PLANNING AND ZONING COMMISSION

MEETING AGENDA
September 22, 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 August 25, 2021 meeting of the Bismarck Planning & Zoning Commission

CONSENT AGENDA
CONSIDERATION

The following items are requests for public hearings.

2. **Lot 3, Block 1, Capital Electric Headquarters Addition and Lot 3, Block 1, Buffalo Jump Addition** (WH)……..1

   Zoning Change (CG & PUD to CG & PUD) | ZC2021-010

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

3. **Auditor's Lot 12 and Parts of Auditor's Lots 11, 17, 18, 19 and 20, Park Hill Auditor's Lots** (Klee)……..…….**15**

Zoning Change (CG to RMH) | ZC2021-011

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

REGULAR AGENDA

PUBLIC HEARINGS

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

4. **Blocks 11 and 12, Northern Pacific Addition** (DN)……..……..22

Zoning Change (RT, RM & PUD to DF) | ZC2021-009

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

5. **Part of Auditor's Lot A of the N½ of the NW¼ of Sec 26, T139N-R80W/ City Lands (will be Lot 3, Block 1, Fairview Cemetery Addition)** (DN)……....33

Special Use Permit (Crematorium) | SUP2021-020

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

OTHER BUSINESS

6. **Update on Boden Addition**

7. **Other**

ADJOURNMENT

8. **Adjourn.** The next regular meeting date is scheduled for October 27, 2021.

Enclosures: Meeting Minutes of August 25, 2021
Building Permit Activity Month to Date Report for August 2021
Building Permit Activity Year to Date Report for August 2021

BISMARCK PLANNING AND ZONING COMMISSION
PUBLIC HEARING PROCEDURE AND PROTOCOL

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

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

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

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

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

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

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

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

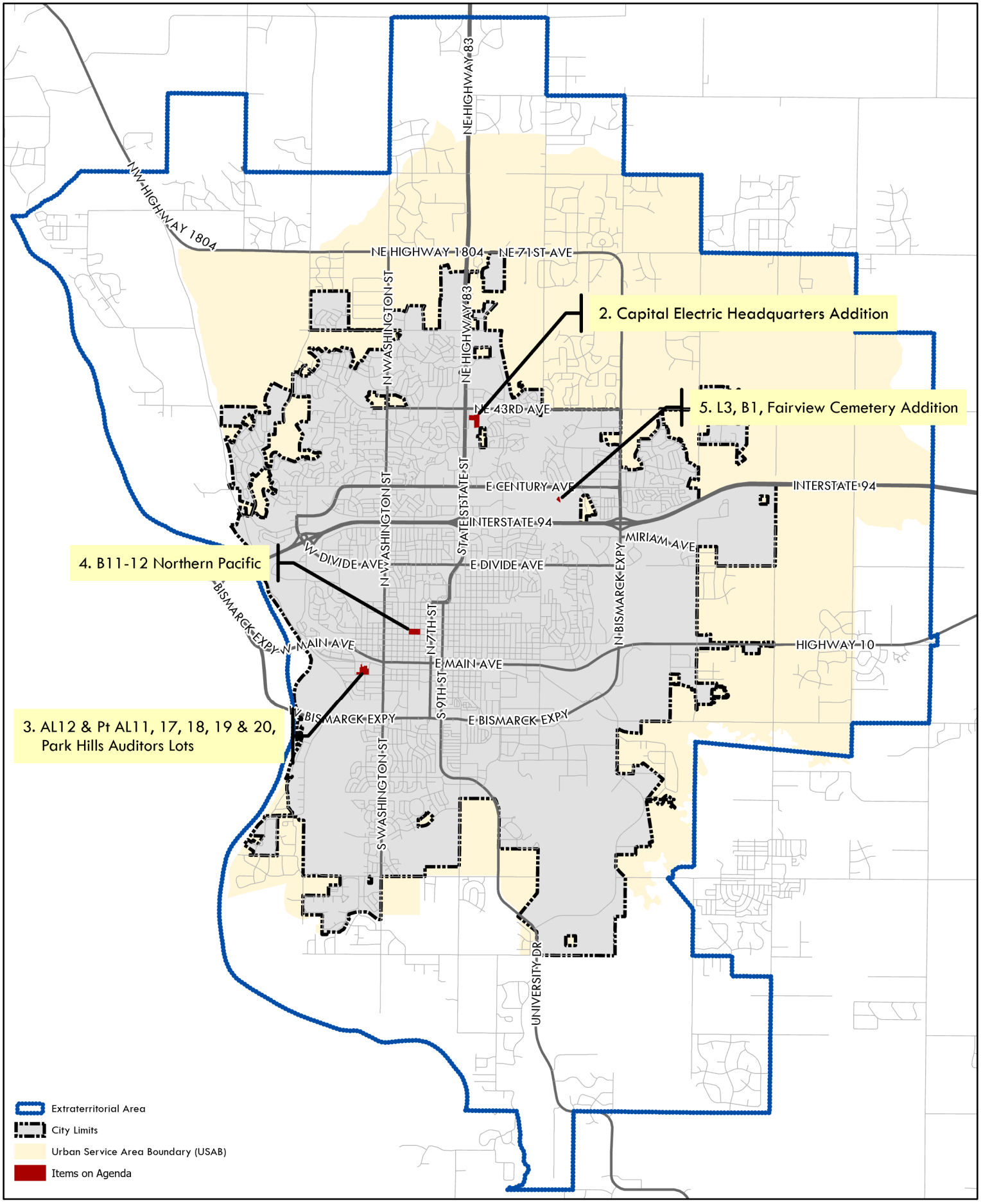
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions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

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

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

General Location Map

Bismarck Planning & Zoning Commission - September 22, 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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Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

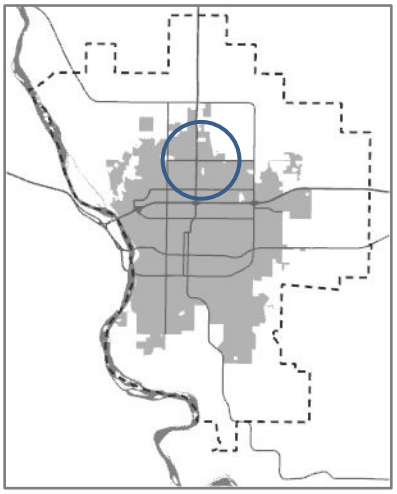
Agenda Item # 2
September 22, 2021

Application for: **Zoning Change**

Project ID: **ZC2021-010**

Project Summary

Title:	Lot 3, Block 1, Capital Electric Headquarters Addition and Lot 3, Block 1, Buffalo Jump Addition
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Capital Electric Cooperative
Project Contact:	Landon Niemiller, Swenson, Hagen & Co.
Location:	In north Bismarck, south of 43rd Avenue NE, along the east side of the State Street frontage road.
Project Size:	12.52 acres
Request:	Rezone previous Capital Electric Headquarters Addition and adjacent parcel for new development.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2 lots in 2 blocks	*Number of Lots:*	2 lots in 1 block
Land Use:	Vacant, offices and outdoor storage areas	*Land Use:*	Commercial, office and uses allowed in the PUD
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 CG – Commercial	*Zoning:*	PUD – Planned Unit Development CG – Commercial
Uses Allowed:	PUD – Uses specified in PUD CG – General commercial, multi-family residential, and offices	*Uses Allowed:*	PUD – Uses specified in PUD CG – General commercial, multi-family residential, and offices
Max Density:	PUD – Density specified in PUD CG – 42 units / acre	*Max Density:*	PUD – Density specified in PUD CG – 42 units / acre

(continued)

Property History

Zoned:	Lot 3, Block 1, Capital Electric Headquarters Addition – 06/08 Lot 3, Block 1, Buffalo Jump Addition – 05/10	*Platted:*	Capital Electric Headquarters Addition – 03/08 Buffalo Jump Addition – 03/11	*Annexed:*	Pre-1980

Staff Analysis

Capital Electric Cooperative is requesting approval of a zoning change from the PUD – Planned Unit Development and CG – Commercial zoning districts to the PUD – Planned Unit Development and CG – Commercial zoning districts for Lot 3, Block 1, Capital Electric Headquarters Addition and Lot 3, Block 1, Buffalo Jump Addition.

Adjacent uses include offices and mixed commercial and industrial uses to the north both adjacent and across 43rd Avenue NE; vacant land zoned CG – Commercial to the east, offices, hotel and vacant land zoned CG – Commercial to the south; and multi-family and public uses to the west across State Street/US Highway 83.

The proposed zoning change would accompany a replat to create new lots within this area that is forthcoming. The westernmost portion where the previous Capital Electric Headquarters are located would be rezoned to CG – Commercial and a new lot line is proposed. The northern most area that is currently vacant would also be rezoned to CG – Commercial and a new lot line is proposed.

These changes will allow for greater flexibility in uses than the PUD – Planned Unit Development zoning district currently allows. The middle and southernmost area will be zoned PUD- Planned Unit Development to allow for some industrial uses with limitations to ensure compatibility with adjacent uses.

The original PUD was created to accommodate Capital Electric uses as the city grew around it.

Staff has noted concerns with the continuation of industrial uses in an area predominately surrounded by CG – Commercial zoning and commercial use uses. Additional screening and/or landscape buffering may be required to mitigate these concerns.

A minor subdivision final plat is expected to be submitted and a public hearing on the proposed zoning changes would be scheduled in conjunction with a public hearing on the minor plat.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. At this point, it is unclear if 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;

(continued)

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 PUD – Planned Unit Development and CG – Commercial zoning districts to the PUD – Planned Unit Development and CG – Commercial zoning district for Lot 3, Block 1, Capital Electric Headquarters Addition and Lot 3, Block 1, Buffalo Jump Addition.

Attachments

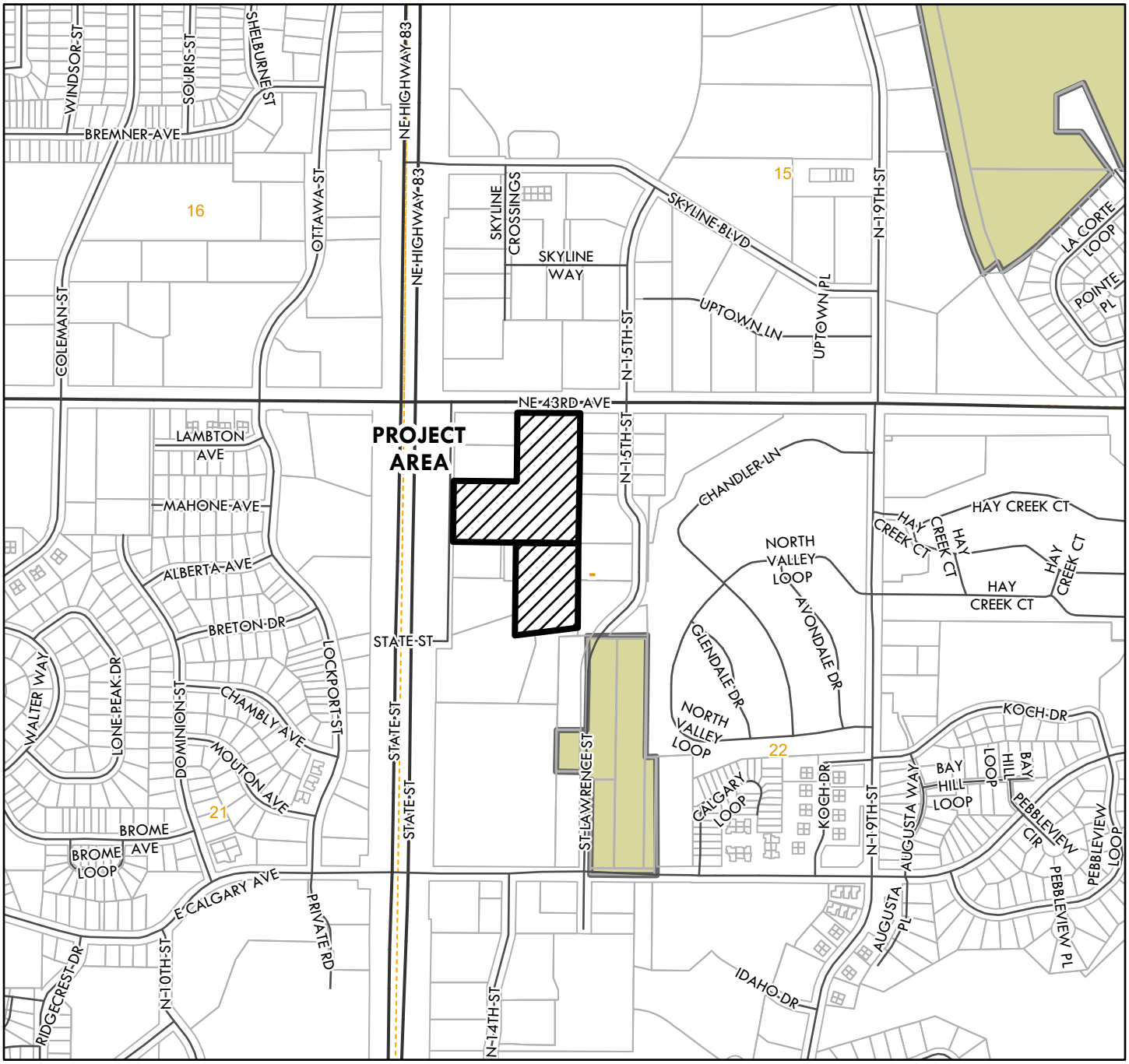
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Proposed Zoning Change Map
5. Applicant PUD Statement and Exhibit
6. Current PUD Document

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

Location Map

CAPITAL ELECTRIC HEADQUARTERS SECOND ADDITION

ZC2021-010



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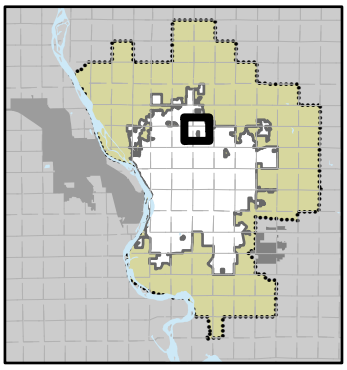


City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

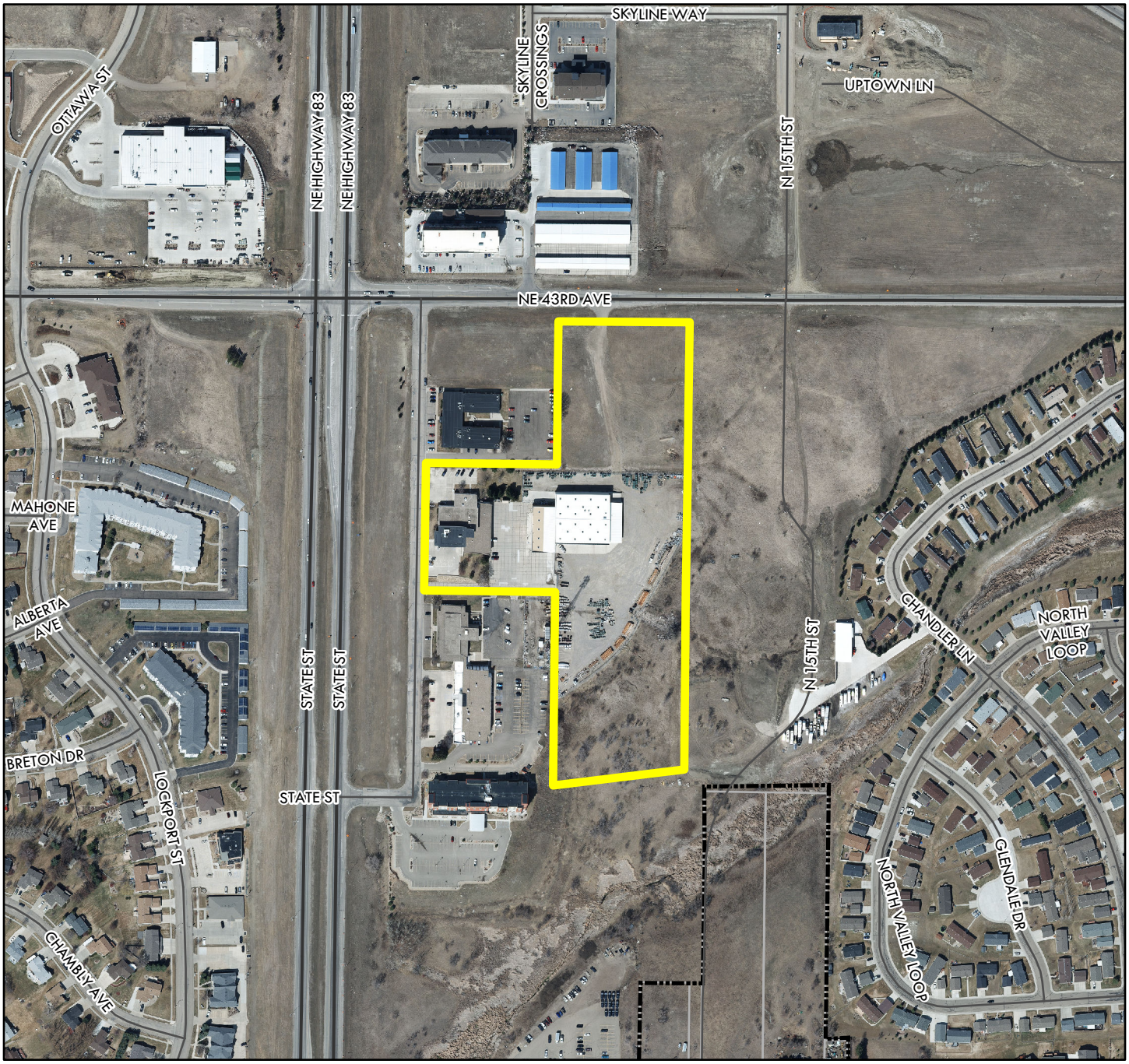
City of Bismarck
Community Development Department
Planning Division
August 23, 2021 (HLB)

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

Aerial Map

CAPITAL ELECTRIC HEADQUARTERS SECOND ADDITION

ZC2021-010



Miles

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City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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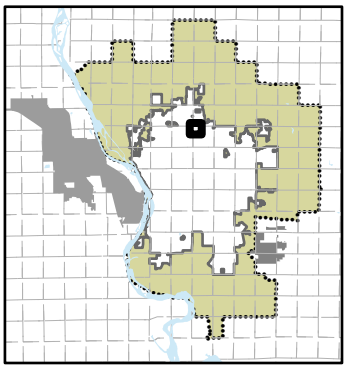


City of Bismarck
Community Development Department
Planning Division
September 14, 2021

