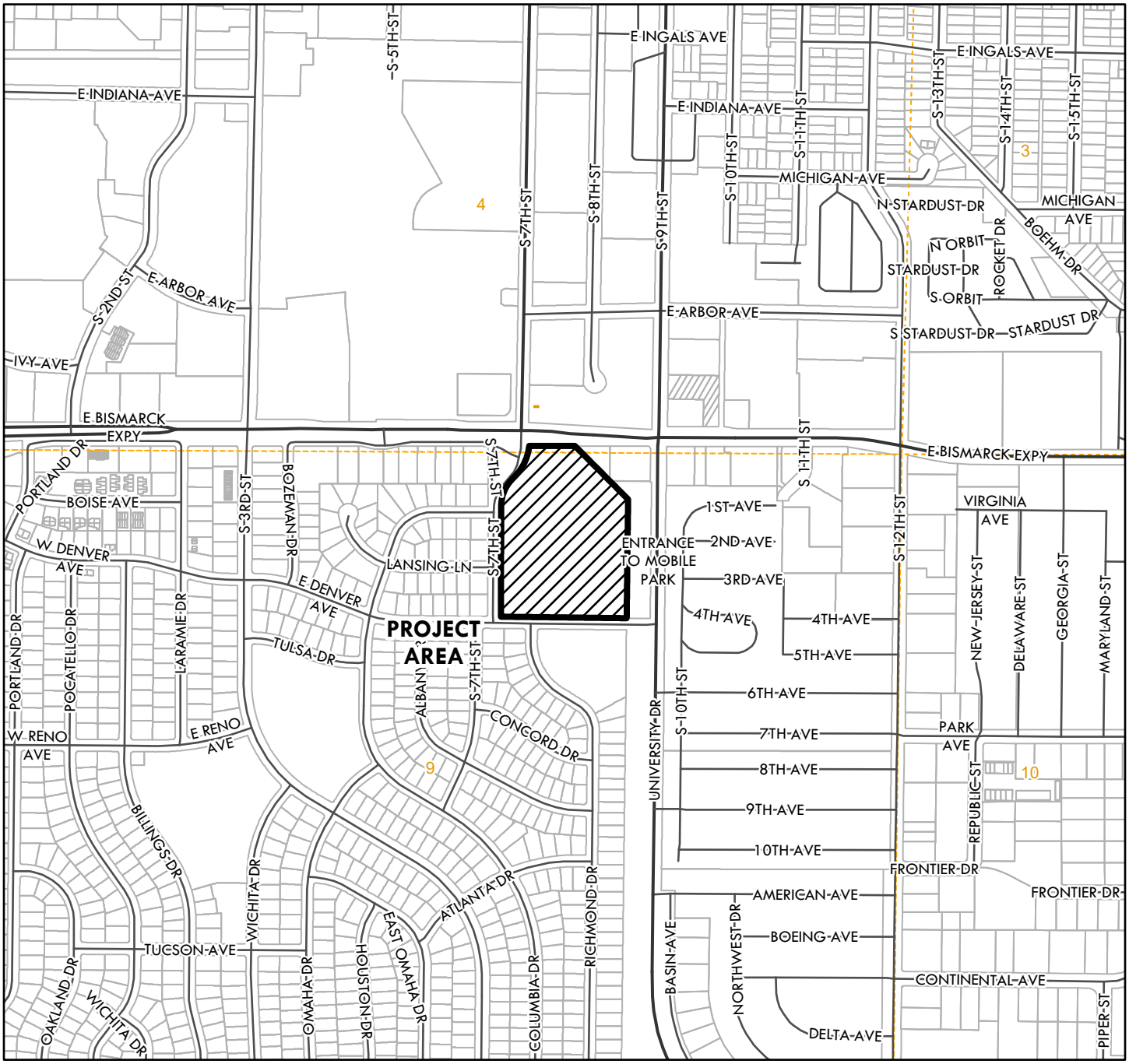
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan Exhibit
5. Design Exhibit for Sign

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

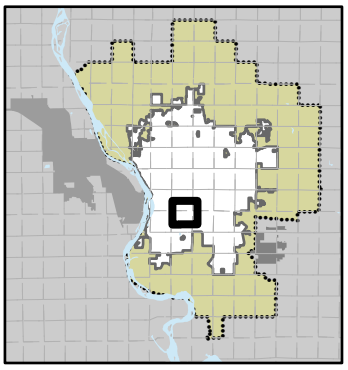
Location Map

MEADOW VALLEY ADDITION, PT L3, B1

SUP2021-015



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

MEADOW VALLEY ADDITION, PT L3, B1

SUP2021-015

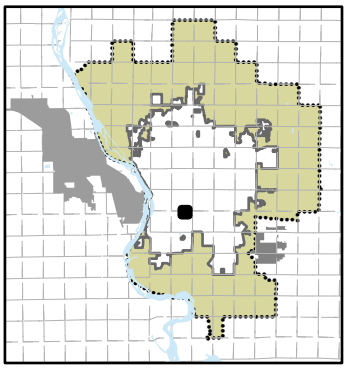
Miles

0 0.05 0.1 0.2

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

MEADOW VALLEY ADDITION, PT L3, B1

SUP2021-015

Zoning Districts

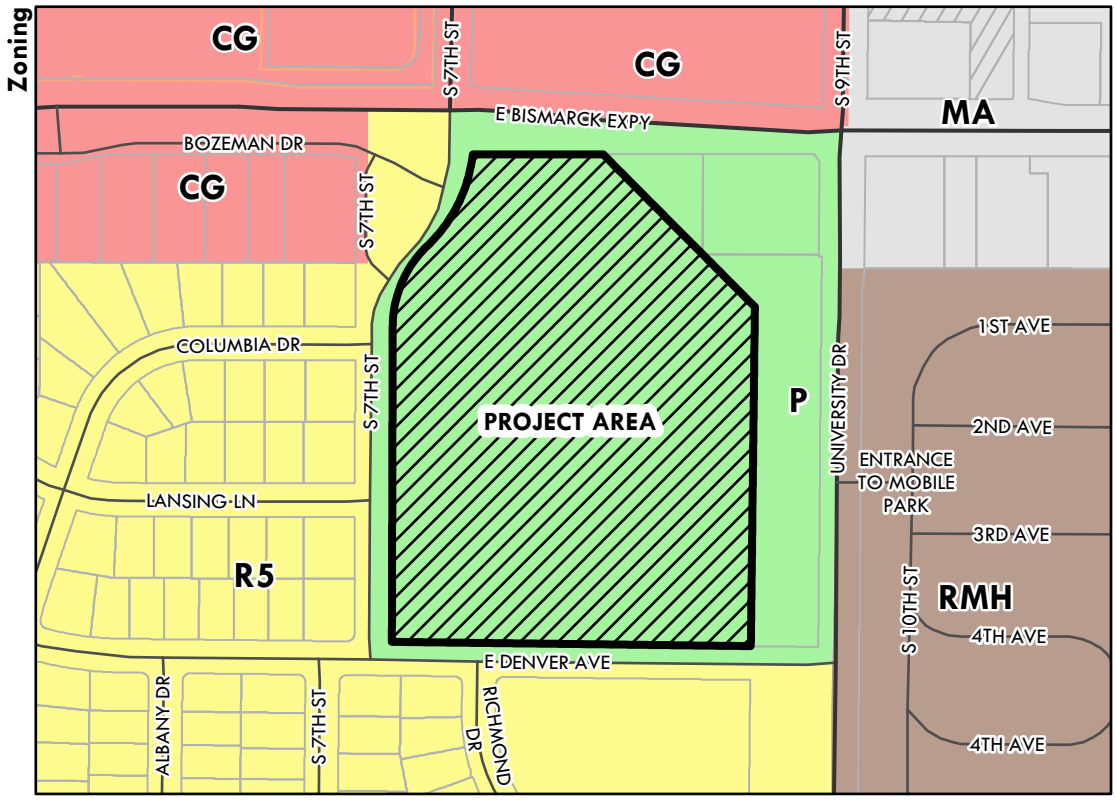
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