Zoning and Plan Reference Map

CAPITAL ELECTRIC HEADQUARTERS SECOND ADDITION

ZC2021-010

Zoning Districts

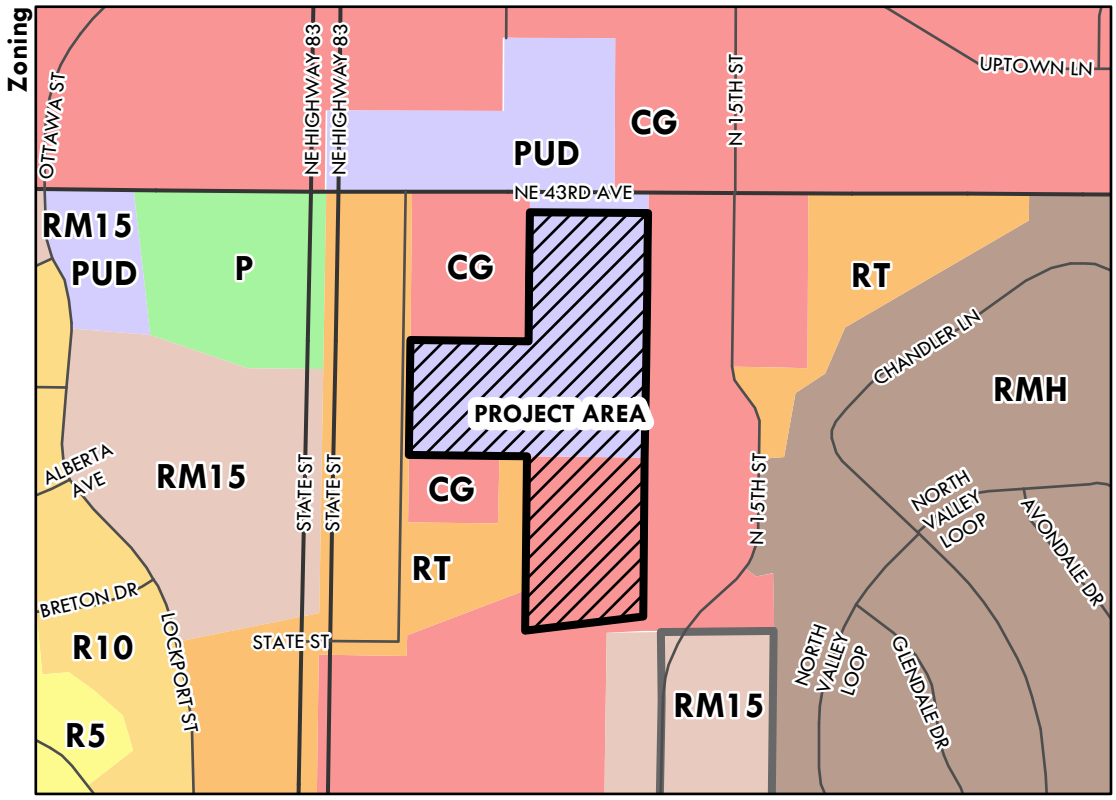
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

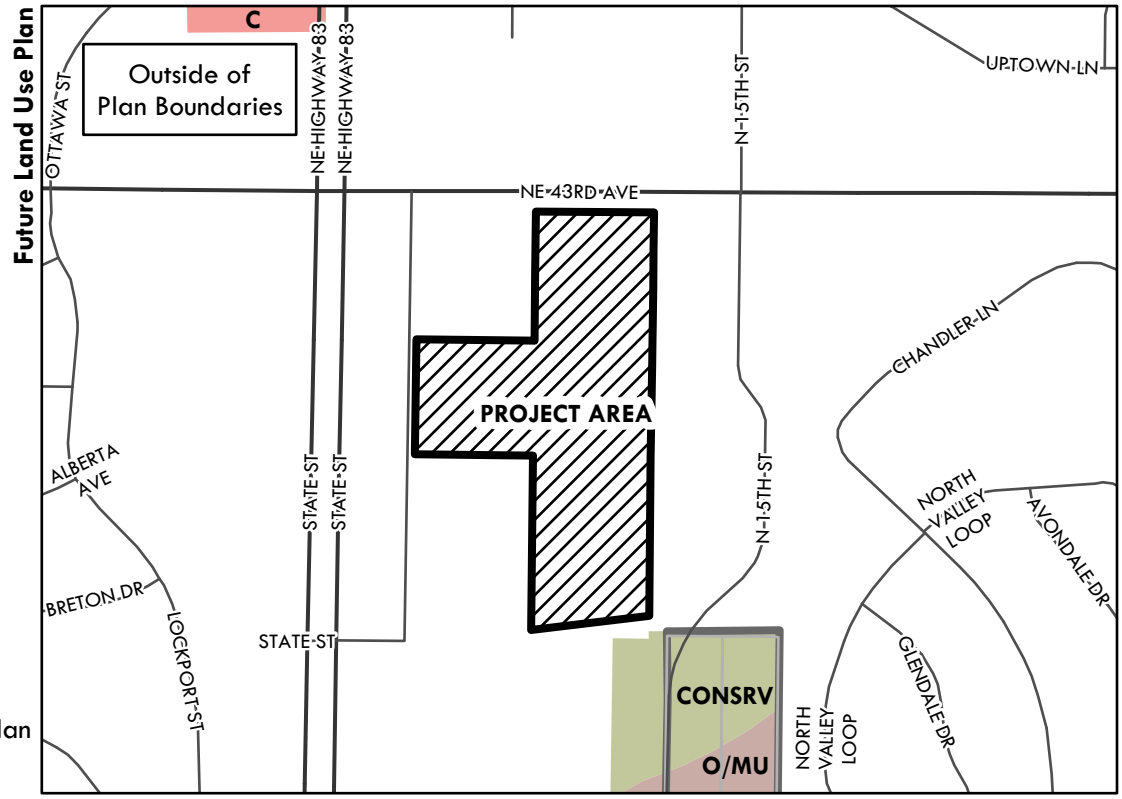
Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/ Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/ Mixed Use
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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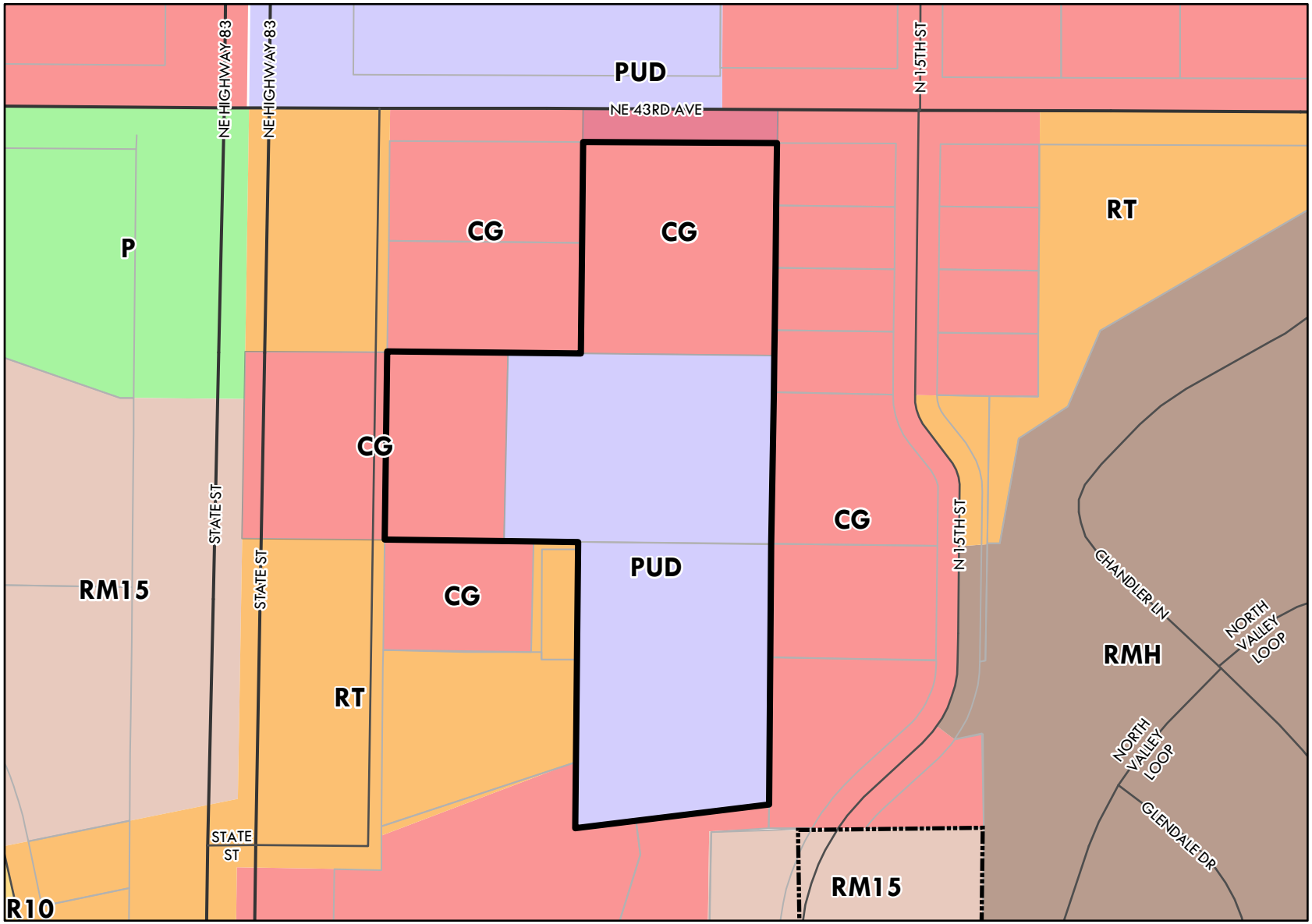
City of Bismarck
Community Development Dept.
Planning Division
September 14, 2021

Potential Zoning Change

CAPITAL ELECTRIC HEADQUARTERS SECOND ADDITION

Proposed New Zoning Map



Project Area (zoning within is proposed)

City Limits

Zoning Districts

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

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

0 0.07 0.15 0.3 Miles

City of Bismarck
Community Development Dept.
Planning Division
September 14, 2021

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

Capital Electric Headquarters Second Addition PUD Statement

Lot 3 Block 1 CEHA &

Lot 3 Block 1 Buffalo Jump Addition

Capital Electric Cooperative requests a zoning change from the existing PUD, Ordinance 5623, on Lot 3 Block 1 Capital Electric Headquarters Addition and from the CG zoning on Lot 3 Block 1 Buffalo Jump Addition, to a mix of PUD & CG zoning on a the replatted lots.

The above noted lots will be replatted into Capital Electric Headquarters Second Addition, as a three lot subdivision, as follows:

Lot 1, to be zoned CG, will be the northern portion of the existing Lot 3 Block 1 CEH, adjoining 43rd Ave, is an as-yet undeveloped portion of the property.

Lot 2, also to be zoned CG, contains the current office space of Capital Electric Cooperative, along the western edge of the property.

Lot 3, to be zoned PUD, or an amended PUD, contains the existing storage/warehouse area and will be combined with Lot 3 Block 1 Buffalo Jump Addition.

The PUD aspect of the zoning would be an amendment of the existing PUD to reflect the changes to the plat, and would allow the uses of Industrial Group A, as well as the uses typically associated with CG zoning. All dimensional, design, and development standards will conform to the existing PUD standards.

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

ORDINANCE NO. 5623
CORRECTIVE

First Reading	*June 10, 2008*
Second Reading	*June 24, 2008*
Final Passage and Adoption	*June 24, 2008*
Publication Date	*June 14 & 21, 2008*

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 THE CITY 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 RT – Residential district and included within the PUD – Planned Unit Development District.

Lot 3, Block 1, Capital Electric Headquarters Addition.

This PUD is subject to the following development standards:

1. *Uses Permitted.* The following uses are permitted within this PUD:

   a. Industrial group A, limited to 1) service center and storage buildings.

   All other uses not included in this list shall be prohibited.

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

3. *Use Standards.* All uses within this planned unit development shall conform to the following requirements:

   a. There is no unusual fire, explosion or safety hazard.

   b. There is no production of noise at any boundary of this district in which such use is located in excess of the average intensity of street and traffic noise at that point.

c. There is no emission of smoke in excess of any density described as No. One as measured by a standard Ringelmann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. Two on a Ringelmann Chart will be permitted for a period not in excess of four minutes in any thirty-minute period.

d. There is no emission of dust, dirt, or toxic or offensive odors or gas.

e. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.

f. There is no activity which produces electrical, electronic or radio frequency interference beyond the boundaries of the property on which the activity is located.

4. *Dimensional Standards.*

a. Front Yard Setback. The minimum front yard setback is 25 feet along the frontage road.

b. Side Yard Setback. The minimum side yard setback is 25 feet.

c. Rear Yard Setback. The minimum rear yard setback is 25 feet.

d. Height. The maximum building height is 50 feet.

e. Lot Coverage. The maximum lot coverage for buildings and required parking is 75% of the total lot area

5. *Design and Aesthetic Standards.*

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

b. Building Materials. All building facades must be designed with architecturally finished materials, with primary building materials being limited to modular masonry materials such as brick, stone or dimensional block; precast concrete or aggregate panels; stucco or stucco-like materials; or corrugated prefinished metal

architectural panels. If prefinished metal architectural panels are used, no more than 70% of any elevation facing a public right-of-way may consist of this material.

The following building types and materials are expressly prohibited: wood as an exterior wall finish, except where used as an accent material; and exposed, untextured, uncolored, unaugmented concrete (including poured in place, pre-cast concrete panels and concrete block).

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

c. Enclosed Building Requirement. All storage activity shall be conducted within a completely enclosed building except for outdoor storage areas specifically identified on the approved site plan.

d. Outdoor Storage Areas. Outdoor storage areas shall be subject to the building setback requirements; the storage area shall be fenced around its perimeter with a minimum six foot chain link fence; goods and materials shall be located on a paved or gravel surface; the outdoor storage area shall be maintained in an orderly fashion; the height of materials stored shall not exceed the height of the fence, with the exception that the height of materials may be increased to two times the fence height if the stored material is located no less than 30 feet from the fence; and the outdoor storage area shall not reduce the amount of required parking on the site.

6. *Development Standards.*

a. Accessory Buildings. Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure.

b. Parking and Loading. Parking and loading areas shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. All off-street parking spaces required and all driveways on private property leading to such parking

areas shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, recycled asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock or gravel shall not be considered an acceptable surfacing material. All parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement. Concrete perimeter curbing of the parking areas will not be required.

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

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

e. Signage. Signage for the development shall be installed in accordance with the provisions of Chapter 4-04 of the City Code of Ordinances (Signs and Display Structures). Off-premise advertising signs (billboards) are specifically prohibited within this development.

7. *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.

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 RM30-Residential zoning district and included in the CG-Commercial zoning district:

Lots 9-12, Block 1, and Lots 1-4, Block 2, Capital Electric Headquarters Addition.

Section 3. 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 RT-Residential zoning district and included in the CG-Commercial zoning district:

Lots 1-2, 4-5, 7 & 8, Block 1, Capital Electric Headquarters Addition.

Section 4. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is here by amended to read as follows:

The following described property shall be excluded from the RMH-Residential zoning district and included in the RT-Residential zoning district:

Lots 6 & 7, Block 2, Capital Electric Headquarters Addition.

Section 5. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is here by amended to read as follows:

The following described property shall be excluded from the RMH-Residential zoning district and included in the CG-Commercial zoning district:

Lot 6, Block 1, Capital Electric Headquarters Addition.

Section 6. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is here by amended to read as follows:

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

Lot 5, Block 2, Capital Electric Headquarters Addition.

Section ~~2~~7. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section ~~3~~ 8. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

I, Keith J. Hunke, do hereby certify that I am the duly appointed, qualified Assistant City Administrator of the City of Bismarck, North Dakota and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of City Commissioners at its regular meeting of June 24, 2008

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 27th day of June, 2008.

(SEAL)

Keith J. Hunke, Assistant City Administrator

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

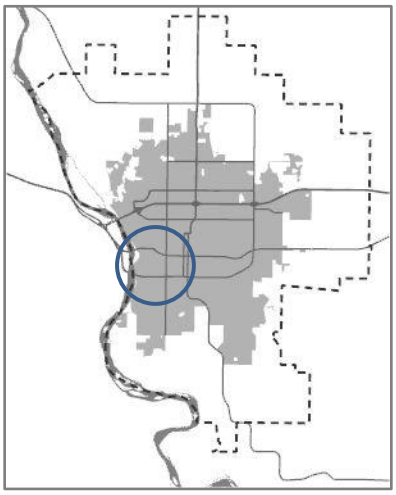
Agenda Item # 3
September 22, 2021

Application for: **Zoning Change**

Project ID: **ZC2021-011**

Project Summary

Title:	Auditor's Lot 12 and parts of Auditor's Lots 11, 17, 18, 19 and 20, Park Hill Auditor's Lots
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Bismarck MHP, LLC (applicant) Sanders & Sons Properties, LLC (owner)
Project Contact:	Gregory Tschider
Location:	In west-central Bismarck, south of Memorial Highway and west of South Washington Street at the intersection of West Sweet Avenue and South Griffin Street
Project Size:	8.51 acres
Request:	Rezone an existing manufactured home park to bring the zoning of the property more in line with the use of the property



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	3 parcels	*Number of Lots:*	3 parcels
Land Use:	Manufactured home park	*Land Use:*	Manufactured home park
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:*	RMH – Residential
Uses Allowed:	CG – General commercial, multi-family residential, and offices	*Uses Allowed:*	RMH – Manufactured home parks
Max Density:	CG – 42 units / acre	*Max Density:*	RMH – 7 units / acre

Property History

Zoned:	Pre-1980	*Platted:*	N/A	*Annexed:*	Pre-1960

(continued)

Staff Analysis

Bismarck MHP LLC and Sanders & Sons Properties LLC are requesting approval of a zoning change from the CG – Commercial zoning district to the RMH – Residential zoning district for Auditor's Lot 12 and parts of Auditor's Lots 11, 17, 18, 19 and 20, Park Hill Auditor's Lots.

Adjacent uses include a mix of commercial and low density residential uses to the north, the Municipal Ballpark to the east across South Hannifin Street, Kiwanis Park and low density residential to the south across West Sweet Avenue, and a mix of low density residential and commercial use to the west.

Parkview was established as a mobile home park in 1960, although the 1953 version of the zoning ordinance does not include any specific provisions for mobile home parks. It is possible that this use was originally allowed as a trailer coach park under the provisions in place at the time. The 1966 zoning ordinance identifies a mobile home park as a special use within the CG – Commercial zoning district. With a rewrite of the zoning ordinance in 1982, the RMH – Residential zoning district was added as a district in which the principal use of land is for single-family mobile and manufactured home dwellings in manufactured home parks. With the creation of this district, many of the community's manufactured home parks were subsequently rezoned to RMH; however, this park was not and became a non-conforming use within the CG – Commercial zoning district.

Rezoning this property to RMH – Residential will bring the zoning of the property more in line with the actual use of the property, although there will still be some non-conforming aspects. In addition, with the rezoning to RMH – Residential, new homes within the park could be placed in accordance with the recently-adopted contextual front yard setback provisions. This, in turn, would allow older outdated mobile homes on the property to be replaced with newer manufactured homes at the same front yard setback as the adjacent homes. As newer homes are longer than older homes, this option allows homes to be replaced when needed and preserves an affordable housing option within the community.

Required Findings of Fact (relating to land use)

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

(continued)

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing on the zoning change from the CG – Commercial zoning district to the RMH – Residential zoning district for Auditor's Lot 12 and parts of Auditor's Lots 11, 17, 18, 19 and 20, Park Hill Auditor's Lots.

Attachments

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

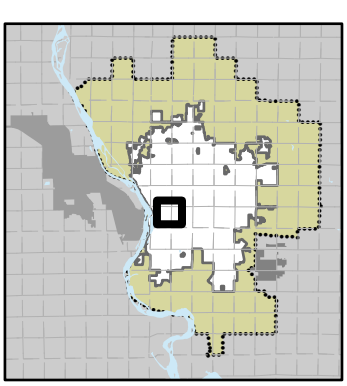
Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

Location Map

PARK HILL AUDITOR'S LOTS, PARTS OF LOTS 12 & 17-19

ZC2021-011

0 0.17 0.35 0.7 Miles



City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

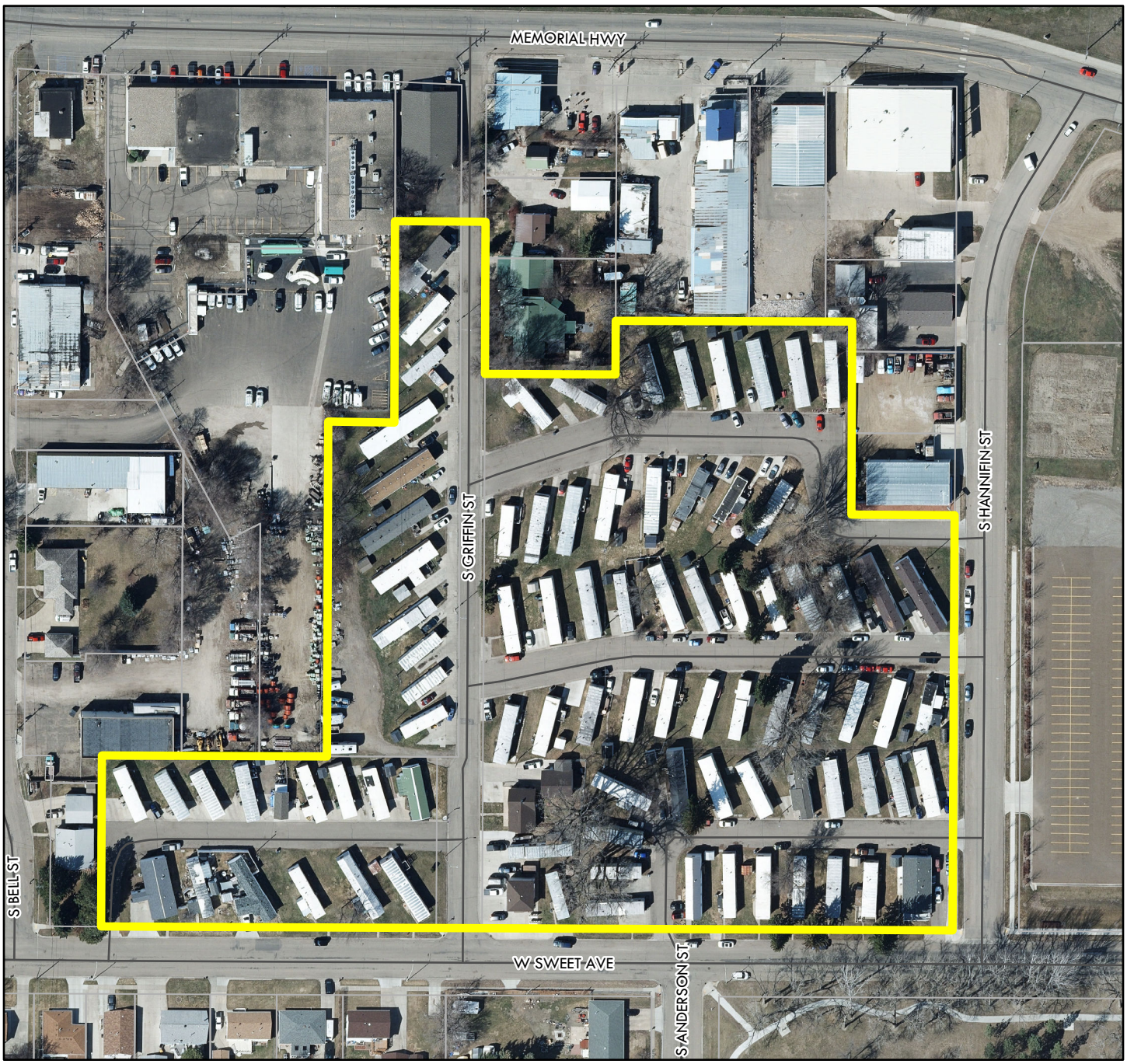
City of Bismarck
Community Development Department
Planning Division
August 23, 2021 (HLB)

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

Aerial Map

PARK HILL AUDITOR'S LOTS, LOT 12 & PARTS OF LOTS 12 & 17-20

ZC2021-011



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City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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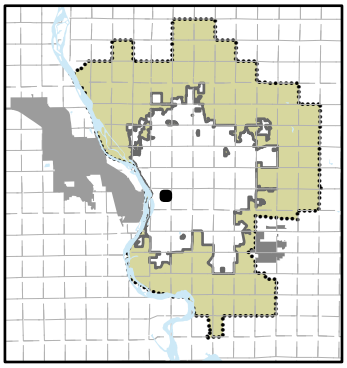


City of Bismarck
Community Development Department
Planning Division
September 16, 2021

Zoning and Plan Reference Map

ZC2021-011

PARK HILL AUDITOR'S LOTS, LOT 12 & PARTS OF LOTS 12 & 17-20

Zoning Districts

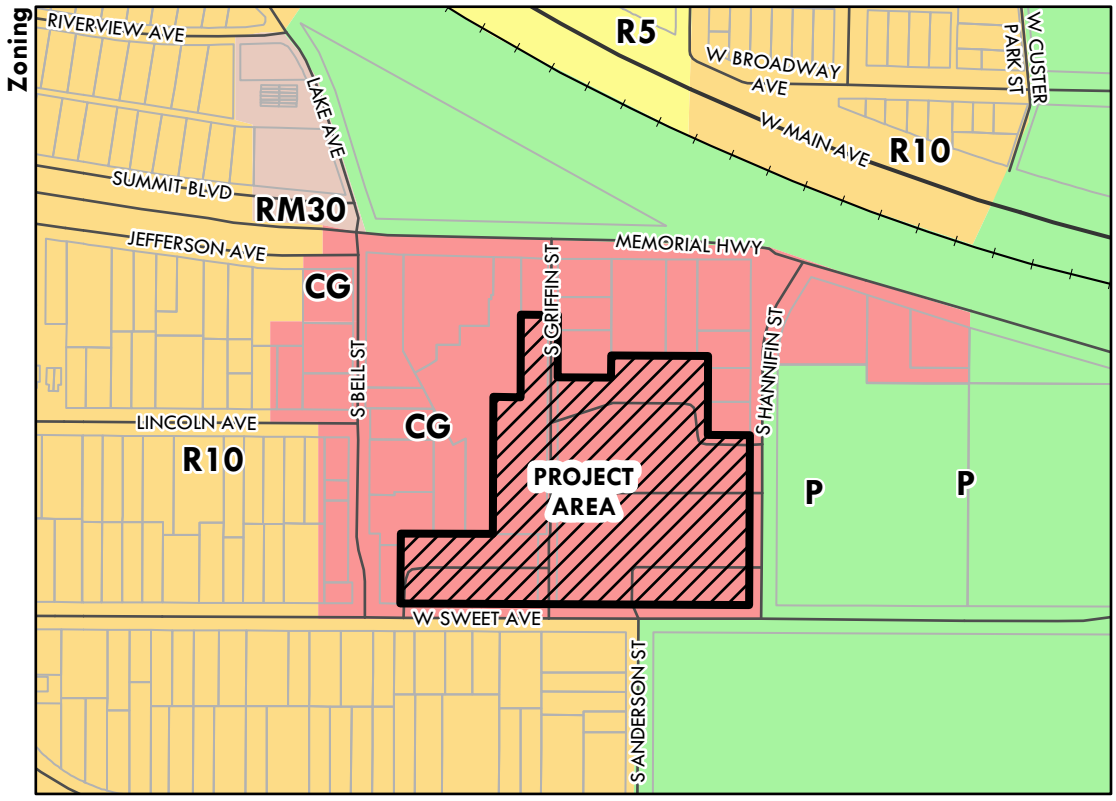
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

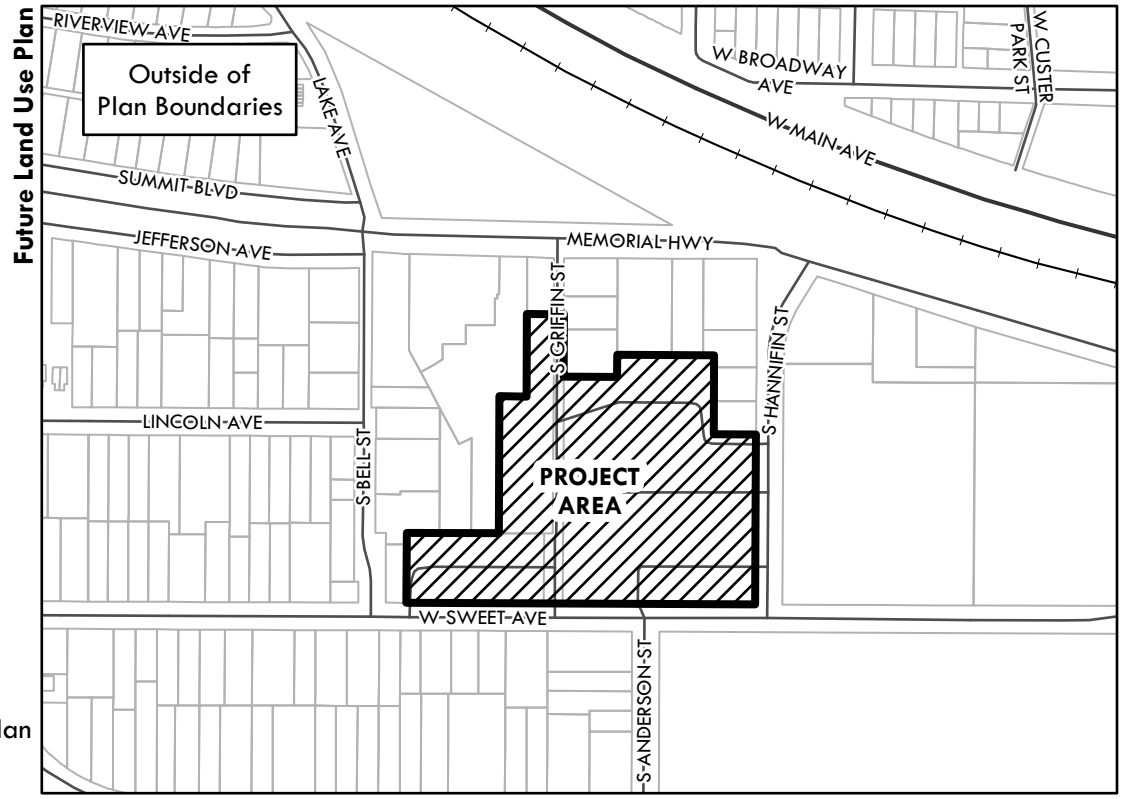
Future Land Use Plan

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 0.05 0.1 0.2 Miles

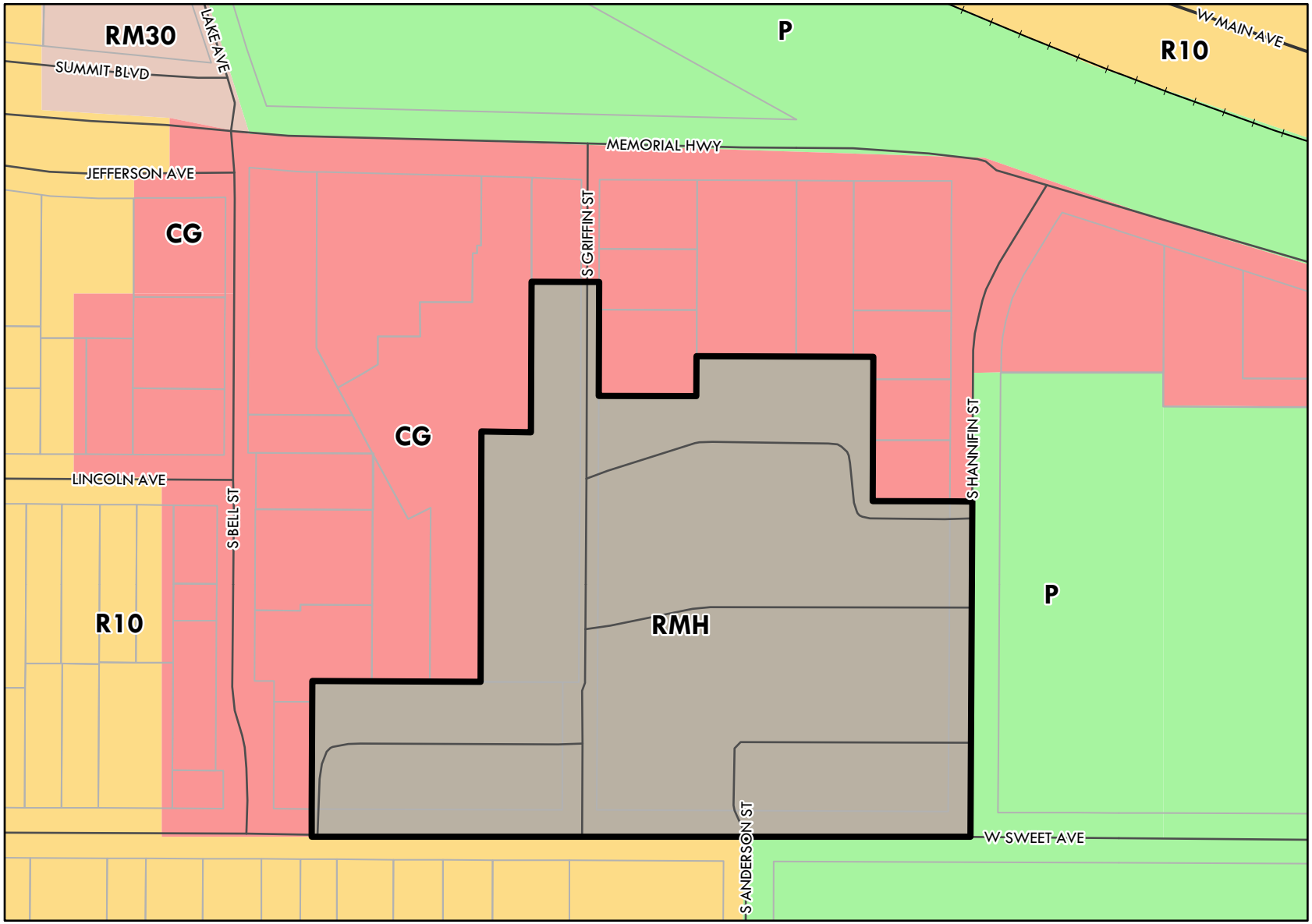
City of Bismarck
Community Development Dept.
Planning Division
September 16, 2021

Proposed Zoning Change

PARK HILL AUDITOR'S LOTS, LOT 12 & PARTS OF LOTS 12 & 17-20

ZC2021-011

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

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City of Bismarck
Community Development Dept.
Planning Division
September 16, 2021

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

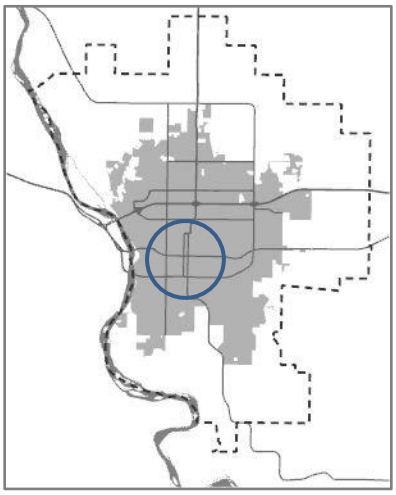
Agenda Item # 4
September 22, 2021

Application for: **Zoning Change**

Project ID: **ZC2021-009**

Project Summary

Title:	Blocks 11 and 12, Northern Pacific Addition
Status:	Planning & Zoning Commission – Public Hearing
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.

The Planning and Zoning Commission considered this request at their meeting of August 25, 2021 and called for a public hearing on this request.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on September 10th and September 17th, and 89 letters were mailed to the owners of nearby properties on September 10th.

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 multi-family 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. Owners were also notified in two additional letters of this public hearing.

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, which was built as a medical office but subsequently converted. 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

(continued)

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.

The proposed area includes two properties with historic significance. The Former Governor's Mansion, which is owned by the State Historical Society, is on the National Register of Historic Places. St. Georges Episcopal Church has a pending nomination to the National Register of Historic Places. The Downtown Fringe zoning district includes requirements to preserve the integrity of historic buildings and recommends following the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed 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 approval of the zoning change from the RT – Residential, RM30 – Residential, and PUD - Planned Unit Development zoning districts to the DF – Downtown Fringe zoning district for all of Blocks 11 and 12, Northern Pacific Addition.

Attachments

1. Draft Zoning Ordinance
2. List of Property Owners
3. Location Map
4. Aerial Map
5. Zoning and Plan Reference Map
6. Proposed Zoning Change Map
7. Comparison of RT, RM30, and DR Zoning Districts
8. 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

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 RT – Residential, RM30 – Residential, and Planned Unit Development (PUD) zoning districts and included in the DF - Downtown Fringe zoning district:

Lots 1-8, Block 11 and Lots 1-8, Block 12, Northern Pacific 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.