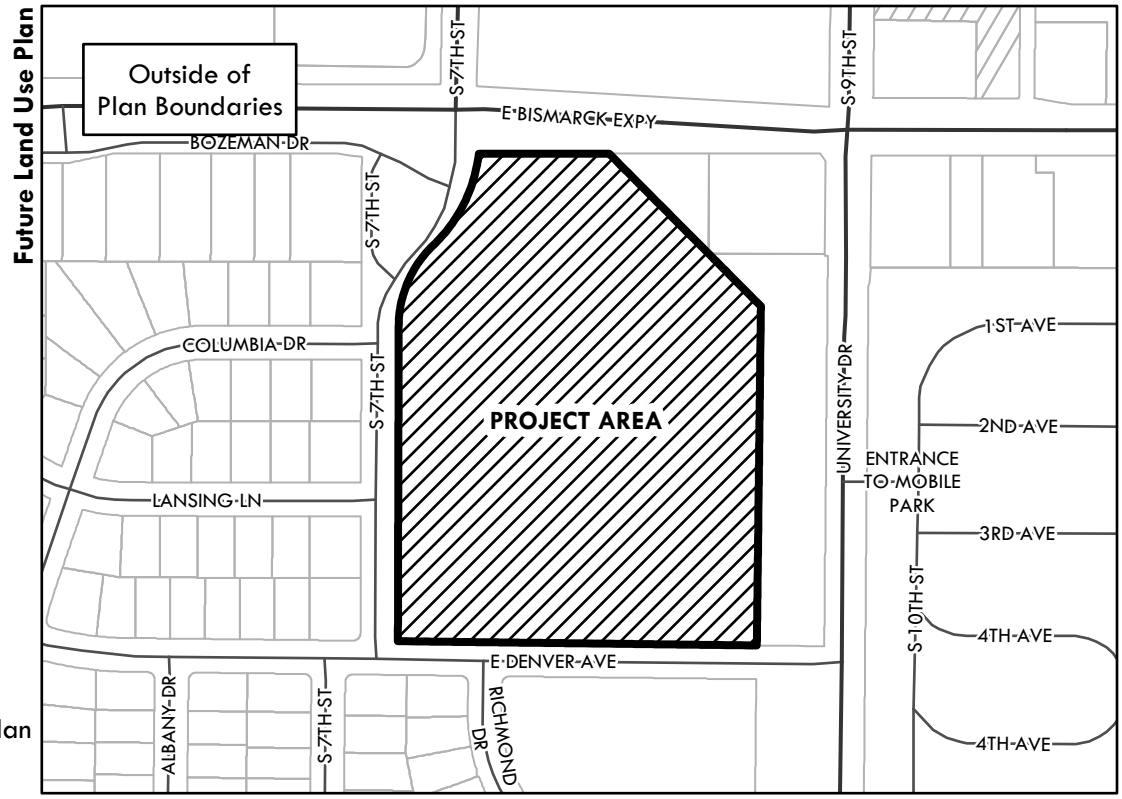
Future Land Use Plan

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

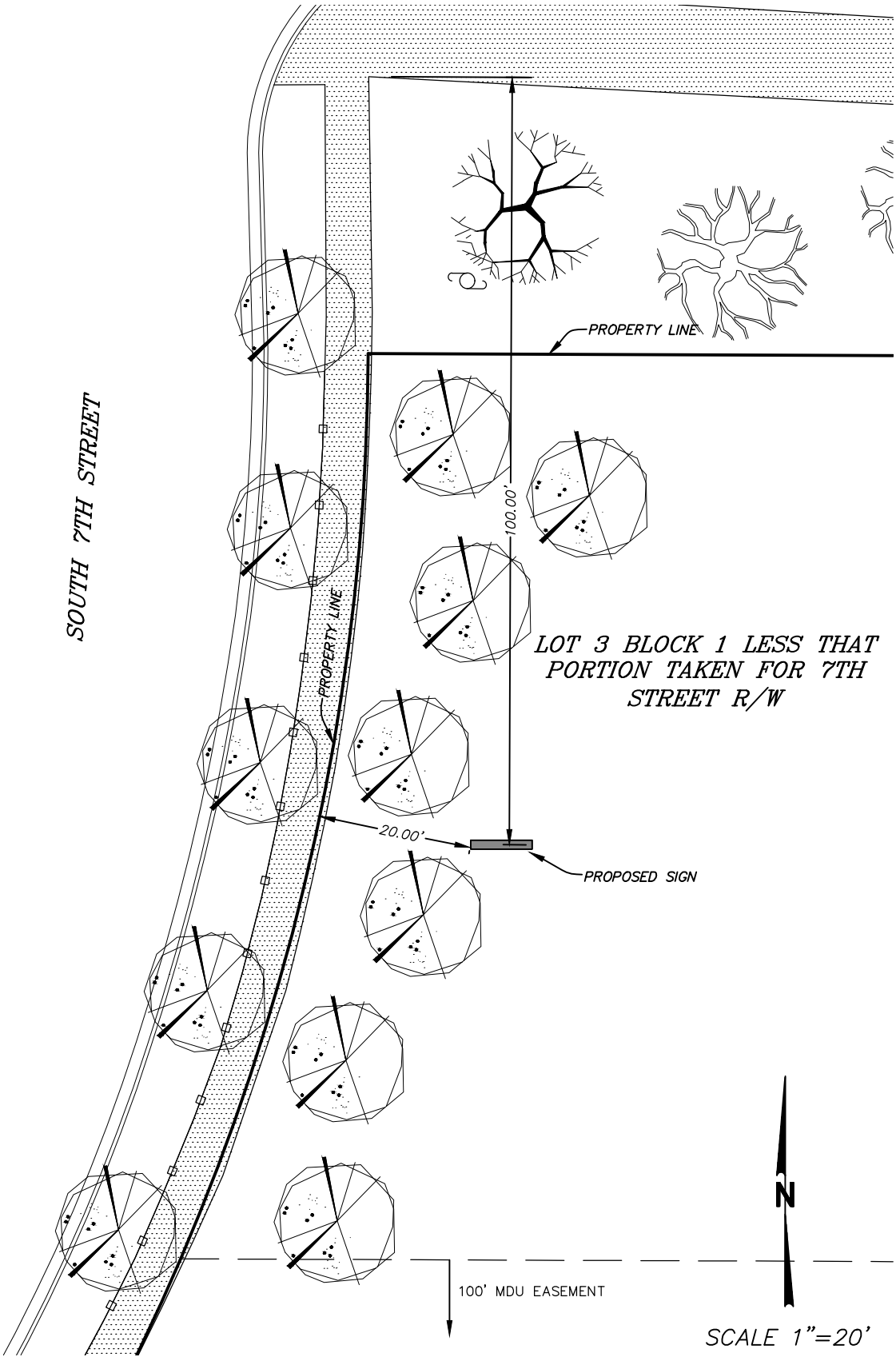




This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

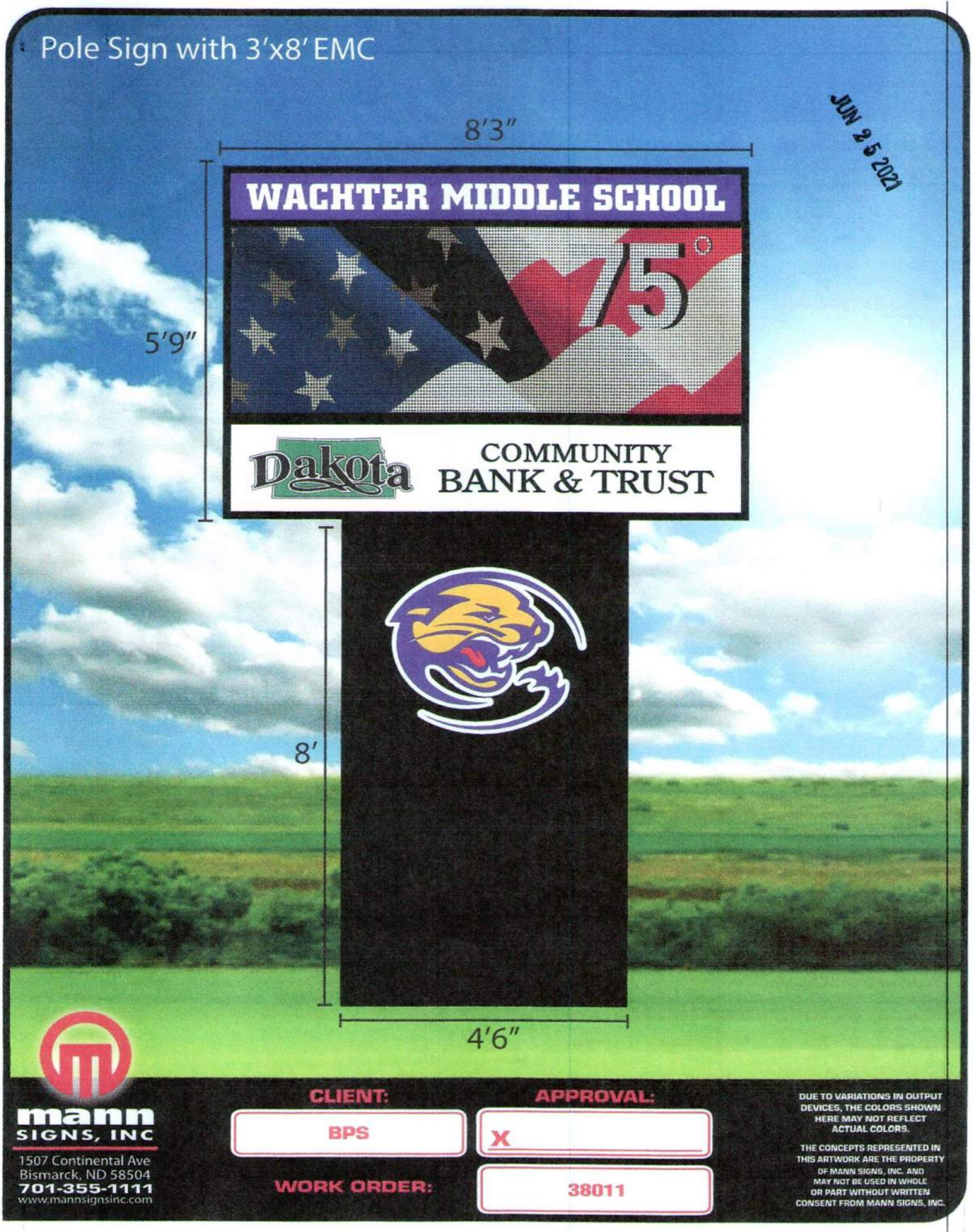
0 0.04 0.09 0.18 Miles

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



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

WACHTER MIDDLE
SITE SIGNAGE LOCATION MAP


Pole Sign with 3'x8' EMC
JUN 25 2021
8'3"
WACHTER MIDDLE SCHOOL
75°
5'9"
Dakota
COMMUNITY
BANK & TRUST
8'
4'6"
mann
SIGNS, INC
1507 Continental Ave
Bismarck, ND 58504
701-355-1111
www.mannsignsinc.com
CLIENT:
BPS
APPROVAL:
X
WORK ORDER:
38011
DUE TO VARIATIONS IN OUTPUT DEVICES, THE COLORS SHOWN HERE MAY NOT REFLECT ACTUAL COLORS.
THE CONCEPTS REPRESENTED IN THIS ARTWORK ARE THE PROPERTY OF MANN SIGNS, INC. AND MAY NOT BE USED IN WHOLE OR PART WITHOUT WRITTEN CONSENT FROM MANN SIGNS, INC.

Agenda Item # 13
August 25, 2021

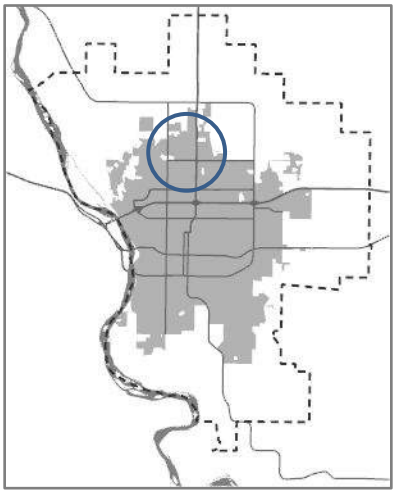
STAFF REPORT

Application for: **Special Use Permit**

Project ID: **SUP2021-017**

Project Summary

Title:	Lot 3A, Block 1, Christianson First Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	43rd Bismarck, LLC
Project Contact:	Charles Beard
Location:	In north Bismarck, west of US Highway 83/State Street along the north side of 43rd Avenue NE (820 43rd Avenue NE)
Project Size:	1.95 acres
Request:	Install a drive-through in conjunction with a donut and coffee shop



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 parcel	*Number of Lots:*	1 parcel
Land Use:	Multi-tenant commercial	*Land Use:*	Multi-tenant 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:*	CR – General Commercial and offices
Max Density:	CG – 42 units / acre	*Max Density:*	CG – 42 units / acre

Property History

Zoned:	03/2012	*Platted:*	07/2018	*Annexed:*	08/2007

Staff Analysis

43rd Bismarck, LLC and Charles Beard are requesting approval of a special use permit to allow drive-in/drive-through in conjunction with a donut and coffee shop on Lot 3A, Block 1, Christianson First Addition.