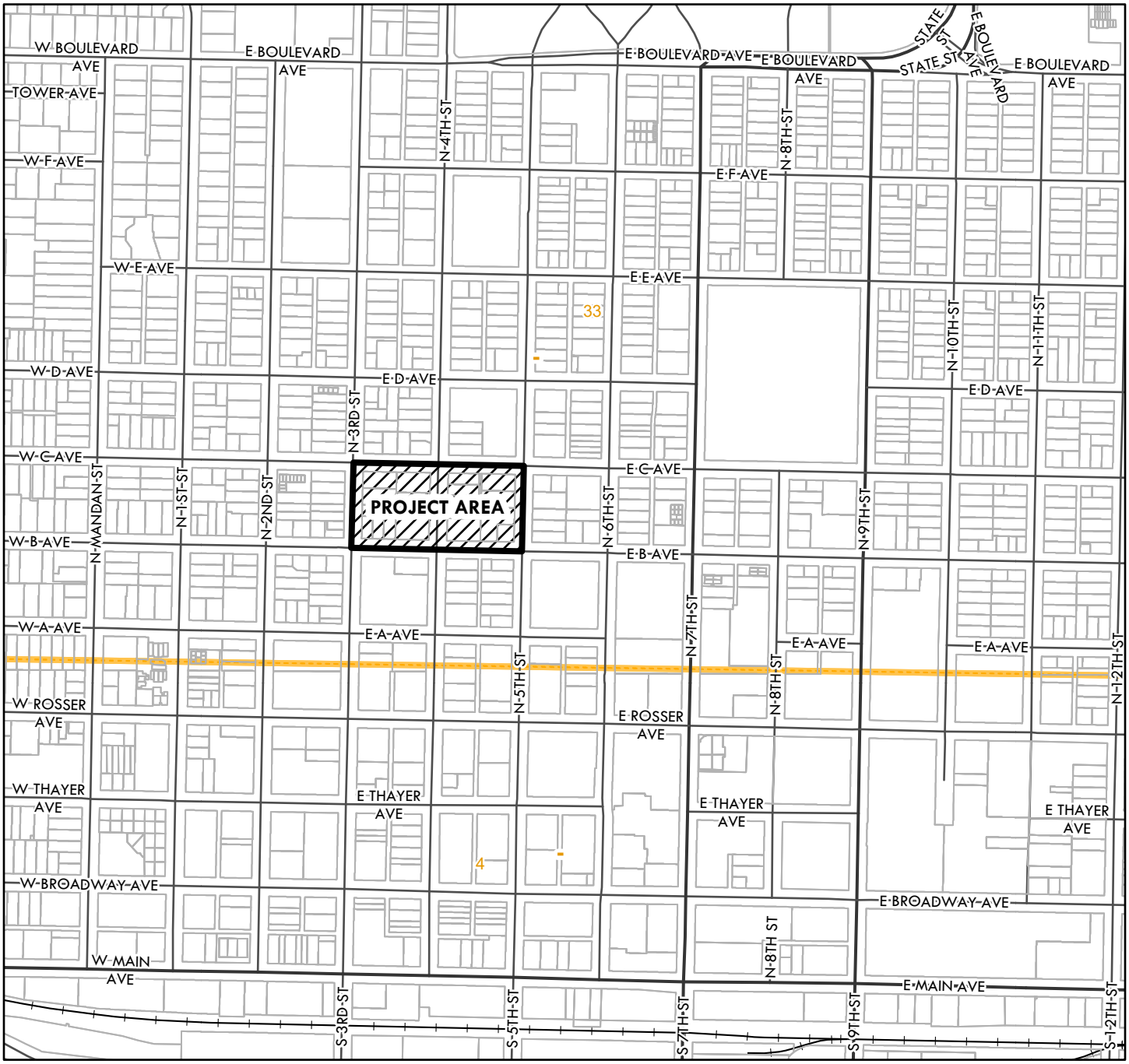
Property Owners within Proposed DF – Downtown Fringe Rezoning Area

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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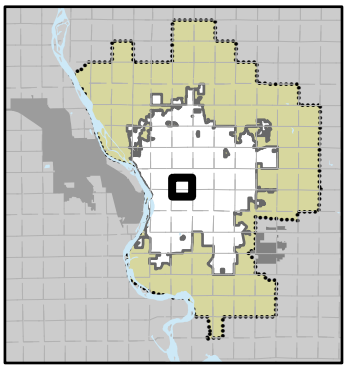

City Limits

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)

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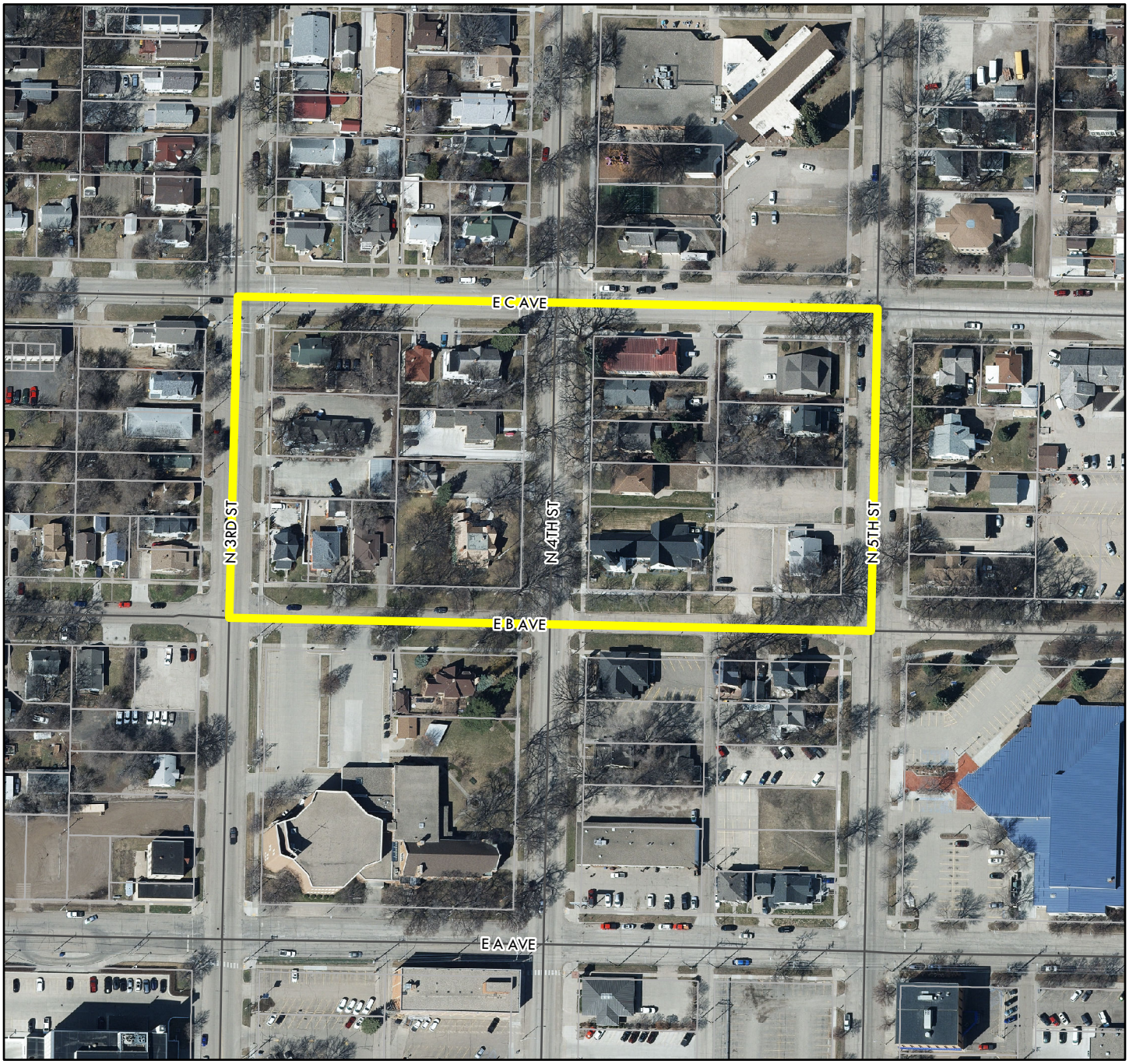
Aerial Map

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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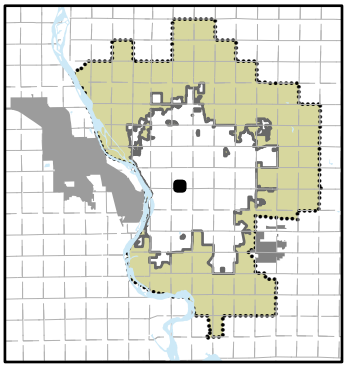

City of Bismarck
Community Development Department
Planning Division
July 21, 2021

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
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MB	Industrial
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DC	Downtown Core
DF	Downtown Fringe

Future Land Use Plan

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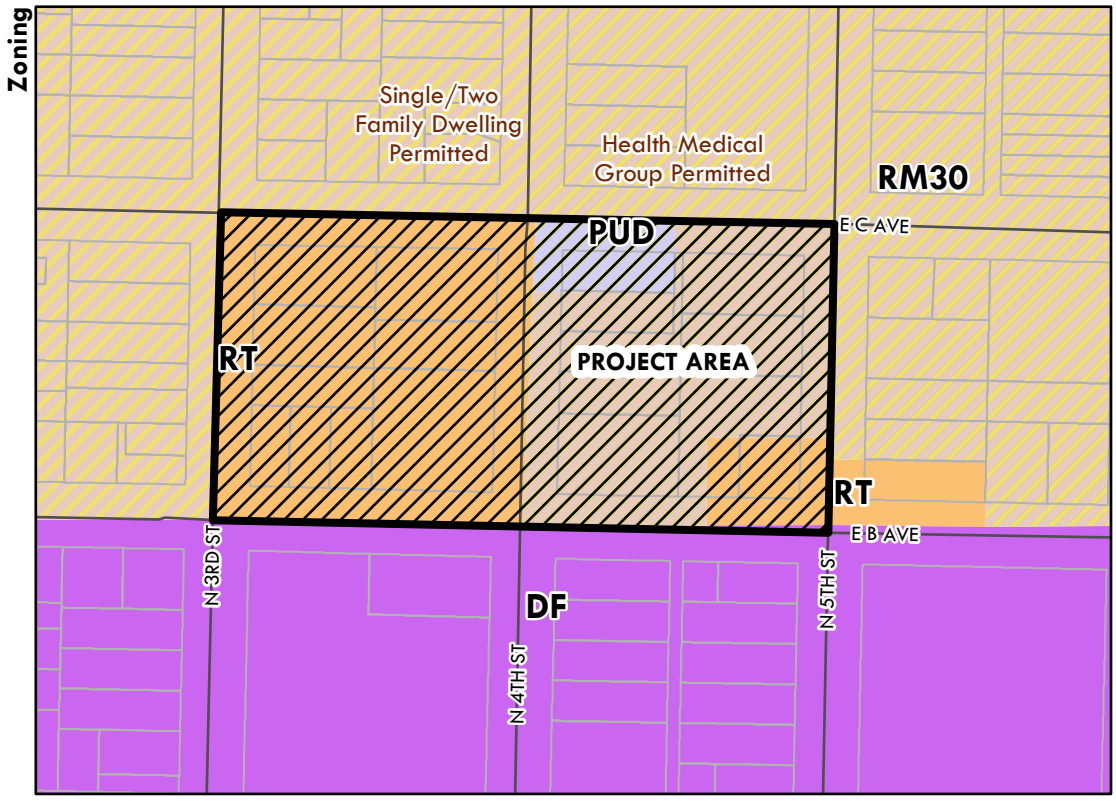
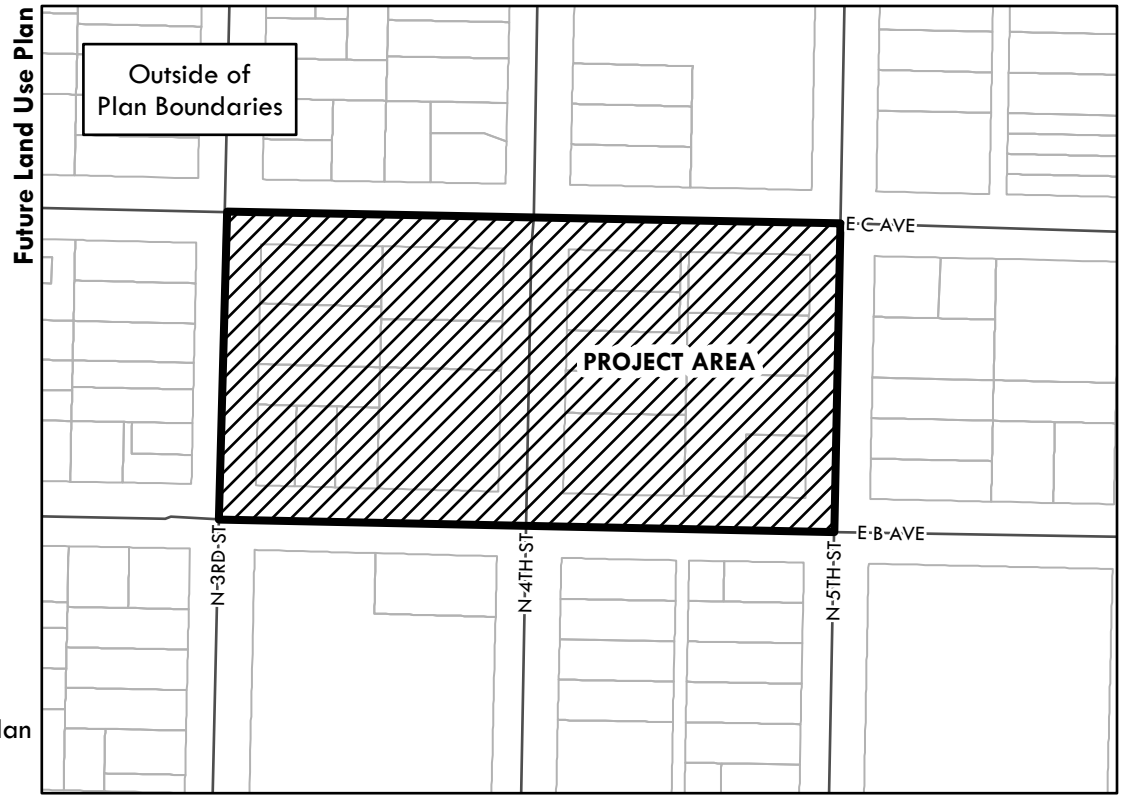
MDR-/MU	Medium Density Residential/ Mixed Use
O/MU	Office/ Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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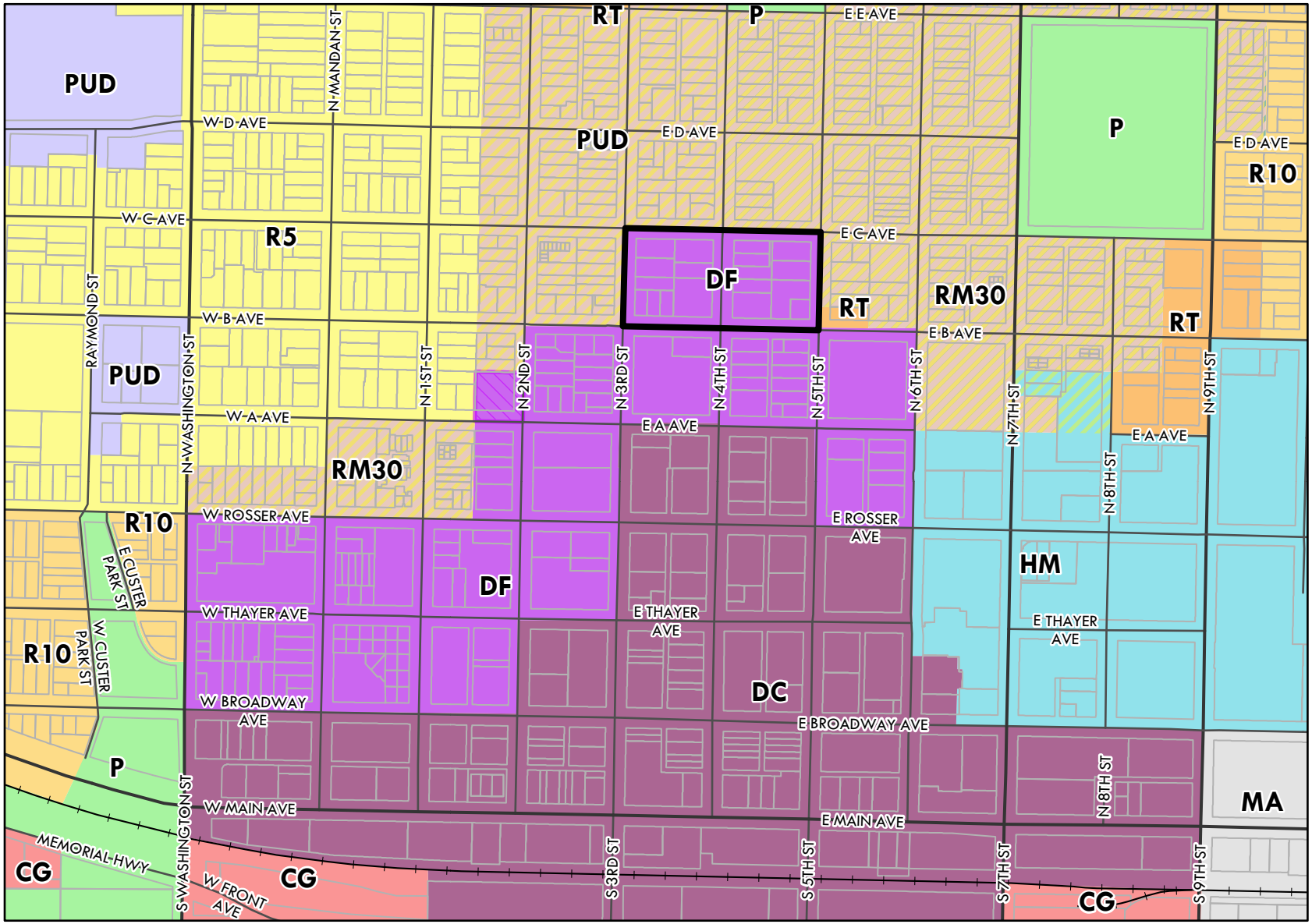
City of Bismarck
Community Development Dept.
Planning Division
July 21, 2021

Proposed Zoning Change

NORTHERN PACIFIC ADDITION, B11-12

ZC2021-009

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 0.17 0.35 0.7 Miles

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

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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

STAFF REPORT

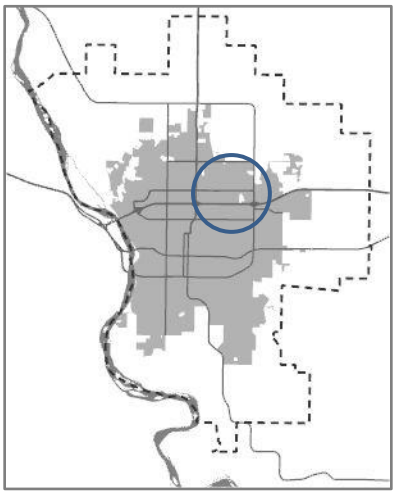
Agenda Item # 5
September 22, 2021

Application for: **Special Use Permit**

Project ID: **SUP2021-020**

Project Summary

Title:	Part of Auditor's Lot A of the N½ of the NW¼ of Sec 26, T139N-R80W/City Lands
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Fairview Cemetery, 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 (being platted as Lot 3, Block 1, Fairview Cemetery Addition)
Project Size:	58,875 SF pending lot size
Request:	Construct a crematorium as an accessory use to Fairview Cemetery



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	*Number of Lots:*	1 lot in 1 block
Land Use:	Undeveloped cemetery	*Land Use:*	Crematorium
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:	Pending	*Platted:*	Pending	*Annexed:*	Pre - 1980

(continued)

Staff Analysis

Vertin is requesting approval of a special use permit to allow a crematorium as an accessory use to Fairview Cemetery on Lot 3, Block 1 of the pending subdivision Fairview Cemetery Addition.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on September 10th and September 17th, and 89 letters were mailed to the owners of nearby properties on September 10th.

The proposed crematorium would be surrounded by Fairview Cemetery. Adjacent uses to Fairview Cemetery 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.

Section 14-03-08(4)(b) of the City Code of Ordinances (Cemetery) allows crematoriums as an accessory use to a cemetery in the P – Public zoning district with a Special Use Permit. The crematorium must be setback from the boundary of the lot by at least 50 feet.

Although the proposed crematorium and Fairview Cemetery will be on separate lots under different ownership, they are associated uses that share a site and the crematorium would be completed surrounded by the cemetery. Therefore, the crematorium may still be considered accessory to the cemetery as long as it continues to function a such. As measured from the lot of the cemetery, the proposed crematorium would be approximately 670 feet from the north boundary along Century Avenue. The distance to the southern boundary is approximately 510 feet, although this lot is currently undeveloped.

The Bismarck Fire Department has indicated that a hydrant would be required and the access road must be equipped to accommodate emergency vehicles. These issues will be addressed in more detail during the site plan review for this project.