(continued)

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 13th and August 20th, and 19 letters were mailed to the owners of nearby properties on August 13th.

Adjacent uses include offices to the north, a grocery store to the east, single family residential to the south across 43rd Avenue NE, a multi-tenant commercial to the west.

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."*

   The proposed drive-through would be located within an existing structure, as constructed that meets all dimensional requirements 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-in/drive-through would be from existing internal access lanes within the Christianson First Addition development. This property does not have direct access to public streets and will not block pedestrian traffic on sidewalks.

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 drive-through would be located within an existing development that at the time of development was constructed with 121 parking spaces. Based on the current parking regulations, 54 parking spaces are required for a multi-tenant shopping center. The applicant will be sign nine parking stalls as employee parking only for those that could potentially be blocked by the location of the vehicle stacking spaces.

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 and egress from the proposed drive-in/drive-through would be from existing internal access lanes within the Christianson First Addition development. This property does not have direct access to public streets

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*

(continued)

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."

Access to and egress from the proposed drive-in/drive-through would be from existing internal access lanes within the Christianson First Addition development and will not cross public sidewalks

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."*

   This location is not a corner lot so this requirement is not applicable.

Other Considerations

Staff recognize the potential for conflicts that could occur with the location of the indicated vehicle stacking spaces directly adjacent to parking spaces. The applicant has indicated that although this is a drive-through in conjunction with a donut and coffee-shop, which requires 10 vehicle stacking spaces, coffee-sales will not be the primary sales at this establishment. In order to prevent potential conflicts between drive-through patrons and vehicle parking spaces, the applicant and the owner have agreed to sign nine spaces directly in front of the west building façade as employee parking only. Staff supports this configuration as a condition of approval.

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 drive-in/drive-through in conjunction with a donut and coffee shop on Lot 3A, Block 1, Christianson First Addition with the following condition:

1. The southern nine parking spaces along the west façade of the building are signed as 'Employee Parking Only.'

(continued)

Attachments

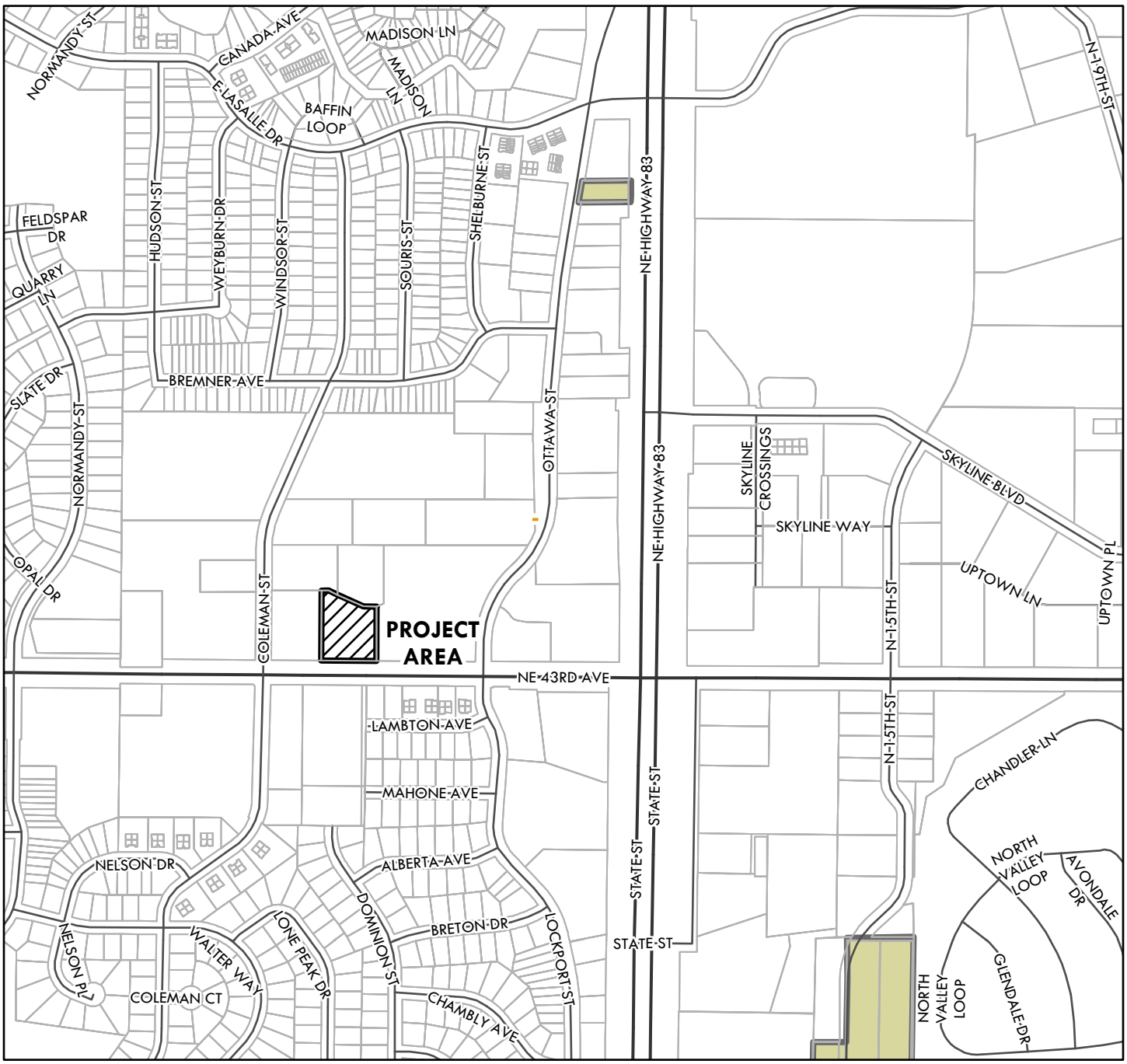
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan Exhibit

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

Location Map

CHRISTIANSON FIRST ADDITION, PT L3, B1

SUP2021-017



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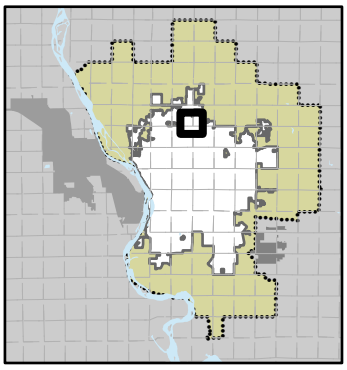


City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

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

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

Aerial Map

CHRISTIANSON FIRST ADDITION, PT L3, B1

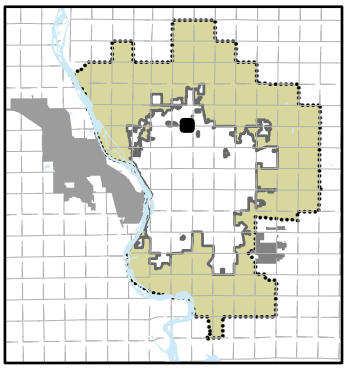
SUP2021-017

0 0.05 0.1 0.2 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
August 19, 2021

Zoning and Plan Reference Map

CHRISTIANSON FIRST ADDITION, PT L3, B1

SUP2021-017

Zoning Districts

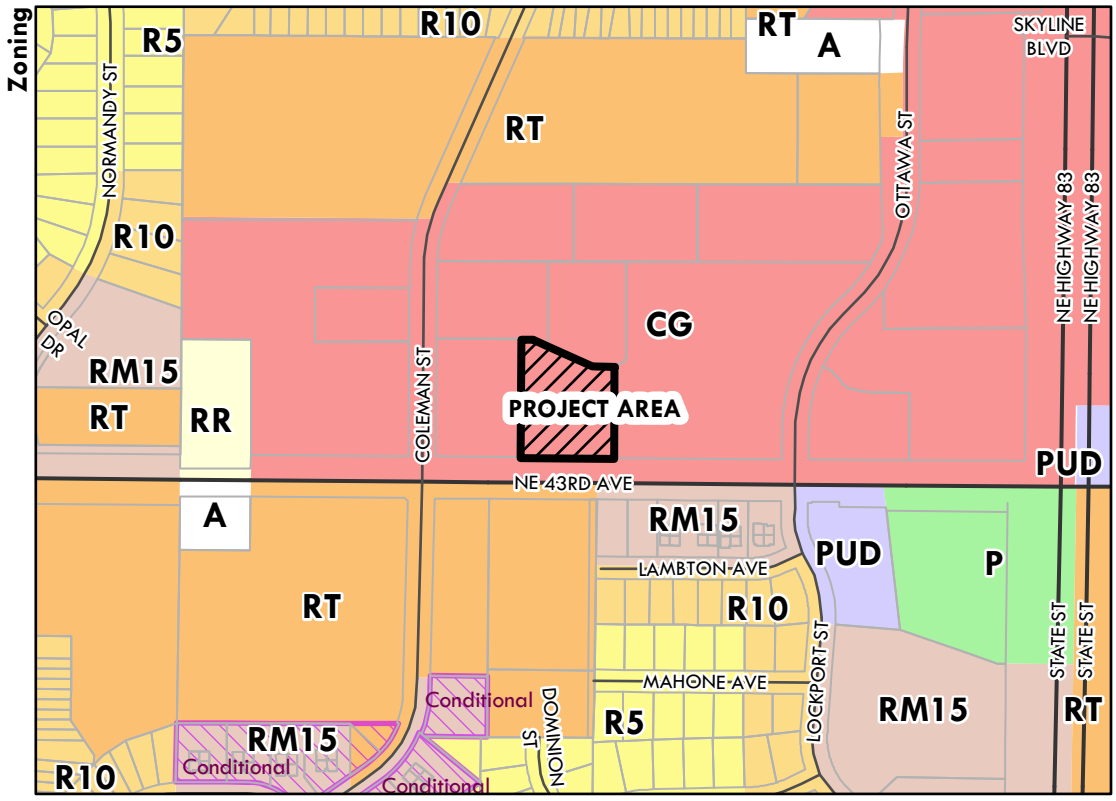
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

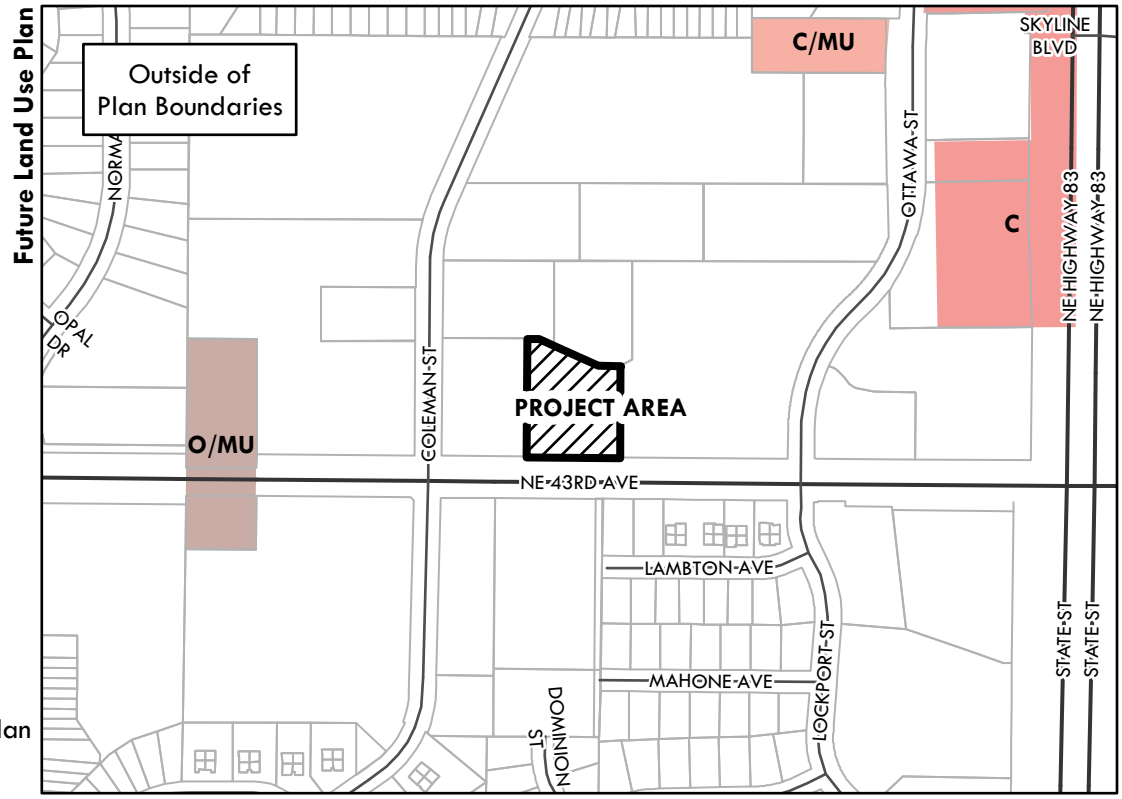
Future Land Use Plan

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

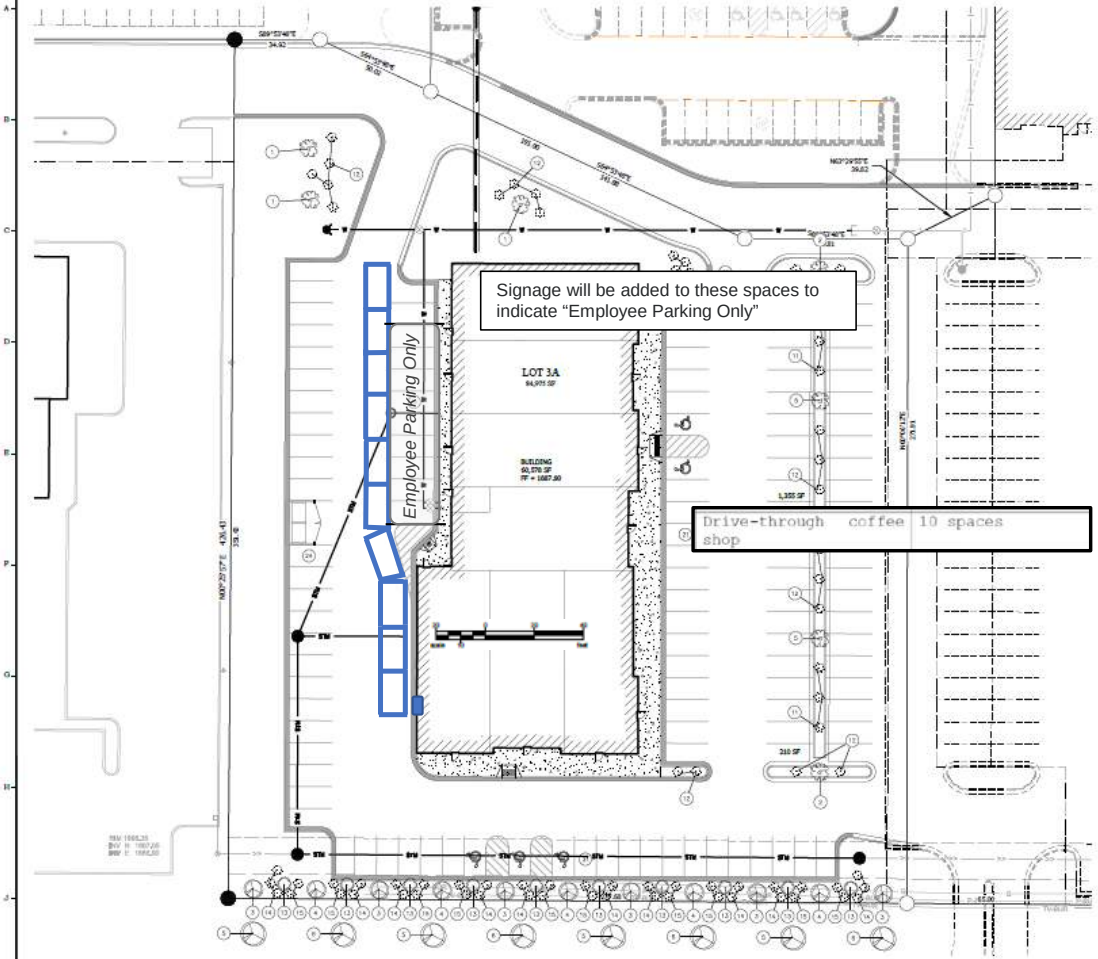




This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

0 0.05 0.1 0.2 Miles

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


Signage will be added to these spaces to indicate “Employee Parking Only”
Employee Parking Only
LOT 3A
84,975 SF
BUILDING
60,570 SF
FF = 1987.00
1,355 SF
210 SF
Drive-through coffee shop 10 spaces
N
NOTES:
1 LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR AND SHALL MAINTAIN THE LANDSCAPING FOR 90 DAYS PAST THE FINAL INSPECTION.
2 GENERAL CONTRACTOR SHALL GUARANTEE ALL PLANT MATERIAL FOR A PERIOD OF ONE (1) YEAR FROM DATE OF PROJECT SUBSTANTIAL COMPLETION.
3 ALL PLANT MATERIAL SHALL MEET MINIMUM REQUIREMENTS SHOWN IN THE "AMERICAN STANDARDS FOR NURSERY STOCK" (ANSI Z60.1-1990).
4 EACH TREE AND SHRUB SHALL BE SECURELY LABELED WITH A WATERPROOF TAG INDICATING BOTANICAL NAME AND COMMON NAME FOR DELIVERY TO SITE.
5 NO PLANT MATERIAL SHALL BE SUBSTITUTED WITHOUT THE APPROVAL OF THE OWNER. ALL PLANTING LOCATIONS FOR TREES AND SHRUBS SHALL BE FLAGGED BY THE CONTRACTOR AND APPROVED BY THE OWNER, PRIOR TO INSTALLATION.
6 ALL SHRUB AND TREE PLANTING AREAS SHALL BE EXCAVATED AND BACK-FILLED WITH PLANT MIX. PROVIDE FERTILIZER WITH NOT LESS THAN 5% NITROGEN, 10% AVAILABLE PHOSPHORIC ACID AND 5% SOLUBLE POTASH, DISCARD SUBSOIL REMOVED FROM PLANTING AREA EXCAVATION. DO NOT MIX WITH PLANT MIX OR USE AS BACK-FILL. SEE DETAILS FOR COMPLETE PLANTING PREPARATION. PREPARE PLANTING AREAS AND INSTALL PLANTS COMPLETELY, PRIOR TO SEEDING.
7 ALL SHRUBS SHALL BE INSTALLED IN PROPOSED PLANTING BEDS AND COVERED WITH SHREDDED BARK MULCH OR ACCEPTABLE MATERIAL.
8 SPACING SHOWN FOR PLANTS IS FOR INFORMATION ONLY AND SHALL BE ADJUSTED AS REQUIRED TO PROVIDE UNIFORM SPACING WITHIN THE PLANTING BEDS.
9 CONTRACTOR SHALL OBTAIN PROPER PERMITS FROM THE CITY OF BISMARCK WHEN WORKING WITHIN THE RIGHT OF WAY.
PLANTING SCHEDULE:
Key | Common Name | Botanical Name | Qty. | Size | Cond.
Trees
1 | Flowering Crabapple 'Thunderchief' | Malus x hybrida | 3 | 2" cal. min. | B & B
2 | Ivory Silk Tree Lilac | Syringa reticulata 'Ivory Silk' | 2 | 2" cal. min. | B & B
3 | Thornless Honeylocust | Gleditsia triacanthos inermis | 3 | 2" cal. min. | B & B
4 | Norway Maple 'Columnar' | Acer platanoides | 6 | 2" cal. min. | B & B
5 | American Linden 'Redmond' | Tilia americana | 6 | 2" cal. min. | B & B
6 | Hackberry | Celtis occidentalis | 4 | 2" cal. min. | B & B
Shrubs
11 | Goldmound Spirea | Spiraea japonica or x bumalda | 10 | 2 gal. | Cont.
12 | Yellow Flowering Forsythia 'Meadowlark' | Forsythia hybrida | 21 | 2 gal. | Cont.
13 | Boxl Honeysuckle | Lonicera korolowi | 10 | 2 gal. | Cont.
14 | Coral Mockie | Deutzia x lemoinei | 10 | 2 gal. | Cont.
15 | Rosbony Weigela | Spiraea japonica or x bumalda | 20 | 2 gal. | Cont.
Shade Trees 1.5" Caliper measured 6" above the root collar
Ornamental Trees 1.0" Caliper measured 6" above the root collar
Large Coniferous Tree 4 Feet above grade
Shrubs 2 gal Container
Boulevard trees along 43rd Avenue to be installed when 43rd Avenue is urbanized.
PRELIMINARY
SEH
NOT FOR CONSTRUCTION
BISMARCK RETAIL
LOT 3A OF LOT 3, BLOCK 1
CHRISTIANSON FIRST ADDITION
TO THE CITY OF BISMARCK
BURLEIGH COUNTY, NORTH DAKOTA
NOT FOR CONSTRUCTION
CONSTRUCTION SET
SEH
PHONE: 701.354.7121
4719 SHELBURNE ST, SUITE 6
BISMARCK, ND 58503-5677
www.sehinc.com
SHEET DESCRIPTION:
Landscaping Plan
Sheet
C7.0
of 8