Required Findings of Fact (relating to land use)

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

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit to allow a crematorium as an accessory use to Fairview Cemetery on Part of Auditor's Lot A of the N½ of the NW¼ of Sec 26, T139N-R80W/City Lands (being platted as Lot 3, Block 1, Fairview Cemetery Addition), with the following conditions:

(continued)

1. The plat for Fairview Cemetery Addition is recorded and the associated zoning change takes effect.
2. Adequate fire protection measures are provided prior to site plan approval.
3. The crematorium continues to function as accessory to the adjacent cemetery.

Attachments

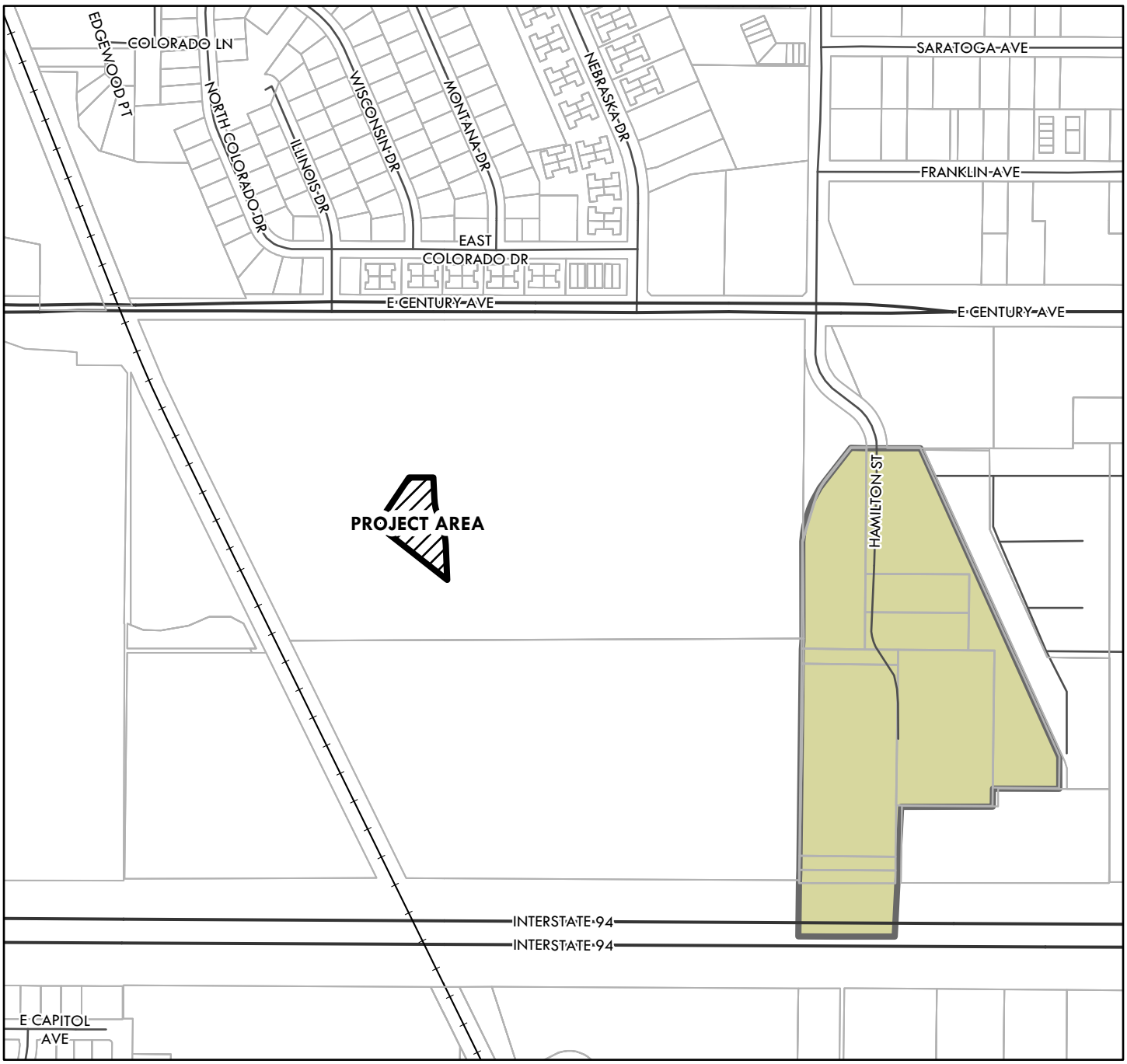
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan

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

Location Map

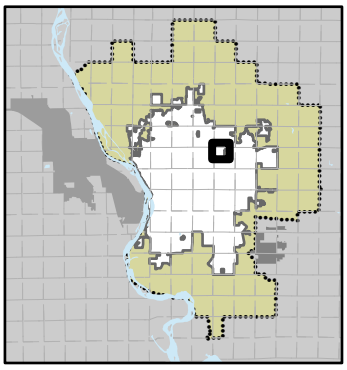
FAIRVIEW CEMETERY CREMATORIUM

SUP2021-020



0 0.13 0.25 0.5 Miles

N



City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

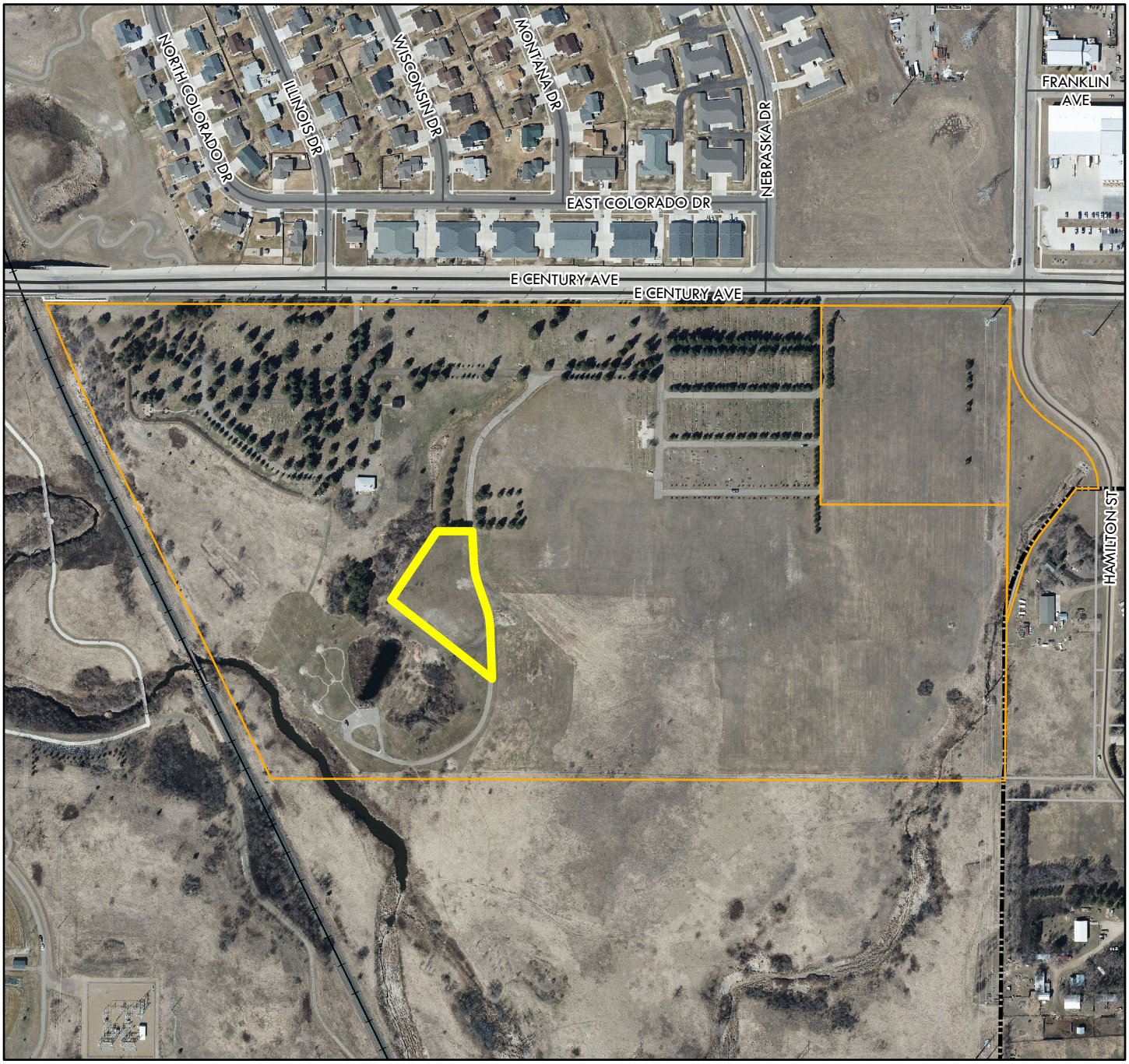
City of Bismarck
Community Development Department
Planning Division
September 9, 2021 (HLB)

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 CREMATORIUM

SUP2021-020



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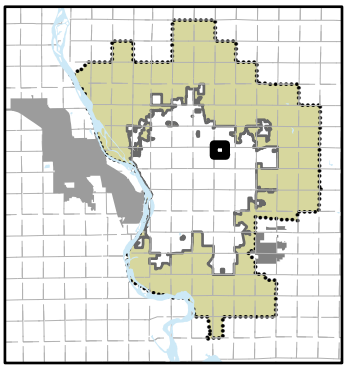
City Limits Bismarck ETA Jurisdiction

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
September 15, 2021

Zoning and Plan Reference Map

FAIRVIEW CEMETERY CREMATORIUM

SUP2021-020

Zoning Districts

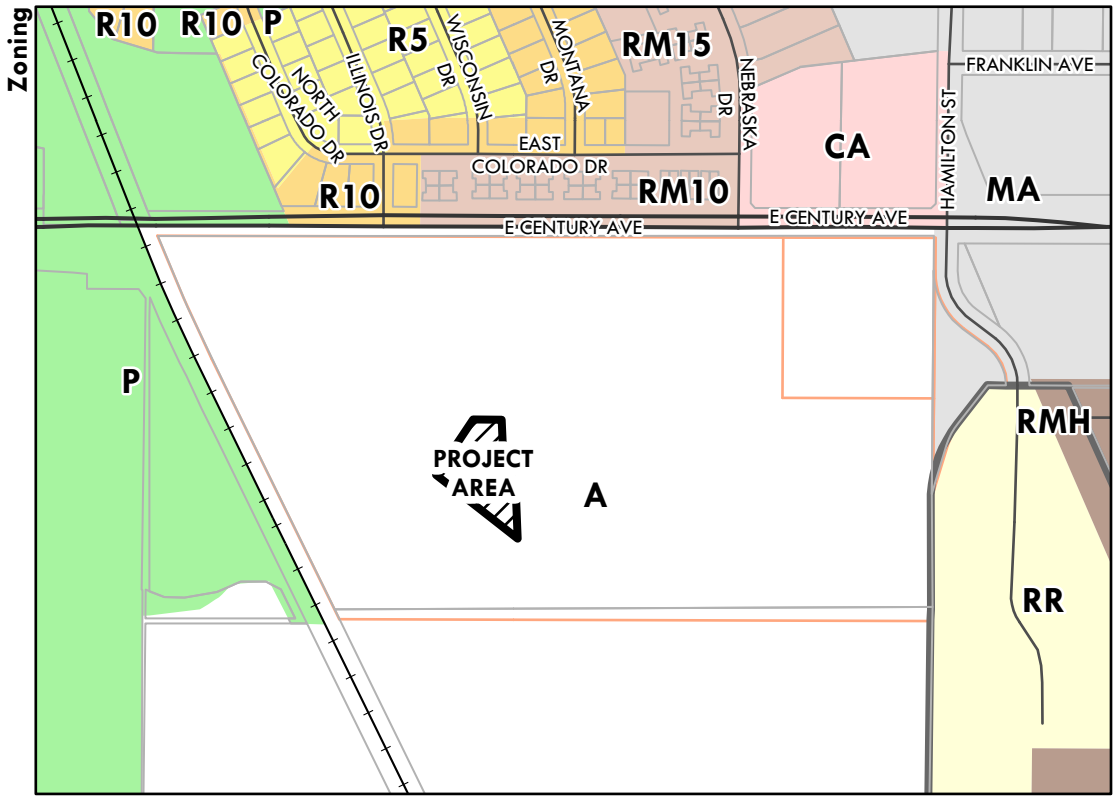
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

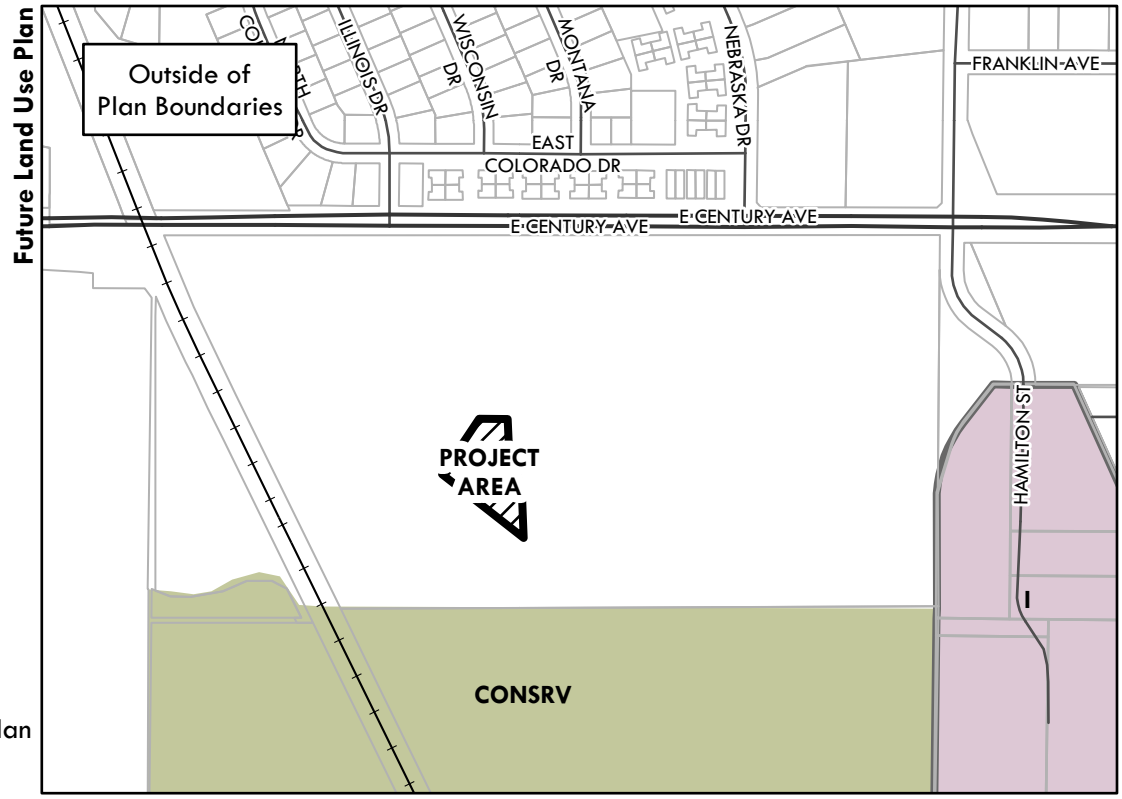
Future Land Use Plan

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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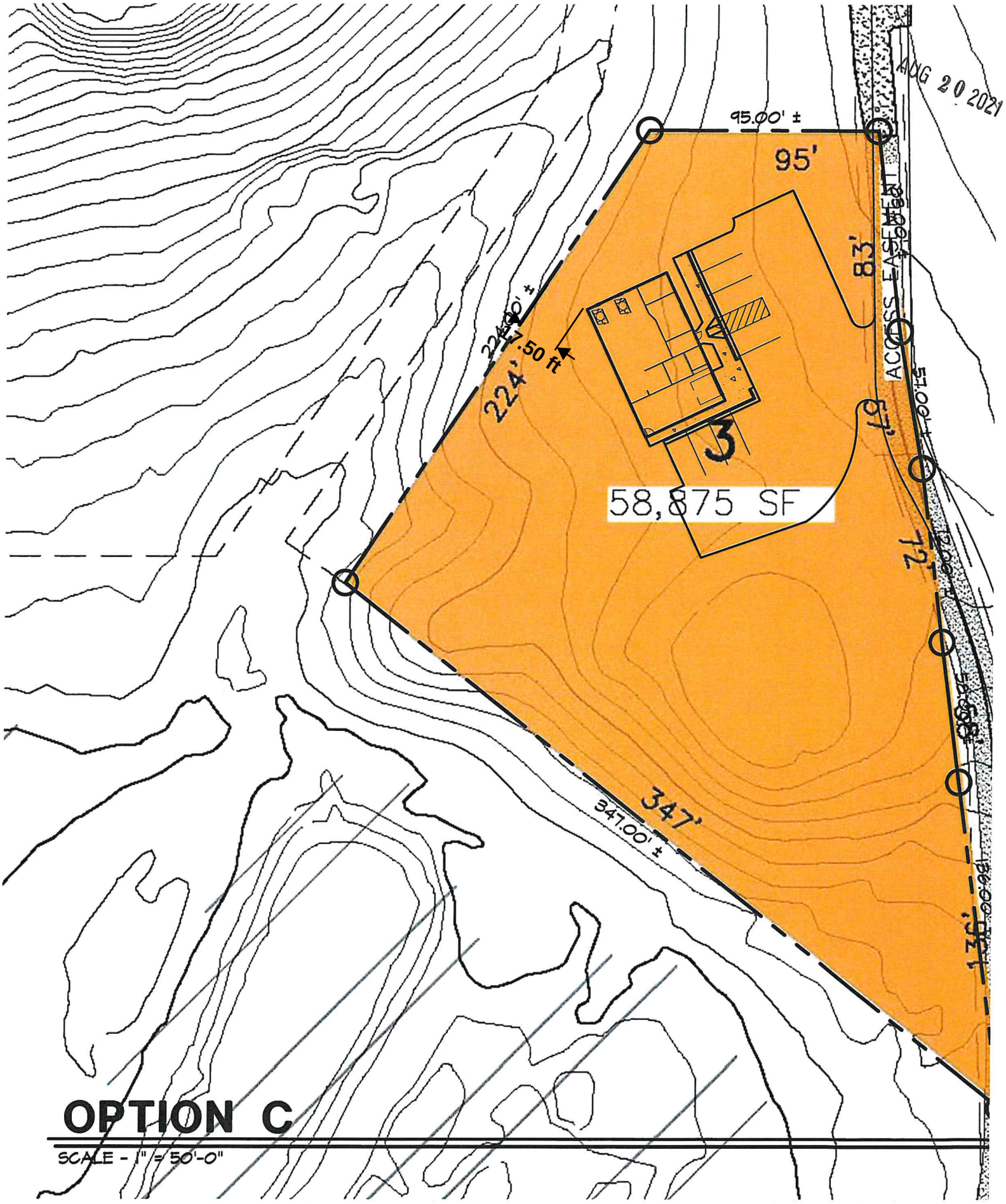
City of Bismarck
Community Development Dept.
Planning Division
September 15, 2021



OPTION C

SCALE - 1" = 50'-0"

BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
August 25, 2021

The Bismarck Planning & Zoning Commission met on August 25, 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, Cole Johnson, Paul Levchak, Kevin Martin, Gabe Schell, Mike Schwartz, Wendy Van Duyne and Paul Zent.