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

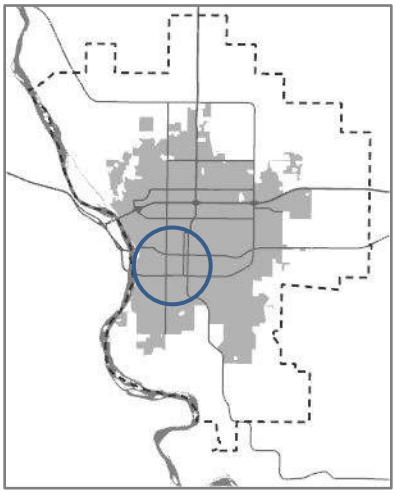
Agenda Item # 14
August 25, 2021

Application for: **Special Use Permit**

Project ID: **SUP2021-018**

Project Summary

Title:	Lot 4, Block 1, Wachters Addition Second Replat
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Kirkwood Mall Acquisition, LLC
Project Contact:	Landon Niemiller, Swenson, Hagen & Co.
Location:	In central Bismarck, along the east side of South 3rd Street between East Indiana Avenue and East Bismarck Expressway (Kirkwood Mall)
Project Size:	38,592 square feet
Request:	Allow the operation of 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:	Under development	*Land Use:*	Pharmacy and food establishment
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:	Pre-1980	*Platted:*	04/1969	*Annexed:*	Pre-1980

Staff Analysis

Kirkwood Mall Acquisition, LLC is requesting approval of a special use permit to allow drive-in /

(continued)

drive-through in conjunction with a fast food restaurant on Lot 4, Block 1, Wachters Addition Second Replat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on August 13th and August 20th, and 38 letters were mailed to the owners of nearby properties on August 13th.

Adjacent uses include commercial uses in conjunction with Kirkwood Mall to the north, east, and south, and multi-family residential and commercial uses to the west across South 3rd 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.

A special use permit for a drive-through in conjunction with a new pharmacy was approved on April 22, 2020 by the Planning and Zoning Commission (SUP2020-003). That special use is for one of two tenant spaces within one building, specifically the northern tenant space. This proposed special use would be for the southern tenant space.

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, these conditions 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 and egress from the drive-through establishment will be within the Kirkwood Mall property and will not impact adjacent sidewalks and streets.

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 applicant has requested a waiver from this requirement to reduce the stacking spaces from 12 spaces to 3 spaces. According to the applicant, the function of the proposed drive-through is different from a standard drive-through, as there will not be an ordering board or kiosk. All orders will be phoned in or done via the internet prior to arrival. Staff is supportive of the waiver on the condition that the drive-through is configured as proposed and all orders will be placed prior to arrival.

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."*

   This provision is not applicable, as all ingress and egress for the drive-through establishment will be within the Kirkwood Mall property and there will be no direct access to the adjacent South 3rd Street.

(continued)

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."*

   This provision is not applicable, as all ingress and egress for the drive-through establishment will be within the Kirkwood Mall property and there will be no direct access to the adjacent South 3rd Street.

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."*

   This provision is not applicable, as the drive-through establishment will not be located on a corner lot.

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 drive-in/drive-through in conjunction with a fast food establishment on Lot 4, Block 1, Wachters Addition Second Replat, including granting a waiver to reduce the required stacking spaces from 12 spaces to 3 spaces.

Attachments

1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan Exhibit
5. Waiver Request

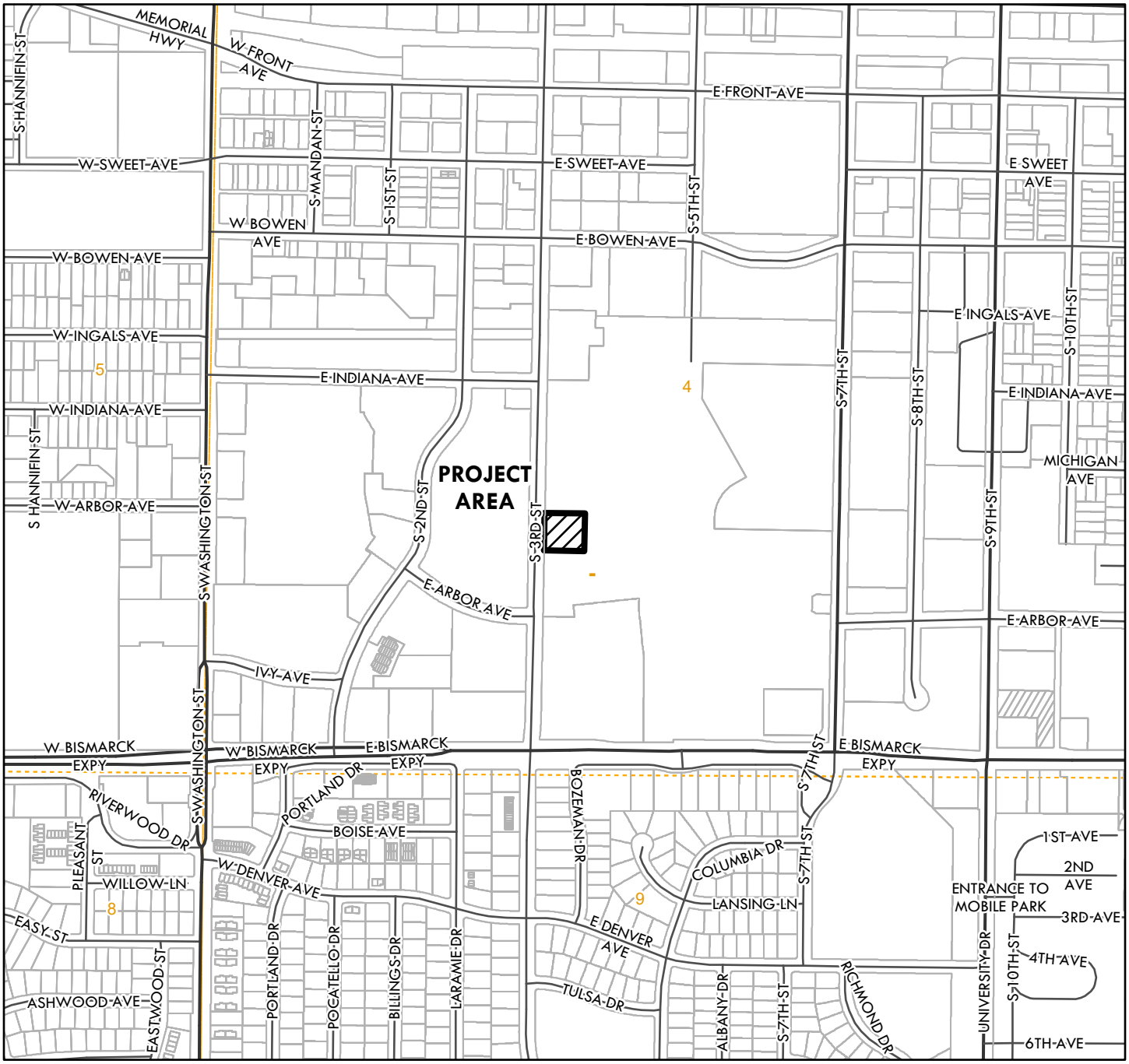
(continued)

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

Location Map

WACHTERS ADDITION SECOND REPLAT, L4, B1

SUP2021-018



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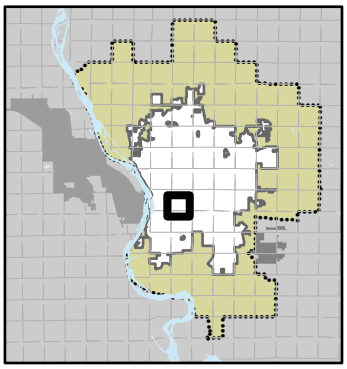


City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

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

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

Aerial Map

WACHTERS ADDITION SECOND REPLAT, L4, B1

SUP2021-018

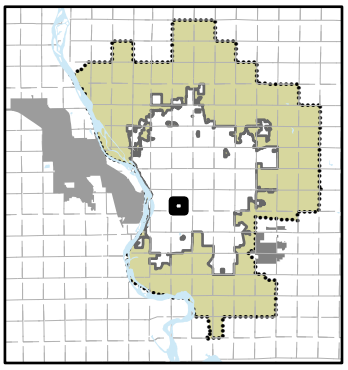
Miles

0 0.07 0.15 0.3

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
August 19, 2021

Zoning and Plan Reference Map

WACHTERS ADDITION SECOND REPLAT, L4, B1

SUP2021-018

Zoning Districts

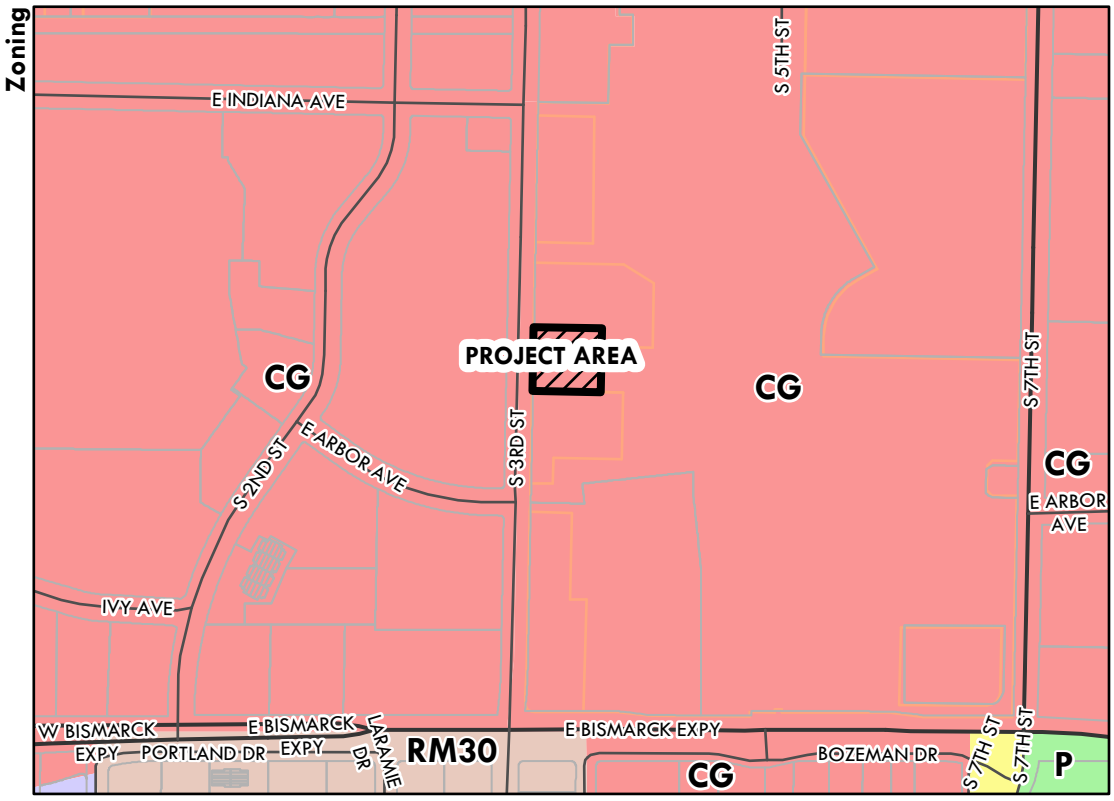
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

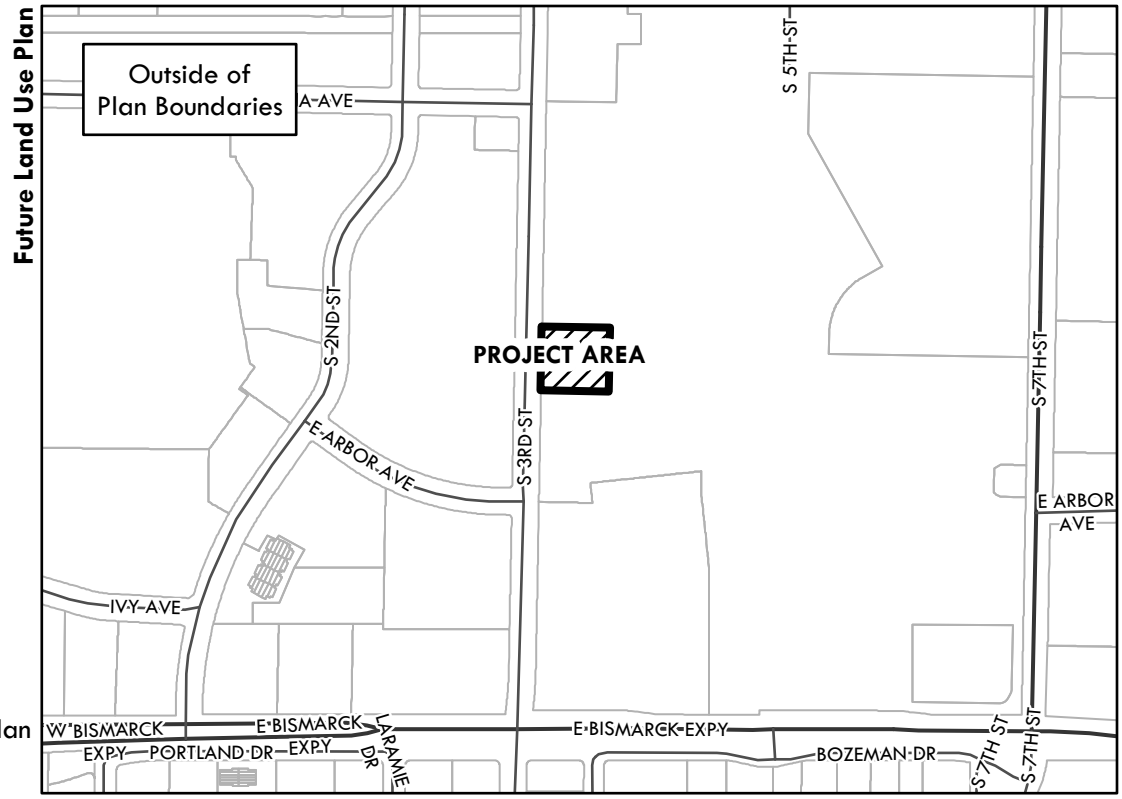
Future Land Use Plan

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.

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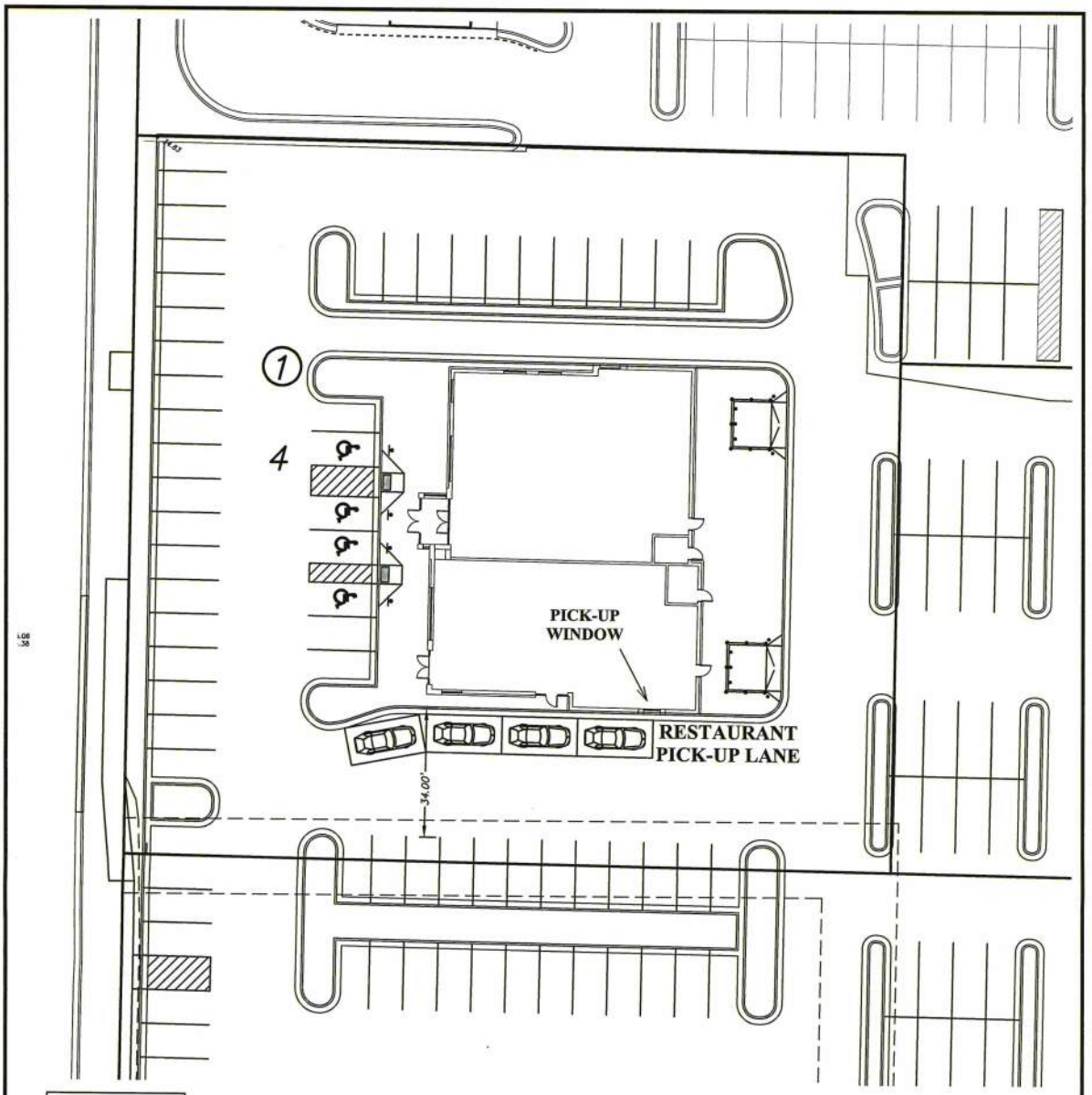
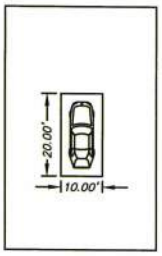
City of Bismarck
Community Development Dept.
Planning Division
August 19, 2021

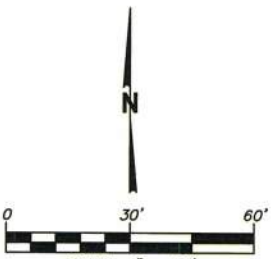




20 ' X 10' TYP. REQUIRED VEHICLE STACKING

PROPOSED RESTURANT PICK-UP WINDOW :

VEHICLE STACKING:
REQUIRED: 3 STACKING SPACES
PROVIDED: 4 STACKING SPACES



SCALE: 1" = 30'
JULY 21, 2021

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

EXHIBIT 1.0 - SPECIAL USE PERMIT

LOT 4 BLOCK 1 WACHTER'S ADDITION SECOND REPLAT

JUL 26 2021

SWENSON, HAGEN & CO. P.C.
civil engineering . surveying . land planning . hydrology
landscape & site design . construction management

LOT 4 BLOCK 1 WACHTER'S ADDITION SECOND REPLAT

SPECIAL USE PERMIT---WAIVER REQUEST

Kirkwood Mall Acquisition, LLC, requests a waiver from the standard stacking requirements for the Special Use drive through standards for a drive-through restaurant (Ordinance 14-03-08-4g).

The waiver request is to reduce the required number of twelve stacking spaces to three stacking spaces. The proposed drive-through would not have an on-site ordering board or kiosk, but will be utilized for a pick-up station for orders placed by app/phone/online, which will significantly reduce the space needed to operate the drive-through.

This request is consistent with previous waivers for drive-through facilities without ordering kiosks. The remaining requirements for the special use permit will remain as written in the ordinance.