Commissioners Brian Bitner, Vernon Laning and Trent Wangen were absent.

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

MINUTES

Chair Schwartz called for consideration of the minutes of the July 28, 2021 meeting.

MOTION: Commissioner Bakken made a motion to approve the minutes of the July 28, 2021 meeting, as presented. Commissioner Zent seconded the motion and it was unanimously approved with Commissioners Bakken, Johnson, Levchak, Martin, Schell, Schwartz, Van Duyne and Zent voting in favor of the motion.

CONSIDERATION

2. BLOCKS 11 AND 12, NORTHERN PACIFIC ADDITION – ZONING CHANGE

Commissioner Levchak asked if this is final approval of the request. Chair Schwartz explained that this is only a consent item so a public hearing would need to be called for.

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

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

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

Mr. Nairn said 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 R5 – Residential and Conditional RT – Residential zoning districts. Numerous residents spoke and submitted written comments at that hearing.

He went on to explain that 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 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 a future meeting, and staff recommends continuing this item as requested. Mr. Nairn stated that another notification would be sent to adjacent property owners no less than 10 days prior to the public hearing, once it is scheduled.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson, Hagen & Co., said they would like to see the requests be continued for at least one more month, possibly two months, in order to tie up some loose ends.

Commissioner Bakken asked if any further meetings have been held with the adjacent neighborhood.

Mr. Niemiller said the green space proposal still needs to be discussed with the Bismarck Parks and Recreation District and once a determination has been made on that component another neighborhood meeting would be offered.

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

Commissioner Levchak asked an update could be brought on this request each month and any changes that have happened.

Mr. Nairn said they can place that on the agenda under other business.

MOTION: Commissioner Bakken made a motion to continue the requests for a zoning change from the A – Agricultural and R5 – Residential zoning districts to the R5 – Residential and Conditional RT – Residential and zoning districts and the final plat for Boden Addition, to a future meeting of the Planning and Zoning Commission, with the understanding that the continued public hearing would be re-published and re-notified, to allow time for the applicant to continue to modify the proposed development plan. Commissioner Zent seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Levchak, Martin, Schell, Schwartz, Van Duyne and Zent voting in favor of the motion.

PUBLIC HEARING – MAJOR SUBDIVISION FINAL PLAT
FROHLICH ADDITION

Chair Schwartz called for the public hearing on the major subdivision final plat for Frohlich Addition. The proposed plat is three lots in one block on 2.50 acres and is located 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).

Ms. Wollmuth gave an overview of the request, including the following findings related to land use for the major subdivision final plat:

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

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

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

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

5. The 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 allowed by the proposed subdivision at the time the property is developed.

8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development.

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

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

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

Ms. Wollmuth said, based on these findings, staff recommends approval of the major subdivision final 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.

Commissioner Levchak asked if the existing dwelling would still have sufficient side yard setbacks if this is approved.

Ms. Wollmuth said there would be a twenty-five-foot front yard setback, a twenty-foot rear yard setback and a six-foot setback on each side, so yes it would meet the requirements. Commissioner Schell said the preliminary plat did indicate those setbacks, so the aerial image may be skewed slightly.

Chair Schwartz opened the public hearing.

Mr. Niemiller said a survey was conducted to determine the new lot lines in relation to the existing home. As the property to the north does not wish to be included in this subdivision, Huron Drive would not be immediately constructed.

Commissioner Schell said there is a development agreement for this request and indicated the existing garage is to be moved and asked if the owner is agreeable to that.

Mr. Niemiller said that is correct and it has been discussed with the applicant and they agree with that requirement.

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

MOTION: Commissioner Bakken made a motion to recommend approval of the major subdivision final 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. Commissioner Van Duyne seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Levchak, Martin, Schell, Schwartz, Van Duyne and Zent voting in favor of the motion.

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

Chair Schwartz called for the public hearing on the minor subdivision final plat and the zoning change from the RR – Residential zoning district to the RR – Residential and R5 – Residential zoning districts for Potter Pointe Subdivision. The proposed plat is 6 lots in 1 block on 7.42 acres and is located in 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).

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

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

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

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

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.

5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.

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

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

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

Ms. Wollmuth then gave the findings related to land use for the major subdivision final plat:

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

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

3. The proposed subdivision is located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands.

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

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

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

Ms. Wollmuth said, based on these 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.

Chair Schwartz opened the public hearing.

Commissioner Levchak asked if it is correct that the existing parcel has not paid for any of the special assessments to construct Langer Lane.

Commissioner Schell said at the time that Whispering Bay was developed and based on the utilization of Langer Lane by the existing rural residential lots, it was determined that property did not benefit from the improvement of this roadway to an urban section and so it was not assessed. He said the annexed properties were included in the assessment district, but streets outside of the City were not assessed. Because the assessments were already levied based on project costs, and any additional payment by these lots would end of being an overcollection of actual costs, these lots could not retroactively be assessed for Langer Lane improvements. He said any stormwater assessments held in abeyance would be added to the lots at the time of annexation, and the lots would also be subject to capital utility charges at the time of annexation to cover their share of existing water and sanitary sewer infrastructure.

Commissioner Johnson asked if the angled lot line of the proposed Lot 3 would be the rear or side yard of the property.

Ms. Wollmuth said the north portion is an access easement and so the angled line would be a side yard for Lot 5 and rear yard for Lot 3.

Mr. Niemiller said the previous concerns regarding the sizes of the potential homes, lot sizes and proposed easements have been discussed and he said changes made include the two main lots being increased by about 17 percent, which gives the option of more building size or lot coverage to be around 3,200 square feet plus a garage. He said the homes to the south now have approximately 2,100 square feet of livable space and with an overall width of 90 to 100 feet they are more similar to those in Whispering Point. He said Whispering Point covenants have a minimum home size of 2,100 square feet and these lots would support that restriction. He added that easements for a water line were existing and South Central Regional Water District has indicated their willingness to move them at the expense of the applicant. He added that there are other various easements that can be built around.

Commissioner Schell asked if there is any assurance of how that water line easement would be placed once moved and asked if it could be shown on the plat or recorded with it.

Mr. Niemiller said it will not be a small task to move the water line, but it would not be completed until the subdivision is fully approved as it will be very costly. He said they can certainly add the new location of it to the plat for final approval purposes.

Cody Strothman, 2301 Langer Way, said she cannot find in any previous discussions were anyone said they wanted the new homes to be larger and what the adjacent owners actually want is larger lots with more space between the houses. She said the proposal has only gotten worse where once there were two lots now there would be three and the owner could further split them into smaller lots if they choose to do so. She said she and many of her neighbors own multiple lots on purpose in order to keep distance between their houses and two-story houses next to their patio homes would not conform with the area. She said the lots would not be much larger compared to the smallest lot in Whispering Point which is around 16,000 square feet. She added that she wants the lots to be comparable and the developers would be the ones to write the restrictive covenants, so that is also concerning as there is no guarantee that would be consistent with the surrounding development. Ms. Strothman said this is 7.46 acres surrounded by the City and asked why it is not all being

annexed and feels it is obviously for property taxation purposes. She then said there is no case for it staying rural residential and said nobody has spoken with the neighborhood regarding their concerns and if they had they could have offered some ideas on how to have better handled these requests.

Russ Arman, 3008 Whisper Drive, said he is not in favor of the requests and they are not after bigger houses but rather larger lot sizes. He said there is a lack of protective covenants and the engineering of the fill dirt is concerning. He added that if the owner plans to further split the lots that would not be appropriate here and the asked how the water on the proposed Lot 3 and 4 would drain. He closed by saying Lots 3, 4 and 5 being annexed in the future and leaving Lots 1, 2 and 6 out seems disproportionate for taxes.

Mr. Niemiller said the lots zoned rural residential would not have an annexation request at this time, adding that it was zoned rural residential before urban single-family homes were built around it. He said the covenants have tentative plans by the developer and the City does not govern or enforce them. He said the concern seems to be of property rights, and that someone else could also buy and combine the lots in question so this is no different than anywhere else.

Commissioner Levchak asked why Langer Point has been proposed to be placed where it is.

Mr. Niemiller said that is an overlay of an old easement and with the existing access road easement straddles the property lines and moving it would not affect the square footage of the lots.

Commissioner Levchak asked if they can move the water line they should be able to move the road also.

Commissioner Schell asked from this version to the previous version what the intention of adding a lot rather than making the lots bigger was.

Mr. Nieimiller said that Lots 1 and 6 need to stay 200 feet away from City services to remain rural residential so the new lot, Lot 5 was added for the developer to keep as a driveway to Lots 1 and 6, and as the buffer area to comply with this requirement.

Mr. Arman said that lot should be added to the existing lot if it truly is not being built on or sold.

Mr. Niemiller said that lot would have to be zoned rural residential and would then have to become a City served lot.

Mr. Arman said the line could be moved, keep the rural residential zoning and eliminate the potential of adding multiple homes on small lots.

Additional comments in opposition to this request are attached as Exhibits A-F.

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

Commissioner Schell said this is a challenging proposal when it is different from the surrounding neighborhood. He said it is an oddity with part of it in the City and part of it out

and there are some drawbacks, but in the end, it meets the requirements and provides two new lots to the City with services already available.

Commissioner Levchak said he does not like it and with a previous request in north Bismarck having the City built around it, the lots were required to annex. He added the developer seems to want their cake and eat it too.

Commissioner Schell said he appreciates the public comments, especially those of it being zoned all in the City as single-family or out of City limits and rural residential, but he is curious if there would still be support from the adjacent properties if it was proposed to bring this land entirely into the City with urban densities or if there would still be concern about the lot area. In the end these requests check all the boxes.

Commissioner Johnson said it is not ideal, but it does meet all of the requirements and a buyer could build a comparable property. He said he can also support it with the water line being moved.

Commissioner Zent said when the property is within the City it would fall under City ordinances and wonders if the covenants should reflect that.

Chair Schwartz said he shares the concerns especially for those who own property adjacent that do not want this to be approved. He said he appreciates the discussion but if someone does not own the property it is hard to control what is done with it and feels it is more in alignment with staff following the letter of the law.

MOTION: Commissioner Schell made a motion to approve the requests for a zoning change from the RR Residential zoning district to the RR – Residential and R5 – Residential zoning districts and a 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 and with the following additional condition: 1. The requests will not be forwarded for consideration by the Board of City Commissioners until a revised plat showing the new location of the South Central Regional Water District water line is received and deemed acceptable by Planning and Engineering staff. Commissioner Johnson seconded the motion and the motion was approved with Commissioners Johnson, Martin, Schell, Schwartz, Van Duyne and Zent voting in favor of the motion. Commissioners Bakken and Levchak opposed the motion.

PUBLIC HEARING – ZONING CHANGE AND MAJOR SUBDIVISION FINAL PLAT FAIRVIEW CEMETERY ADDITION

Chair Schwartz called for the public hearing on the major subdivision final plat and the zoning change from the A – Agricultural and MA – Industrial zoning districts to the P – Public, RT – Residential, and MA – Industrial zoning districts for Fairview Cemetery Addition. The proposed plat is 4 lots in 1 block on 73.2 acres and is located in northeast Bismarck, north of Interstate 94 and west of Centennial Road on the south side of East Century Avenue (a replat of Auditor's Lot A of the N½ of the NW¼ of Section 26, T139N-R80W/City Lands and Lot 1, Block 1, Revolutionary Addition).

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

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

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

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

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.

5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.

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

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

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

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

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

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

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

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

5. The provision of neighborhood parks and open space is not needed because the proposed 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.

DRAFT

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.

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

Mr. Nairn said, based on these findings, staff recommends approval of the zoning change from the A – Agricultural and MA – Industrial zoning districts to the P – Public zoning district for Lots 1 and 3, Block 1, to the RT – Residential zoning district for Lot 2, 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.

Commissioner Levchak asked if the proposed Lot 3 has a utility and stormwater easement but no access easement.

Mr. Nairn said there is an easement through Lot 1 from Lot 3 to Century Avenue for access.

Commissioner Schell asked if there would then be a roadway there. Mr. Nairn said that is correct and the existing road is to be included in that easement as well.

Chair Schwartz opened the public hearing.

Mr. Niemiller said the cemetery has never been platted and they want to further develop so they need to subdivide the property. He said the existing road would be in the proposed access easement, likely to be improved in the future and connected to Century Avenue. He said this would also make the site more accessible to the south and from the east.

Commissioner Levchak asked what is currently on the property to the south now. Mr. Niemiller said it is zoned agricultural or public and is just unused open land as of now.

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

MOTION: Commissioner Bakken made a motion to approve the requests for a zoning change from the A – Agricultural and MA – Industrial zoning districts to the P – Public zoning district for Lots 1 and 3, Block 1, to the RT – Residential zoning district for Lot 2, 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. Commissioner Zent seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Levchak, Martin, Schell, Schwartz, Van Duyne and Zent voting in favor of the motion. Commissioners Bakken and Levchak opposed the motion.

PUBLIC HEARINGS – PUD AMENDMENT AND SPECIAL USE PERMIT (EMC SIGN) HUGHES ADDITION (HUGHES ADMINISTRATION BUILDING)

Chair Schwartz called for the public hearings on an amendment to the existing PUD for Hughes Addition and a special use permit for an electronic message center (EMC) monument sign on Lot 1, Block 1, Hughes Addition. The property is located in central Bismarck, along the west side of North Washington Street between West Avenue C and West Boulevard Avenue (806 North Washington Street).

Ms. Lee gave an overview of the requests, including the following findings related to land use for the 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.

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

Ms. Lee 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.

Ms. Lee said, based on these 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).

Commissioner Schell asked what the purpose is of a special use permit for these types of signs.

Ms. Lee said they recently added schools to the electronic message center sign ordinance because over time staff has become more familiar with their operations and functions and they do not have as much of an impact as they originally expected. She said the sign ordinance was changed based on a response and interest from the schools to get away from static interchangeable letter style signs.

Commissioner Zent said Fargo Public Schools has many similar signs and they are beautiful and a great addition and thinks they will look good here as well.

Commissioner Levchak asked if this is the only sign request that received negative feedback regarding the sign being on at night as it is a unique area of town and asked if it could be specified with this one that it must be turned off at night.

Ms. Lee said the Planning and Zoning Commission can add to the motion that the sign be turned off at night.

Commissioner Bakken asked for a definition of “night”. Ms. Lee said night is defined in the sign ordinance as 9:00 PM until 7:00 AM.

Chair Schwartz opened the public hearing.

Darin Scherr, Director of Operations - Bismarck Public Schools, said staff has done a great job of explaining their request and the biggest thing they are seeking is to not have to send people out to change lettering on the signs during the winter. He said with this new model they can quickly change messages as needed. He added that this is a pilot program, so if it goes well they would ask to add more after the first of the year.

Commissioner Schell asked if there are benefits to the District when using these types of signs.

Mr. Scherr said they will be a great form of communication to parents and a space where they can showcase outstanding students and various upcoming events as well. He said it is really one more much needed form of communication.

Commissioner Zent asked if this would target both students and administration. Mr. Scherr said that is correct.

Commissioner Van Duyne said it makes sense with this particular location to limit the hours it is on and said each one can be discussed on a case by case basis. She said this is a great approach by the school district to further communication.

Chair Schwartz asked if the existing sign would be removed.

Mr. Scherr said that is correct, it would be removed and replaced with the EMC.

Additional comments in opposition to the request are attached as Exhibits G and H.

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

Commissioner Schell asked if the condition would be of the PUD or if it should be on the special use permit.

Ms. Lee said it would fit best to have the condition be on the special use permit.

MOTION: Commissioner Bakken made a motion to recommend approval of the PUD amendment for Hughes Addition as outlined in the attached PUD amendment document and approved of the special use permit to allow an electronic message center sign on Lot 1, Block 1, Hughes Addition (Hughes Administration Building), in accordance with the provisions of Section 14-03.1-07 (5)(d) of the City Code of Ordinances (Signs/Residential Zoning District Standards), and with the understanding that the sign will be turned off between 9:00pm and 7:00am. Commissioner Zent seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Levchak, Martin, Schell, Schwartz, Van Duyne and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT (EMC SIGN)
LOT 1, BLOCK 1, FIRST EVANGELICAL FREE CHURCH

Chair Schwartz called for the public hearing on a special use permit to allow an electronic message center sign on Lot 1, Block 1, First Evangelical Free Church (Gracepoint Church).

The property is located in north Bismarck, in the southeast quadrant of the intersection of North Washington Street and 43rd Avenue NE (205 43rd Avenue NE).

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

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

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

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

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

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

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

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

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

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

Commissioner Levchak asked what the orientation of the sign would be and if it would face north and south as the existing one does now, or if it would be angled differently.

Mr. Nairn said there is not a defined site plan, but the imagery appears to show a north-south orientation. He added that the consultant for the request is here and can likely detail that design specific.

Commissioner Schell asked what the setbacks required for a sign like this would be.

Mr. Nairn said the sign would have to be setback at least the same distance as the sign height.

Chari Schwartz opened the public hearing

Scott Bina, Mann Signs, said the sign would have a north-south orientation as the existing one does now.

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

PUBLIC HEARING - SPECIAL USE PERMIT (EMC SIGN)
BLOCKS 53-54, MCKENZIE AND COFFINS ADDITION AND BLOCKS 65-66, NORTHERN PACIFIC 2ND ADDITION, AND ADJACENT VACATED RIGHTS-OF-WAY (BISMARCK HIGH SCHOOL)

Chair Schwartz called for the public hearing on a 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). The property is located in central Bismarck, between North 7th Street and North 9th Street and East Avenue E and East Avenue C (723 North 7th Street).

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

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

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

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

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

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

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

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

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

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

Chair Schwartz opened the public hearing.

Commissioner Bakken asked staff to explain the purpose of the sight triangle, and noted that moving the existing sign outside of this area may be a benefit.

Mr. Nairn said the sight triangle here would be twenty-five feet in both directions to avoid any visibility issues for traffic at the intersection and said the sign would be set back more than that.

Commissioner Schell asked if there would be any additional sponsorships on the electronic portion of the sign or if would be static and if it would be lit.

Mr. Nairn said it would be static only and the applicant can answer about illumination.

Mr. Scherr said the sponsorship portion would be only static and lit and the electronic portion will not be used for sponsorships. He added that it is really for parents and students so there would not be any additional ads or logos.

Commissioner Levchak asked if the sponsorships would ever change. Mr. Scherr said there is an agreement for each with renewal at a certain dollar amount, so yes that could change.

Written comments in support of the request are attached as Exhibit I.

Commissioner Schell said this is also a residential area and although public comments were not received on this request it is important for the School District to be open to the need to work with the neighborhood in the event that concerns do arise.

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

PUBLIC HEARING - SPECIAL USE PERMIT (EMC SIGN)
LOT 1, BLOCK 4, EDGEWOOD VILLAGE 7TH ADDITION (LEGACY HIGH SCHOOL)

Chair Schwartz called for the public hearing on a special use permit to allow an electronic message center sign on Lot 1, Block 2, Edgewood Village 7th Addition (Legacy High School).

The property is located 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).

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

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

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

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

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

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

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

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

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

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

Chair Schwartz opened the public hearing.