909 Basin Avenue . Bismarck, North Dakota 58504
(701) 223-2600 . (701) 223-2606 Fax
sheng@swensonhagen.com

BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
July 28, 2021

The Bismarck Planning & Zoning Commission met on July 28, 2021, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. The meeting was held in person and via Zoom. Chair Schwartz presided and was present in the Tom Baker Meeting Room.

Commissioners present were Steve Bakken, Brian Bitner, Cole Johnson, Vernon Laning, Paul Levchak, Kevin Martin, Gabe Schell, Mike Schwartz, Wendy Van Duyne and Paul Zent.

Commissioner Trent Wangen was absent.

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

MINUTES

Chair Schwartz called for consideration of the minutes of the June 23, 2021 meeting.

MOTION: Commissioner Bakken made a motion to approve the minutes of the June 23, 2021 meeting, as presented. Commissioner Zent seconded the motion and it was unanimously approved with Commissioners Bakken, Bitner, Johnson, Laning, Levchak, Martin, Schell, Schwartz and Zent voting in favor of the motion.

CONSIDERATION

2. **FROHLICH ADDITION – PRELIMINARY PLAT**
3. **HUGHES ADDITION – PUD AMENDMENT**

MOTION: Based on the findings contained in the staff reports, Commissioner Bitner made a motion to approve consent agenda items 2 and 3, granting tentative approval or calling for a public hearing on the items as recommended by staff. Commissioner Bakken 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.

PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT TREE TOP ADDITION

Chair Schwartz called for the public hearing on the minor subdivision final plat for Tree Top Addition. The proposed plat is three lots in one block on 3.54 acres and is located 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).

Mr. Nairn gave an overview of the request, including the following findings related to land use for the minor subdivision final plat:

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

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

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.

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

Mr. Nairn explained that upon further discussion after the staff report was prepared and the agenda packet distributed, it was decided that approval of a Private Drive and Utility Agreement with the City by the Board of City Commissioners would not be needed and staff would like to remove that portion of their recommendation at this time.

Mr. Nairn said based on these findings, staff recommends approval of the minor subdivision final plat for Tree Top Addition First Replat.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson, Hagen & Co., said the property is looking to be split for further development and, based on the current parking ordinance, there would be ample space to build in accordance with the CG-Commercial zoning district allowances.

Commissioner Levchak asked if the parking for the new lots would be what is there for the current restaurant now.

Mr. Niemiller replied a portion would be but there would likely be a cross parking agreement and they would have enough on-site parking also as it is now.

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

MOTION: Commissioner Bakken made a motion to recommend approval of the minor subdivision final plat for Tree Top Addition First Replat. Commissioner Bitner seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Johnson, Laning, Levchak, Martin, Schell, Schwartz and Zent voting in favor of the motion.

PUBLIC HEARINGS – MINOR SUBDIVISION FINAL PLAT AND SPECIAL USE PERMIT MENARDS ADDITION FIRST REPLAT

Chair Schwartz called for the public hearings on the minor subdivision final plat for Menards Addition First Replat and a special use permit for a drive-through to be located on Lot 2, Block 1, Menards Addition First Replat. The proposed plat is two lots in one block on 1.38 acres and is located 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).

Mr. Hutchings gave an overview of the requests, including the following findings related to land use for the minor subdivision final plat:

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

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

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.

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

Mr. Hutchings then gave the following findings related to land use for the 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.

8. 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 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 conditions:

1. The minor subdivision final plat for Menards Addition First Replat will not be forwarded to City Commission until the applicant provides verification of the ability to connect to the private sanitary sewer or another suitable connection is found.

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

3. The existing ATM on the southernmost 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.

4. 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.

Commissioner Levchak asked if the location would offer indoor seating. Mr. Hutchings said it would not and would be exclusively a drive-through.

Commissioner Levchak asked what the three adjacent parking spaces are intended for. Mr. Hutchings said they would likely be utilized as employee parking.

Mr. Niemiller said the parking would be cross-access in order to have bank and coffee shop parking on both sides and they are continuing to work through the sanitary-sewer needs of the additional lot as well.

Commissioner Zent asked if the parking lot striping is the only delineation from the credit union and the proposed coffee shop.

Mr. Niemiller replied that is correct and added the access would be detached from the right-of-way, but there would be one access point.

Commissioner Schell asked what the plan is for the credit union sign. Mr. Niemiller said it would need to be relocated to work within the lots and will address that during the site plan review process.

Chair Schwartz opened the public hearing.

Comments on the requests are attached as Exhibit A.

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

MOTION: Commissioner Bakken made a motion to recommend 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 conditions: 1) The minor subdivision final plat for Menards Addition First Replat will not be forwarded to City Commission until the applicant provides verification of the ability to connect to the private sanitary sewer or another suitable connection is found; 2) The site plan submitted must generally conform the site plan submitted for the special use permit; 3) The existing ATM on the southernmost 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; and 40 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. Commissioner

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

PUBLIC HEARING - SPECIAL USE PERMIT (DRIVE-THROUGH)
LOT 1, BLOCK 1, MEMORY THIRD ADDITION

Chair Schwartz called for the public hearing on 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. The property is located in north Bismarck, along the east side of US Highway 83/State Street and the south side of Brookside 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 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. Hutchings said, based on these 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:

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

Commissioner Levchak asked if traffic flow from the side street into the parking lot would take an immediate right turn into the drive-through.

Mr. Hutchings said that is correct

Commissioner Levchak asked if the parking stacked in the drive-through would block some of the parking spaces.

Mr. Hutchings said that is a possibility, but staff has determined that more parking than required would be provided.

Commissioner Johnson asked if there is a difference between the cars in the order area and the cars in the pick-up area or if they are all in included in the stacking requirement. Mr. Hutchings said all of the vehicles shown in the drive-through on the exhibit are included in the stacking requirement.

Chair Schwartz opened the public hearing.

Abby Ehrler, Klover Architect, said they are prepared to submit the site plan for review exactly as it is shown here. She said the parking by the entrance would be for employees only so customers would not be blocked in by other vehicles.

Bruce Hicks, 1475 Brookside Lane, said he has concerns related to their community mailbox that has already been moved once. He said with new traffic turning right into this property he is concerned that someone will be hit by a vehicle while getting their mail. He then asked if all of Gussner Acres has been annexed as referenced in the staff report because they had not been informed of that happening.

Mr. Hutchings said an annexation was recently approved for all Memory Third Addition, which did include one lot of Gussner Acres and that is the only portion that was annexed. He said the remainder of Gussner Acres has not been annexed.

Commissioner Levchak asked if the mailbox of concern is one mailbox or several. Mr. Hicks said it is multiple mailboxes that serve four homes. He said it has already been hit once by a construction trailer and he would like it to be moved again.

Darin Will said he owns one of the vacant lots nearby and would like to point out that traffic flow to leave this site would turn right or cut through the existing Costco site. He said he suggests a traffic study be done to address better flow of vehicles.

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

Commissioner Levchak asked if they could make it a requirement that the mailboxes be moved at no cost to the owners.

Mr. Hutchings said staff is typically not involved with how the United State Postal Service places their mailboxes, but they can work through it with the applicant if that condition is added.

Commissioner Schell said he has the opinion of not including a condition related to USPS operations, as the City would not have a mechanism to enforce that condition. He said they can relay the concern to the USPS, but they do not necessarily want it to be mandated and could even further discuss it during the site plan review process.

Commissioner Bitner said between now and the site plan review would be a good time to have a conversation with USPS and keep that separate from the special use permit application.

Commissioner Levchak said he just does not want there to be any costs incurred by the adjacent owners.

Commissioner Bitner asked if maybe the consultant could absorb that expense somehow. Ms. Ehrler said they are very open to be as good of neighbors as possible and can work through the concern with USPS directly.

Commissioner Bitner asked if the intended traffic patterns could be elaborated on. Commissioner Schell said they have not been studied since it was required with the development of the Costco site; however. it was intentional to have a 3/4 access there with the hope that over time, with added connections, traffic will continue to divert through various routes.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to recommend 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: 1) The site plan submitted must generally conform the site plan submitted for the special use permit. Commissioner Bakken seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Johnson, Laning, Levchak, Martin, Schell, Schwartz and Zent voting in favor of the motion.

Commissioner Van Duyne joined the meeting at this time.

PUBLIC HEARING - SPECIAL USE PERMIT (CHILD CARE FACILITY) AUDITOR'S LOTS A & B OF LOT 1, BLOCK 29, STEINS 4TH ADDITION (1910 EAST CAPITOL AVENUE)

Chair Schwartz called for the public hearing on a special use permit to allow an expanded child care center on Auditor's Lots A & B of Lot 1, Block 29, Steins 4th Addition. The property is located 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).

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 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. Hutchings said, based on these findings, staff recommends approval of the special use permit to allow an 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.

Commissioner Schell asked what the pick-up and drop-off scenarios might look like with the expansion of the site.

Steve Arnold, Double A, LLC, said it will improve as there would be more access points with one entrance and one exit so as to avoid visitors having to cross back and forth in the parking area. He said the most activity would be in the morning and at the end of the day, so there should not be any new impacts on the adjacent neighborhood.

Chair Schwartz opened the public hearing.

Written comments in opposition to the request are attached as Exhibit B.

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 an 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. Commissioner Laning seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Johnson, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT (ACCESSORY DWELLING UNIT) LOT 10, BLOCK 3, BOULDER RIDGE 6TH ADDITION

Chair Schwartz called for the public hearing on a 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. The property is located 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).

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

Commissioner Levchak asked if this is a new construction home with additional living quarters why an extra permit is required.

Mr. Nairn said the unit is considered to be separate from the rest of the home and includes all of the needs of separate residential unit.

Chair Schwartz opened the public hearing.

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

Commissioner Bitner asked if the restriction regarding the ADU needing to be owner occupied stays with the property.

Mr. Nairn said that is correct and added that it would not be by deed but rather by ordinance so it would be the same as an overoccupancy violation if it is not owner occupied. He said enforcement of any issues would essentially be complaint based.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to recommend 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. Commissioner Bakken seconded the motion and the motion was unanimously approved with Commissioners Bakken, Bitner, Johnson, Laning, Levchak, Martin, Schell, Schwartz, Van Duyne and Zent voting in favor of the motion.

OTHER BUSINESS

Commissioner Bakken said the ribbon cutting was held for the new EV charging stations at both the Bismarck Airport and the Convention and Visitors Bureau, both of which were funded by the City's VW settlement project. He said staff did a lot of diligent work to procure the funds, especially Mr. Hutchings, and it took a lot of man hours to bring it to fruition with no expense to the community.