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

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

PUBLIC HEARING - SPECIAL USE PERMIT (EMC SIGN)
AUDITOR'S LOT 1 OF THE SW¼ OF SECTION 3, T138N-R80W/CITY LANDS
(JEANNETTE MYHRE ELEMENTARY SCHOOL)

Chair Schwartz called for the public hearing on a 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 (Jeannette Myhre Elementary School). The property is located in south Bismarck, in the Northeast corner of the intersection of East Bismarck Expressway and South 12th Street (919 South 12th Street).

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

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

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

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

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

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

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

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

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

Mr. Nairn said, based on these findings, staff recommends approval of the special use permit to allow an electronic message center sign on Auditor's Lot 1 of the SW¼ of Section 3, T138N-R80W/City Lands (Jeannette 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.

Chair Schwartz opened the public hearing.

Commissioner Schell asked with this being near the Bismarck Expressway and South 12th Street intersection, why the elementary school choose that location to place their sign.

Mr. Scherr said it is an attractive intersection and this being a lower socio-economic school, a sponsor donation was received and this location was chosen because of the desire of the sponsor to market in this area. He said he imagines there would be more signs to come on other schools in the district and this one would only host Jeannette Myhre related messages.

Commissioner Levchak said he would like to commend the district for being financially innovative with this concept.

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

Commissioner Schell said he appreciates that the applicant worked with staff on moving the sign away from the intersection with South 12th Street.

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 electronic message center sign on Auditor's Lot 1 of the SW¼ of Section 3, T138N-R80W/City Lands (Jeannette 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. Commissioner Zent seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Levchak, Martin, Schell, Schwartz, Van Duyne and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT (EMC SIGN)
PART OF LOT 3, BLOCK 1, MEADOW VALLEY ADDITION (WACHTER MIDDLE SCHOOL)

Chair Schwartz called for the public hearing on a special use permit to allow an electronic message center sign on part of Lot 3, Block 1, Meadow Valley Addition (Wachter Middle School). The property is located 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).

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

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

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

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

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

5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.

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

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

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

Chair Schwartz opened the public hearing.

Lee Ziegler, Wachter Middle School Principal, said he is in the kid business so the more they can do to promote their kids the better. He said they currently cannot meet all of their needs with a static version sign and they appreciate all of the work staff has done to work through this request.

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

PUBLIC HEARING - SPECIAL USE PERMIT (DRIVE-THROUGH)
LOT 3A, BLOCK 1, CHRISTIANSON FIRST ADDITION

Chair Schwartz called for the public hearing on a 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. The property is located in north Bismarck, west of US Highway 83/State Street along the north side of 43rd Avenue NE (820 43rd Avenue NE).

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

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

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

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

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

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

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

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

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

Ms. Wollmuth said, based on these findings, staff recommends approval of the special use permit to 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.'

Commissioner Schell asked if employee parking would be in the front or the back. Ms. Wollmuth said it would be in the back or the west side of the building.

Commissioner Johnson said the stacking spaces seem short and said they could potentially block parking access from both sides. He said that seems like an issue beyond employee parking and asked if there are other locations in Bismarck with similar configurations.

Ms. Wollmuth said the ordinance does require maneuverability in parking areas but said that is a valid concern.

Commissioner Zent asked how many vehicles could be stacked in the drive-through. Ms. Wollmuth said the site plan indicates 10 vehicles.

Commissioner Van Duyne asked if this would only include an order window.

Chair Schwartz opened the public hearing.

Charles Beard, the applicant, said the site is scaled for ten cars stacked and he is trying to be conservative with that space. He said they would be open from 5AM until 12PM so the parking would only impact the employees. He said he is trying to avoid congestion and with proper signage feels they can avoid vehicle conflicts. He said peak times would be from 6AM to 9AM and the drive-through is critical for this operation.

Commissioner Bakken asked if there would be a separate ordering area. Mr. Beard said it would be a wall-mounted ordering system so there would not be an obstruction or extra spacing needed.

Commissioner Levchak said there are nine employee parking spaces indicated on the site plan and asked if those are all needed, and if the stacking area could be moved or employee parking eliminated.

Ms. Wollmuth said this is a multi-tenant building so the requirement is based on the use of each tenant; those spaces would be required but the applicant could check with the building owner to verify.

Commissioner Van Duyne asked if any concerns have been expressed related to delivery loading to various tenants. Ms. Wollmuth said she is not aware of a delivery schedule, but that would be specific to each tenant.

Mr. Beard said if additional information is needed, he can get it and provide it if it is critically concerning and bring it back at a later date.

Ms. Wollmuth said the site is overparked currently and the employee parking could be removed if needed and there have not been concerns expressed related to deliveries.

Commissioner Johnson said he is concerned about the traffic through the site and feels this could cause future issues with the existing layout of the entire property.

Commissioner Schell said Engineering looks at these requests to determine any overflow impacts into traffic in the adjacent public right-of-way. They try to look at it with an understanding of the impact on the street network and guide the site plan to find the best solution. He said likely they would not be setting this up for problems as it has been done before.

Commissioner Bakken said they were able to streamline some issues with the parking ordinance, but any opportunity to improve it is viable.

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

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

PUBLIC HEARING - SPECIAL USE PERMIT (DRIVE-THROUGH)
LOT 4, BLOCK 1, WACHTERS ADDITION SECOND REPLAT

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 establishment on Lot 4, Block 1, Wachters Addition Second Replat. The property is located in central Bismarck, along the east side of South 3rd Street between East Indiana Avenue and East Bismarck Expressway (Kirkwood Mall).

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

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

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

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

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

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

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

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

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

Ms. Wollmuth said, based on these findings, staff recommends approval of the special use permit to allow a drive-in/drive-through in conjunction with a fast-food establishment Lot 4, Block 1, Wachters Addition Second Replat, including granting a waiver to reduce the required stacking spaces from 12 spaces to 3 spaces.

Commissioner Bakken asked how time constraints might be managed here beyond the stacking spaces shown.

Chair Schwartz opened the public hearing.

Ken Witthuaer, CBL Properties, said typically a customer would order online or called ahead. He said generally they do not have curbside services but with the pandemic many businesses have moved to a drive-through only operation.

Commissioner Schell asked what would happen if this location became a typical drive-through operation in the future. Mr. Witthauer said they would modify their plan and bring it back to be discussed here as needed.

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

Commissioner Schell asked if the limitation of the request not being a drive-through is included in the motion.

Ms. Wollmuth said the City does have a requirement for a special use permit with a drive-through, but also with this request staff did recommend approval of a reduced stacking and pick-up only services because orders were placed in advance of arrival.

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to recommend approval of the special use permit to allow a 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, with the following condition: 1. That the drive-in/drive-through is for pick-up orders only. Commissioner Zent seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Levchak, Martin, Schell, Schwartz, Van Duyne and Zent voting in favor of the motion.

OTHER BUSINESS

TOGETHER 2045 UPDATE

Mr. Nairn said there will be two public meetings for input on the Together 2045 comprehensive plan in September. He said the meetings will be identical and for public input purposes, and other opportunities will be held over the next six months as we continue to build the plan. He said the household survey has been completed and a final report will be available in the coming days. He said plan content has not been written yet to allow time for the public to raise issues first.

OTHER BUSINESS

Mr. Ehreth shared that the zoning change request for the property at Highway 1804 and North Washington Street was denied by the Planning and Zoning Commission and subsequently appealed to the Board of City Commissioners, who sent it back to the Planning and Zoning Commission for further consideration. He said during that time the purchase of the property was not able to happen and the request has since been withdrawn by the applicant.

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 7:22 p.m. to meet again on September 22, 2021.

Respectfully submitted,

_____
Hilary Balzum
Recording Secretary

_____
Mike Schwartz
Chair

DRAFT

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Potter Point Subdivision comments for hearing to be held Aug 25, 2021
Date:	Tuesday, August 24, 2021 2:26:35 PM

From:
Sent: Tuesday, August 24, 2021 12:44 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Potter Point Subdivision comments for hearing to be held Aug 25, 2021

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

Planning and Zoning commission:
I received the information regarding the request for zoning changes as I live on Fox Island. I moved to Fox Island for the "country feel" surrounded be the cottonwoods that line the Missouri River and the bottoms. I am not in favor of this development due to the small lot size and increase in congestion in this area along with the deforestation of the natural beauty. I feel that this congestion of building is more suited to a city block development and not here.
Thank you for listening to my concerns and hope that they will be of help in your decision making.

Sincerely.

Arla Teske

2471 Timberlane Place.

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Potter Pointe Subdivision
Date: Tuesday, August 24, 2021 4:50:16 PM

From: Timothy Smith >
Sent: Tuesday, August 24, 2021 2:48 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>; Jenny Wollmuth <jwollmuth@bismarcknd.gov>
Subject: Potter Pointe Subdivision

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

We own Lots 4 and 5 in the Whispering Pointe Subdivision our lots and home are adjacent to Potter Pointe and proposed area to be changed. We are not in favor of the proposed changes or the approval for the following reasons:

1. The proposed lot size with easements does not provide suitable/buildable space.

2. The proposed R5 zoning is non-harmonious in lot size with the adjacent property, surrounding neighborhood areas, Whispering Bay Subdivision, and Whispering Pointe Subdivision. The proposed R5 lot sizes are 20% smaller than the adjacent Whispering Pointe lots before you account for the reduction in size by easements.

3. The rezoning process (from RR to R5) would require the new owners to petition the city to annex the individual lot, develop access and utilities from Langer Lane, all without having invested in the street improvements.

I am not opposed to the development of Potter Pointe. An alternative plan would be to mirror the design of Whispering Pointe in lot size, access for all lots via private drive(which currently exists in Potter Pointe), and the entire Potter Pointe subdivision being annexed into the city.

Tim Smith
2404 Langer Way
Bismarck ND 58504

Attention Bismarck Planning and Zoning Committee
August 25, 2021 meeting - Public Comments
Agenda Item # 5 - Potter's Pointe Subdivision
Zoning Change and Minor Subdivision Revised Final Plat

These are some of our concerns to the proposed revised final plat.

1- Initially the request was to replat the RR track to carve out two R5 lots along Langer Way and keep the rest RR. We objected to the size of the 9,280 SF lots because they were too small in comparison to the adjacent developments - Whispering Pointe lots start at 13,317 SF and Whispering Bay lots at 19,700 SF.

2- The revised proposal now seeks approval for three (3) R5 lots. The two original lots have been increased to 10,890 SF, which is still 2,427 SF smaller than the smallest lot in the neighborhood. Additionally, the existing easements and set back requirements reduce the usable/developable lot size even more.

3- From day one, the owner's stated purpose for the R5 lots was to make money for construction of his personal future home on the RR land. He makes no case for needing RR 'limited agriculture' use. It appears his true motivation is to be taxed as county and avoid high city taxes. Conveniently, the special assessments were charged to the existing Langer Lane lot owners.

4- This small RR tract was not expected to be developed into small city lots and if it is approved they should also have to pay appropriate city special assessments. This small, isolated 7.44 acre RR track should ALL remain RR or it should ALL be platted to be annexed into the city. Everyone building here should be expected to pay the same tax base for fire and police services, park and schools.

5- The third lot (lot 5) was obviously created to accommodate the 200-foot rule regarding the distance between RR sewer/water infrastructure and the R5 lots. There are concerns about the future of Lot 5 after the Potter home is built on lot 6. Lot 5 is shown to be 21,066 SF and the owner could ask for another minor replat to divide it into 2 more little lots. R5 allows for 5 single family homes per acre.

6- To be clear, as neighbors we aren't desiring that large homes be built, we want to see spacious lots allowing for nice buffer spaces between our homes. The proposed appeal plat presented to the city commission boasted a "possible total: 5,540 SF homes. Two story homes would be nonconforming to the adjacent Langer Way patio homes.

7- The real estate listing states, "Covenants allow a boat or camper to be parked on the property" when in fact there are no covenants and restrictions of record or presented for consideration. The homeowners in Whispering Pointe and Whispering Bay are not allowed to park recreational vehicles on their property, nor leave garbage and recycle containers in plain view.

8- The fill dirt moved in by the owner has not been properly compacted, it will kill the existing mature trees and as is it restricts water runoff from Lot 3.

We oppose approval of the Potter's Pointe Subdivision.

CODY STROTHMAN and RICHARD GOODWIN
2301 LANGER WAY, BISMARCK

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Potter Pointe
Date:	Wednesday, August 25, 2021 9:53:16 AM
Attachments:	Potter Pointe Objections.docx

From: Daniel Keith < >
Sent: Wednesday, August 25, 2021 7:47 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Potter Pointe

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

Dear Planning & Zoning Members,

My name is Daniel Keith and I live at 2200 Larson Road in the Whispering Bay area. I am also a property owner at 2208 and 2124 Larson Road. I previously wrote the P & Z prior to the original Potter Pointe request that was denied due to a number of reasons, but most notably a lack of any due diligence requiring area requirements and conformities by either the developer or his engineer. This was clear when the engineer could not answer a single question posed to him by Mayor Bakken and the developer failed to even appear to discuss this despite nearly a dozen letters and personal testimonies against approval by members of the Whispering Bay community.

What I find interesting with the developer bringing this request back to the P & Z members is that not once did he or his engineer ask to meet with either Russ Arman (WB HOA President) or myself (WB HOA Board Member). One would think that would be the natural next step as you would think he would want to provide and promote a development that is harmonious with the existing community. He did no such thing.

What it appears the developer did was increase a couple of lot sizes by a mere ~ 2000 square feet which still doesn't put this development anywhere near in line with the community. Combine this factor with there being no covenants regarding street parking/trash enclosures, careless dirt compaction, improper site design and planning, and a general lack of any concern to fit into the community, I would respectfully request that this proposal be denied with reprimand for wasting the P and Z's time with no diligence being done.

I have attached a list of specific objections that address the proposal as a whole.

Thank you, Mayor Bakken, and all members of the P & Z for protecting our city against developers trying to make a quick dollar without doing any discernible homework or due diligence. Conformity matters. Community matters.

Sincerely,

Daniel J. Keith
DK Orthodontics
Whispering Bay HOA Board Member

Attention Bismarck Planning and Zoning Committee
August 25, 2021 meeting - Public Comments
Agenda Item # 5 - Potter's Pointe Subdivision
Zoning Change and Minor Subdivision Revised Final Plat

These are some of our concerns to the proposed revised final plat.

1- Initially the request was to replat the RR track to carve out two R5 lots along Langer Way and keep the rest RR. We objected to the size of the 9,280 SF lots because they were too small in comparison to the adjacent developments - Whispering Pointe lots start at 13,317 SF and Whispering Bay lots at 19,700 SF.

2- The revised proposal now seeks approval for three (3) R5 lots. The two original lots have been increased to 10,890 SF, which is still 2,427 SF smaller than the smallest lot in the neighborhood. Additionally, the existing easements and set back requirements reduce the usable/developable lot size even more.

3- From day one, the owner's stated purpose for the R5 lots was to make money for construction of his personal future home on the RR land. He makes no case for needing RR 'limited agriculture' use. It appears his true motivation is to be taxed as county and avoid high city taxes. Conveniently, the special assessments were charged to the existing Langer Lane lot owners.

4- This small RR tract was not expected to be developed into small city lots and if it is approved they should also have to pay appropriate city special assessments. This small, isolated 7.44 acre RR track should ALL remain RR or it should ALL be platted to be annexed into the city. Everyone building here should be expected to pay the same tax base for fire and police services, park and schools.

5- The third lot (lot 5) was obviously created to accommodate the 200-foot rule regarding the distance between RR sewer/water infrastructure and the R5 lots. There are concerns about the future of Lot 5 after the Potter home is built on lot 6. Lot 5 is shown to be 21,066 SF and the owner could ask for another minor replat to divide it into 2 more little lots. R5 allows for 5 single family homes per acre.

6- To be clear, as neighbors we aren't desiring that large homes be built, we want to see spacious lots allowing for nice buffer spaces between our homes. The proposed appeal plat presented to the city commission boasted a "possible total: 5,540 SF homes. Two story homes would be nonconforming to the adjacent Langer Way patio homes.

7- The real estate listing states, "Covenants allow a boat or camper to be parked on the property" when in fact there are no covenants and restrictions of record or presented for consideration. The homeowners in Whispering Pointe and Whispering Bay are not allowed to park recreational vehicles on their property, nor leave garbage and recycle containers in plain view.

8- The fill dirt moved in by the owner has not been properly compacted, it will kill the existing mature trees and as is it restricts water runoff from Lot 3.

We oppose approval of the Potter's Pointe Subdivision. Signed and dated:

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Potter Pointe Subdivision
Date: Wednesday, August 25, 2021 9:53:25 AM

From: Jodi SMITH < >
Sent: Wednesday, August 25, 2021 7:52 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Cc: Timothy Smith <
Subject: Potter Pointe Subdivision

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

Good Morning Bismarck Planning & Zoning Commission-
I am writing in regards to the Potter Pointe Subdivision which will be discussed at the August 25, 2021, meeting. I own two lots that are directly adjacent to the proposed subdivision. I am asking you deny the request for rezoning for a multitude of reasons.

The initial request was to replat the RR track to carve out two R5 lots along Langer Way and keep the rest RR. We objected to the size of the 9,280 SF lots because they were too small in comparison to the adjacent developments - Whispering Pointe lots start at 13,317 SF and Whispering Bay lots at 19,700 SF. While I appreciate the attempt to moderately increase the lot sizes, it still does not conform to the surrounding area. We did not request larger homes, two story homes, that will be noncomforming to our modest patio home. Our intention was for larger plats to be be created and modest homes to be built. The proposal still has the smallest lots in the neighborhood at 10,890 SF. Plus, the existing easements and set back requirements reduce the usable/developable lot size even more.

Additionally, the real estate listing states, "Covenants allow a boat or camper to be parked on the property" when in fact there are no covenants and restrictions of record or presented for consideration. The homeowners in Whispering Pointe and Whispering Bay are not allowed to park recreational vehicles on their property, nor leave garbage and recycle containers in plain view. While the Whispering Bay and Whispering Point neighborhood adheres to strict covenants, the Potter Pointe Subdivision wants to be an exception and not adhere to the visual harmony that has been intentially created throughout the neighborhood. Our intention is to preserve the unique quality of the neighborhood and natural space between the homes.

From day one, the owner's stated purpose for the R5 lots was to make money for construction of his personal future home on the RR land. He makes no case for needing RR 'limited agriculture' use. It appears his true motivation is to be taxed as county and avoid high city taxes. Conveniently, the special assessments were charged to the existing Langer Lane lot owners. We have personally offered to purchase the land directly behind our home to perserve the natural space. However, neither Mr. Potter nor his real estate agent have been responsive to our requests. We repeated our

request and asked Mr. Potter to not fill in the dirt in the area directly behind our home. The fill dirt moved in by the owner has not been done properly. First, it has not been properly compacted. Second, the manner in which he moved the dirt did not perserve the top soil and he has not worked with an arborist to ensure the mature trees were protected. Third, the dirt filled in a water runoff area that will create issues from Lot 3.

Additionally, it appears Lot 5 was created to accomodate the 200 foot rule regarding the distace between RR sewer/water infrastructure and the R5 lots. I have concerns about the future of Lot 5 after the Potter home is built on Lot 6. Lot 5 is shown to be 21,066 SF and the owner could ask for another minor replat to divide it into 2 more little lots. R5 allows for 5 single family homes per acre.

The subdivision as it is proposed is allows for selective residents to remain in the County which creates issues as it relates to special assessments. The entire subdivision should remain in the County or the entire subdivion should be brought into the city. Everyone here should be expected to pay the same tax base for fire and police services, parks and schools.

As a home owner that is directly impacted by the development of Potter Point Subdivison, please take my concerns under serious consideration and deny the proposal for rezoning.

Thank you,

Jodi Smith
Whispering Point

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Letter to P&Z Potters Pointe.docx
Date: Wednesday, August 25, 2021 9:53:39 AM
Attachments: Letter to P&Z Potters Pointe.docx

-----Original Message-----
From: Jessica Knutson <j >
Sent: Wednesday, August 25, 2021 7:43 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Letter to P&Z Potters Pointe.docx

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

Good morning-

Attached is a letter for review at tonight's planning and zoning meeting. I believe development is good for the public and good for the city, however, there is a right way to develop within an existing neighborhood. I do not feel this plat has been thought out, proper taxes and specials paid or dirt work properly done on these proposed lots. Therefore I ask the entire development be brought into the city of Bismarck or denied. I also ask for lots a minimum of 13,000 sf to conform to the neighborhood.

Thank you,

Attention Bismarck Planning and Zoning Committee
August 25, 2021 meeting - Public Comments
Agenda Item # 5 - Potter's Pointe Subdivision
Zoning Change and Minor Subdivision Revised Final Plat

These are some of our concerns to the proposed revised final plat.

1- Initially the request was to replat the RR track to carve out two R5 lots along Langer Way and keep the rest RR. We objected to the size of the 9,280 SF lots because they were too small in comparison to the adjacent developments - Whispering Pointe lots start at 13,317 SF and Whispering Bay lots at 19,700 SF.

2- The revised proposal now seeks approval for three (3) R5 lots. The two original lots have been increased to 10,890 SF, which is still 2,427 SF smaller than the smallest lot in the neighborhood. Additionally, the existing easements and set back requirements reduce the usable/developable lot size even more.

3- From day one, the owner's stated purpose for the R5 lots was to make money for construction of his personal future home on the RR land. He makes no case for needing RR 'limited agriculture' use. It appears his true motivation is to be taxed as county and avoid high city taxes. Conveniently, the special assessments were charged to the existing Langer Lane lot owners.

4- This small RR tract was not expected to be developed into small city lots and if it is approved they should also have to pay appropriate city special assessments. This small, isolated 7.44 acre RR track should ALL remain RR or it should ALL be platted to be annexed into the city. Everyone building here should be expected to pay the same tax base for fire and police services, park and schools.

5- The third lot (lot 5) was obviously created to accommodate the 200-foot rule regarding the distance between RR sewer/water infrastructure and the R5 lots. There are concerns about the future of Lot 5 after the Potter home is built on lot 6. Lot 5 is shown to be 21,066 SF and the owner could ask for another minor replat to divide it into 2 more little lots. R5 allows for 5 single family homes per acre.

6- To be clear, as neighbors we aren't desiring that large homes be built, we want to see spacious lots allowing for nice buffer spaces between our homes. The proposed appeal plat presented to the city commission boasted a "possible total: 5,540 SF homes. Two story homes would be nonconforming to the adjacent Langer Way patio homes.

7- The real estate listing states, "Covenants allow a boat or camper to be parked on the property" when in fact there are no covenants and restrictions of record or presented for consideration. The homeowners in Whispering Pointe and Whispering Bay are not allowed to park recreational vehicles on their property, nor leave garbage and recycle containers in plain view.

8- The fill dirt moved in by the owner has not been properly compacted, it will kill the existing mature trees and as is it restricts water runoff from Lot 3.

We oppose approval of the Potter's Pointe Subdivision. Signed and dated:

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: August 25th Planning Commission Testimony - Potter Pointe
Date: Wednesday, August 25, 2021 9:54:02 AM

From: Brent < >
Sent: Wednesday, August 25, 2021 8:22 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: August 25th Planning Commission Testimony - Potter Pointe

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

Brent Levinson
2830 Langer Way
Bismarck

Planning and Zoning Meeting August 25th, 2021
Regards Potter Pointe

Members of the Planning & Zoning Commission thank you for your time and consideration of my testimony. My name is Brent Levinson. I live at 2830 Langer Way, a short distance from the proposed development.

My testimony today is much the same as it was April 28th, 2021.

I am writing in support of concerns expressed by those property owners most affected by this development, Tim and Jodi Smith, Jessica Knutson, Cody Strothman, Richard Goodwin and others on Langer Lane.

The smallest lots in the Whispering Pointe development are Lots 2,3 & 4 at 13,317 square feet. These lots abut the proposed development. Part of this 13,317 square feet is a road allowance, if you subtract the road allowance (68' x 14' or 952 sqft) from published lot area you have 12,365 of real property. Most lots in the Whispering Bay area are 19,000 to 20,000 sqft. The proposed replat of Potter Pointe indicates two lots with areas 10,890 sqft each, 12% smaller than the smallest 3 lots referenced above. There are several acres of property available from which these new lots are to be formed from which the proposed lots can be increased.

It is understandable that property owners whom have made significant investments in their land and homes would be concerned by an adjacent development that is not of similar scale and design.

I support Dan's efforts to develop his property. I also support the interests of nearby and established property owners. Any new lots should be the same, or large area, than the smallest lots in the Whispering Pointe development. Further, the homes developed and the enforced covenants on those properties should make the final developed properties integrate to the overall accord of

the Whispering Bay and Whispering Pointe developments.

Thank you,
Brent Levinson

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: Hughes proposed sign
Date: Wednesday, August 18, 2021 1:59:17 PM

-----Original Message-----
From: LeeAnn Smith < >
Sent: Wednesday, August 18, 2021 12:31 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Hughes proposed sign

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

I would like to let you know that I am against this proposal. I feel the sign is too large and just another distraction for drivers. While I don't live in the property I own there, I will say I've seen enough of these large signs around town and drivers should be paying attention to the road and crosswalks, not a sign. Mandan put one up right as you come into Main St. They advertise all kinds of crap should be posted on cork boards in grocery stores, libraries, restaurants. Places people walk, not drive. There are already so many distracted drivers trying to multitask at times when they shouldn't.
LeeAnn Smith

Don't text and Drive

From: Planning - General Mailbox
To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject: FW: August 25, 2021 Public Hearing - Comments regarding Hughes Electronic sign
Date: Tuesday, August 24, 2021 4:50:47 PM

From: >
Sent: Tuesday, August 24, 2021 3:29 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: August 25, 2021 Public Hearing - Comments regarding Hughes Electronic sign

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

Bismarck Community Development Department

Planning and Zoning Commission

Attn: Kim Lee

By email: planning@bismarcknd.gov

Dear Planning and Zoning Commission:

I would like to request that you do not approve an electronic sign at Hughes at 806 North Washington Street. Having an electronic sign running 24/7/365 is just not a neighborly thing to do in our residential area. In the long, dark winters, after the leaves are off the trees, the light will be more noticeable and visible for a longer distance. I thought we tried hard in the Washington Street remodel project to keep this area as residentially appealing as possible.

I feel this sign will make the houses closest to it less desirable by having an always-on, lighted and moving, commercial-type sign in a residential area. I believe approving this sign will make it easier for other entities to put lighted signs into residential areas.

Finally, this type of sign may be considered progress, but I feel some of the recently placed lighted signs are encroaching on our residential areas, creating a more commercial feeling, and are allowing us to slowly accept more signs being placed.

Thank you for the opportunity to speak on this issue.

Respectfully,

Elizabeth Sharbono

816 N Mandan St.

Bismarck ND 58501

From:	Planning - General Mailbox
To:	Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings
Subject:	FW: Property Owner Michael Ward, no objection
Date:	Tuesday, August 24, 2021 4:50:33 PM
Attachments:	8-13-21 ltr Bismarck Community Devel.pdf

From: Michael Ward < >
Sent: Tuesday, August 24, 2021 3:13 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>; Jenny Wollmuth <jwollmuth@bismarcknd.gov>
Subject: Property Owner Michael Ward, no objection

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

As per my phone call today, I have no objection to the Bismarck school putting a sign on the Bismarck School property as shown in the August 13, 2021 letter.

Michael Ward

Bismarck
COMMUNITY
DEVELOPMENT

August 13, 2021

Dear Property Owner:

Please be advised that the Bismarck Planning & Zoning Commission will be conducting a public hearing on Wednesday, August 25, 2021, at 5:00 p.m. in the Tom Baker Meeting Room, City-County Building, 221 North 5th Street, Bismarck, North Dakota, which may be of interest to you.

Bismarck Public Schools is requesting approval of a special use permit for an electronic message center sign to be located on Blocks 53-54, McKenzie and Coffins Addition and Blocks 65-66, Northern Pacific 2nd Addition. The property is located in central Bismarck, between North 7th Street and North 9th Street and between East Avenue C and East Avenue E (Bismarck High School – 800 North 8th Street).

A map showing the location involved in the request, a site plan for the proposed sign and an elevation drawing of the proposed sign are enclosed for your information.

At this hearing, the Bismarck Planning & Zoning Commission will provide an opportunity for all interested parties to be heard with respect to this item. Interested parties may submit written or email comments regarding this request no later than 8:00 AM the day of the meeting to the Community Development Department, PO Box 5503, Bismarck, North Dakota 58506-5503, fax: 701-222-6450, or email - planning@bismarcknd.gov. Written comments received after 8:00 AM on Wednesday, August 25, 2021 and those submitted anonymously will not be forwarded to the Planning & Zoning Commissioners or included in the minutes of the meeting. Interested persons may also call 701-355-1840 with questions, for additional information, or to facilitate alternate means to appear at the public hearing without having to appear in person.

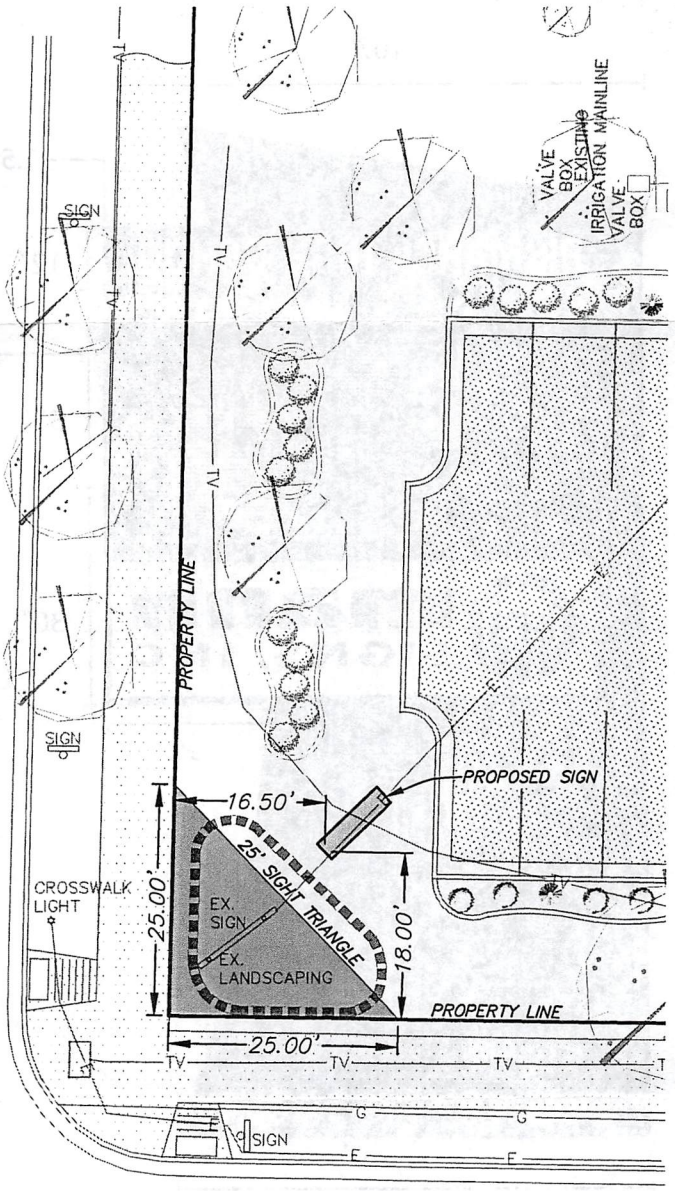
The agenda packet for the meeting, which will include staff reports for this request, will be posted online at www.bismarcknd.gov, under Agendas and Minutes/City Planning and Zoning Commission, by the end of the day on Friday, August 20th. The meeting will also be aired live on Government Access – Cable Channel 2 and can be viewed on-line at freetv.org under Government Access/Bismarck Planning and Zoning Commission.

If you have any questions or need any additional information on this request, please contact Jenny Wollmuth, the planner in our office assigned to this request, at 701-355-1845 or jwollmuth@bismarcknd.gov.

Bismarck Community Development Department ~ Planning Division

JW/hlb

Enc: Location Map
Site Plan and Sign Elevation



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

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 8/2021

	*******************City*******************				*******************ETA*******************			
	8/2021		**8/2020**		**8/2021**		**8/2020**	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	17	$4,245,383.50	23	$6,158,601.31	1	$258,324.60	2	$805,354.74
ROWHOUSE (2) 1-HR FIRE SEPARATION	21	$4,587,715.65	2	$422,556.28	2	$452,915.30	0	$0.00
MANUFACTURED HOMES	12	$0.00	3	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	3	$499,866.30	2	$63,578.24	2	$264,809.80	1	$118,000.00
DETACHED GARAGE	7	$105,100.00	7	$157,372.50	6	$222,000.00	7	$176,380.75
DECKS\PORCHES & COVERED PORCHES	16	$253,647.25	18	$177,721.25	1	$5,880.00	4	$20,924.00
SWIMMING POOLS	3	$206,113.00	2	$162,000.00	1	$100,000.00	0	$0.00
RESIDENTIAL ALTERATION/OTHER	4	$170,456.60	8	$130,688.60	1	$45,825.77	1	$58,450.00
HOME OCCUPATION	0	$0.00	1	$0.00	0	$0.00	0	$0.00
STORAGE SHED	0	$0.00	1	$0.00	0	$0.00	0	$0.00
BASEMENT FINISH	7	$121,453.50	9	$150,720.75	1	$32,250.00	0	$0.00
COMMERCIAL	0	$0.00	2	$0.00	0	$0.00	0	$0.00
RESIDENTIAL	2	$0.00	0	$0.00	0	$0.00	0	$0.00
MISC TEMPORARY STRUCTURES	2	$0.00	1	$0.00	0	$0.00	0	$0.00
NEW SIGN PERMITS	17	$382,400.00	8	$83,547.00	0	$0.00	0	$0.00
COMMERCIAL NEW CONSTRUCTION	7	$6,144,300.00	4	$2,575,066.00	1	$200,000.00	2	$1,059,332.00
COMMERCIAL ADDITION	0	$0.00	2	$3,186,483.00	0	$0.00	0	$0.00
COMMERCIAL ALTERATION	6	$3,456,092.00	16	$1,996,822.00	0	$0.00	0	$0.00
Total	**124**	**$20,172,527.80**	**109**	**$15,265,156.93**	**16**	**$1,582,005.47**	**17**	**$2,238,441.49**

PERMIT ACTIVITY REPORT - MTD
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	**********City**********				**********ETA**********			
	8/2021		**8/2020**		**8/2021**		**8/2020**	
Trade Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	77	$74,000.00	82	$19,700.00	0	$0.00	0	$0.00
BUILDING MECHANICAL	153	$1,452,541.97	150	$1,929,568.35	30	$344,888.71	13	$170,284.00
BUILDING PLUMBING	37	$2,159,321.48	41	$585,287.00	7	$134,430.00	4	$70,133.00
BUILDING SEPTIC	0	$0.00	0	$0.00	1	$0.00	8	$0.00
Total	**267**	**$3,685,863.45**	**273**	**$2,534,555.35**	**38**	**$479,318.71**	**25**	**$240,417.00**

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	*******************City*******************		*******************ETA*******************	
	8/2021	**8/2020**	**8/2021**	**8/2020**
Living Units	**Units**	**Units**	**Units**	**Units**
MANUFACTURED HOMES	5	2	0	0
Total	**5**	**2**	**0**	**0**

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	**********City**********				**********ETA**********			
	8/2021		8/2020		8/2021		8/2020	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	131	$35,975,490.11	129	$33,002,639.63	42	$15,267,374.75	33	$10,579,610.37
ROWHOUSE (2) 1-HR FIRE SEPARATION	105	$22,395,404.24	24	$4,896,225.17	2	$452,915.30	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	19	$0.00	15	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	17	$1,096,534.07	10	$612,525.26	7	$680,258.40	12	$746,656.86
DETACHED GARAGE	24	$320,650.00	33	$733,869.75	46	$1,836,240.00	52	$1,841,191.25
DECKS\PORCHES & COVERED PORCHES	85	$634,051.95	127	$657,357.30	10	$51,744.00	17	$87,385.00
SWIMMING POOLS	10	$842,584.00	11	$677,497.00	6	$504,221.00	2	$138,500.00
RESIDENTIAL ALTERATION/OTHER	47	$1,653,182.13	33	$1,284,510.72	2	$83,825.77	8	$243,025.00
HOME OCCUPATION	3	$0.00	4	$0.00	1	$0.00	2	$0.00
STORAGE SHED	15	$47,980.00	10	$58,220.00	1	$2,880.00	4	$10,800.00
BASEMENT FINISH	68	$1,566,814.50	64	$1,269,827.89	9	$201,111.00	10	$146,409.50
COMMERCIAL	0	$0.00	2	$0.00	0	$0.00	0	$0.00
RESIDENTIAL	6	$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	4	$0.00	6	$0.00	0	$0.00	0	$0.00
NEW SIGN PERMITS	80	$1,380,872.16	73	$1,024,561.00	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	72	$65,364,449.21	20	$71,698,922.00	2	$650,000.00	7	$1,059,332.00
COMMERCIAL ADDITION	5	$4,662,176.00	6	$4,769,199.00	0	$0.00	0	$0.00

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	*******************City*******************				*******************ETA*******************			
	8/2021		**8/2020**		**8/2021**		**8/2020**	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
COMMERCIAL ALTERATION	65	$26,613,673.86	96	$30,577,768.07	0	$0.00	1	$37,811.28
Total	**775**	**$162,799,559.23**	**702**	**$154,267,973.53**	**135**	**$19,730,570.22**	**164**	**$15,321,525.94**

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	*******************City*******************				*******************ETA*******************			
	8/2021		**8/2020**		**8/2021**		**8/2020**	
Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	662	$532,717.15	645	$243,198.00	0	$0.00	0	$0.00
BUILDING MECHANICAL	1053	$10,707,890.80	931	$15,680,741.15	116	$1,142,705.18	122	$1,465,580.03
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	298	$10,673,225.40	265	$11,199,527.31	74	$1,844,519.00	46	$1,302,892.18
BUILDING SEPTIC	0	$0.00	0	$0.00	18	$24,000.00	26	$6,850.00
Total	**2013**	**$21,913,833.35**	**1842**	**$27,146,466.46**	**208**	**$3,011,224.18**	**195**	**$2,778,322.21**

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	*******************City*******************		*******************ETA*******************	
	8/2021	**8/2020**	**8/2021**	**8/2020**
Living Units	**Units**	**Units**	**Units**	**Units**
MANUFACTURED HOMES	11	12	0	0
Total	**11**	**12**	**0**	**0**