Commissioner Laning asked what the cost will be to charge a vehicle at one of the stations. Mr. Hutchings said the current rate is a five-dollar connection fee plus twenty-five cents per kilowatt hour of use.

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 5:52 p.m. to meet again on August 25, 2021.

Respectfully submitted,

_____
Hilary Balzum
Recording Secretary

_____
Mike Schwartz
Chair

DRAFT

From: William Hutchings
To: Hilary Balzum
Subject: FW: 1st community CU coffee shop
Date: Friday, July 23, 2021 8:32:28 AM

-----Original Message-----
From: Curtis Hojian <[redacted]>
Sent: Thursday, July 22, 2021 8:47 PM
To: William Hutchings <whutchings@bismarcknd.gov>
Subject: 1st community CU coffee shop

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

I run a business in the area and have a few concerns about a coffee shop in the congested area. I am also glad it should increase car count in the area!! I run NWTIRE right down the street. We love coffee so we will patronize this new business.

#1 I feel Weiss has gotten busy enough to start controlling the traffic in the area. It has not changed in 10 years for sure. 11th and Weiss pretty much a uncontrolled intersection. Not to many people really stop or yield for the yield sign. Should be a stop sign and get enforced on 11th! Trees need to be trimmed by boot barn.

#2 Weiss turning that turns to 10th and Calgary also needs to be painted. Cars pull up going north on 10th and are way left in there lane because of the design of that intersection. If coming west on Calgary and turning left onto 10th sometimes you can't get turned because cars are to far left in there lane. And I know I see at least half dozen accidents there every winter. BUSES really have a issue turning right off of Calgary going east turning north onto 10th

#3. School traffic is crazy and triples at a minimum for sure. We push cars and buses off the curb every year at nwtire! Which helps for alignments. Haha

#4. The menards corner. I have no real good ideas for that intersection. But I do know adding coffee shop and cars will make that worse then it is! Maybe eliminate the access in/out of menard which is the west side of Weiss ave Taco Bell 1st comm Menards intersection. Would lessen the confusion at that intersection.

The 10th and Calgary and 11th and Weiss would be a cheap and easy fix to guide and get traffic to stop completely at intersections.

If you wanted to stop by and talk we could walk to these intersections and I could show you how they can be a mess. And gets worse once school starts!!

Anyway just concerned and have been putting off traffic concerns in the area for a few years. Now it's time to improve issues.

If you wanted to get together I know there is other business owners managers that would walk the area to brain storm traffic improvements

Thanks for reading and taking into consideration

Curt Hojian
NWTIRE
[redacted]

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Special use permit for Child Care Facility 1910 East Capitol Ave
Date: Wednesday, July 28, 2021 8:24:56 AM

From: >
Sent: Wednesday, July 28, 2021 3:42 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Special use permit for Child Care Facility 1910 East Capitol Ave

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

There is already First Steps Learning Center on the corner.Since they added the big addition just last year the parking problem along the curbside has gotten worse. People from their daycare park all along the curve the stop light going east and west lets 2 cars 3 at the most get through before it changes. Then there is the school traffic and the bus stop on the corner of 1925 East Capitol Ave. The 2 Apartment Complexes where everyone living over there has multiple vehicles parking on both sides of the street blocking our mailboxes so the post office doesn't deliver our mail especially on Saturdays. How are the owners in the TRIPLEX'S suppose to get out of our driveways? Backing up into the street to get past one daycare is more than enough let alone TWO ! Shelley Stewart owner 1927 East Capitol Ave

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 7/2021

	**********City**********				**********ETA**********			
	7/2021		**7/2020**		**7/2021**		**7/2020**	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	23	$6,500,391.17	16	$3,931,123.22	6	$1,950,368.45	5	$1,785,647.04
ROWHOUSE (2) 1-HR FIRE SEPARATION	17	$3,218,842.75	8	$1,673,320.10	0	$0.00	0	$0.00
2-UNIT DUPLEX OR CONDO	0	$0.00	1	$285,873.04	0	$0.00	0	$0.00
THREE OR FOUR UNIT	0	$0.00	1	$201,872.70	0	$0.00	0	$0.00
MULTI FAMILY RESIDENTIAL	0	$0.00	13	$1,500,000.00	0	$0.00	0	$0.00
MANUFACTURED HOMES	4	$0.00	6	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	2	$79,673.25	1	$50,000.00	2	$81,401.80	5	$265,475.34
DETACHED GARAGE	2	$19,600.00	6	$212,586.00	6	$255,900.00	11	$400,463.50
DECKS\PORCHES & COVERED PORCHES	10	$94,615.25	25	$96,825.81	1	$2,520.00	3	$14,175.00
SWIMMING POOLS	5	$413,471.00	2	$127,387.00	0	$0.00	1	$76,000.00
RESIDENTIAL ALTERATION/OTHER	5	$318,686.42	4	$70,807.00	0	$0.00	1	$500.00
HOME OCCUPATION	0	$0.00	2	$0.00	0	$0.00	0	$0.00
STORAGE SHED	1	$2,880.00	2	$6,678.00	0	$0.00	1	$2,160.00
BASEMENT FINISH	3	$57,187.00	7	$404,494.89	0	$0.00	0	$0.00
FIREWORKS SALES	0	$0.00	0	$0.00	0	$0.00	1	$0.00
NEW SIGN PERMITS	6	$123,880.00	12	$226,285.00	0	$0.00	0	$0.00
SIGN ALTERATION	0	$0.00	1	$14,000.00	0	$0.00	0	$0.00
COMMERCIAL NEW CONSTRUCTION	20	$5,812,541.00	5	$3,204,750.00	0	$0.00	0	$0.00
COMMERCIAL ADDITION	1	$2,325,000.00	0	$0.00	0	$0.00	0	$0.00
COMMERCIAL ALTERATION	3	$192,271.00	7	$732,400.00	0	$0.00	0	$0.00
Total	**102**	**$19,159,038.84**	**119**	**$12,738,402.76**	**15**	**$2,290,190.25**	**28**	**$2,544,420.88**

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 7/2021

	*******************City*******************				*******************ETA*******************			
	7/2021		**7/2020**		**7/2021**		**7/2020**	
Trade Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	83	$376,056.00	96	$60,000.00	0	$0.00	0	$0.00
BUILDING MECHANICAL	142	$1,145,041.98	179	$1,576,642.34	21	$208,457.00	20	$198,256.00
BUILDING PLUMBING	50	$1,974,040.88	43	$702,856.95	12	$183,710.00	7	$69,240.00
BUILDING SEPTIC	0	$0.00	0	$0.00	5	$0.00	6	$0.00
Total	**275**	**$3,495,138.86**	**318**	**$2,339,499.29**	**38**	**$392,167.00**	**33**	**$267,496.00**

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 7/2021

	*******************City*******************		*******************ETA*******************	
	7/2021	**7/2020**	**7/2021**	**7/2020**
Living Units	**Units**	**Units**	**Units**	**Units**
MANUFACTURED HOMES	4	4	0	0
Total	**4**	**4**	**0**	**0**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 7/2021

	**********City**********				**********ETA**********			
	7/2021		7/2020		7/2021		7/2020	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	114	$31,730,106.61	106	$26,844,038.32	41	$15,009,050.15	31	$9,774,255.63
ROWHOUSE (2) 1-HR FIRE SEPARATION	84	$17,807,688.59	22	$4,473,668.89	0	$0.00	2	$429,629.68
2-UNIT DUPLEX OR CONDO	0	$0.00	1	$285,873.04	0	$0.00	0	$0.00
THREE OR FOUR UNIT	0	$0.00	4	$1,005,872.70	0	$0.00	0	$0.00
MULTI FAMILY RESIDENTIAL	0	$0.00	13	$1,500,000.00	0	$0.00	0	$0.00
MANUFACTURED HOMES	7	$0.00	12	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	14	$596,667.77	8	$548,947.02	5	$415,448.60	11	$628,656.86
DETACHED GARAGE	17	$215,550.00	26	$576,497.25	40	$1,614,240.00	45	$1,664,810.50
DECKS\PORCHES & COVERED PORCHES	69	$310,404.70	109	$479,636.05	9	$45,864.00	13	$66,461.00
SWIMMING POOLS	7	$636,471.00	9	$515,497.00	5	$404,221.00	2	$138,500.00
RESIDENTIAL ALTERATION/OTHER	43	$1,482,725.53	25	$1,153,822.12	1	$38,000.00	7	$184,575.00
HOME OCCUPATION	3	$0.00	3	$0.00	1	$0.00	2	$0.00
STORAGE SHED	15	$47,980.00	9	$58,220.00	1	$2,880.00	4	$10,800.00
BASEMENT FINISH	61	$1,445,361.00	55	$1,119,107.14	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	12	$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	63	$998,472.16	65	$941,014.00	0	$0.00	2	$1,175.00
SIGN ALTERATION	14	$245,697.00	14	$177,105.00	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	65	$59,220,149.21	16	$69,123,856.00	1	$450,000.00	5	$0.00
COMMERCIAL ADDITION	5	$4,662,176.00	4	$1,582,716.00	0	$0.00	0	$0.00

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 7/2021

	*******************City*******************				*******************ETA*******************			
	7/2021		**7/2020**		**7/2021**		**7/2020**	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
COMMERCIAL ALTERATION	59	$23,157,581.86	80	$28,580,946.07	0	$0.00	1	$37,811.28
Total	**651**	**$142,557,031.43**	**593**	**$139,002,816.60**	**119**	**$18,148,564.75**	**147**	**$13,083,084.45**

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	**********City**********				**********ETA**********			
	7/2021		**7/2020**		**7/2021**		**7/2020**	
Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	585	$458,717.15	563	$223,498.00	0	$0.00	0	$0.00
BUILDING MECHANICAL	901	$9,258,348.83	781	$13,751,172.80	86	$797,816.47	109	$1,295,296.03
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	261	$8,513,903.92	224	$10,614,240.31	67	$1,710,089.00	42	$1,232,759.18
BUILDING SEPTIC	0	$0.00	0	$0.00	17	$24,000.00	18	$6,850.00
Total	**1747**	**$18,230,969.90**	**1569**	**$24,611,911.11**	**170**	**$2,531,905.47**	**170**	**$2,537,905.21**

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	*******************City*******************		*******************ETA*******************	
	7/2021	**7/2020**	**7/2021**	**7/2020**
Living Units	**Units**	**Units**	**Units**	**Units**
MANUFACTURED HOMES	6	10	0	0
Total	**6**	**10**	**0**	**0**