

BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
October 27, 2021

The Bismarck Planning & Zoning Commission met on October 27, 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, Vernon Laning, Paul Levchak, Gabe Schell, Paul Zent and Mike Schwartz.

Commissioners Brian Bitner, Cole Johnson, Kevin Martin, Wendy Van Duyne 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, Will Hutchings – Senior Planner, Kim Lee – Planning Manager, Daniel Nairn – Senior Planner and Jenny Wollmuth – Senior Planner.

MINUTES

Chair Schwartz called for consideration of the minutes of the September 22, 2021 meeting.

MOTION: Commissioner Laning made a motion to approve the minutes of the September 22, 2021 meeting, as presented. Commissioner Bakken seconded the motion and it was unanimously approved with Commissioners Bakken, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

CONSIDERATION

- 2. BURLEIGH AVENUE ADDITION AND LOTS 6 AND 7, BLOCK 1, SOUTH MEADOWS SECOND ADDITION (TO BE PLATTED AS SOUTH MEADOWS THIRD ADDITION) – ZONING CHANGE**
- 3. LOT MODIFICATION PROCESS – ZONING ORDINANCE TEXT AMENDMENT**

MOTION: Based on the findings contained in the staff report, Commissioner Bakken made a motion to approve consent agenda items 2 and 3, calling for a public hearing on the items as recommended by staff. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Bakken, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

**PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT
TRILLIUM THIRD ADDITION SECOND REPLAT**

Chair Schwartz called for the public hearing on the minor subdivision final plat for Trillium Third Addition Second Replat. The proposed plat is two lots in one block on 8.17 acres and is located in south Bismarck, south of East Bismarck Expressway and east of South 26th Street, in the southeast quadrant of the intersection of Rock Island Place and Burlington Drive (a

replat of part of Lot 1, Block 1, Trillium Third Addition First Replat and parts of Burlington Drive and Rock Island Place rights-of-way).

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

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

Ms. Wollmuth said, based on these findings, staff recommends approval of the minor subdivision final plat for Trillium Third Addition Second Replat.

Chair Schwartz opened the public hearing.

Landon Niemiller, Swenson, Hagen & Co., said he does not have anything to add to the information provided and is available for technical questions if needed.

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

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

**PUBLIC HEARING – ZONING CHANGE
AUDITOR’S LOT 12 AND PARTS OF AUDITOR’S LOTS 11, 17, 18, 19 AND 20, PARK
HILL AUDITOR’S LOTS**

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

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

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

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

Ms. Lee said based on these findings, staff recommends approval of 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 more specifically described as: all of Auditor's Lot 12, the South 240 feet of the East 101.31 feet and the South 435.5 feet of the West 101.31 feet of Auditor's Lot 17, the South 435.6 feet of Auditor's Lot 18, and the South 385 feet of Auditor's Lot 19, Park Hills Auditor's Lots and the South 535 feet of the East 1 acre and the S½ of the 2nd Acre from East 1 acre of Auditor's Lot 20, Park Hills Auditor's Lots and the East 349.6 feet of Auditor's Lot 11 excluding the South 33 feet, Park Hills Auditor's Lots.

Commissioner Laning asked if this would result in a difference in the taxation of the property. Ms. Lee said how these properties are taxed is established at the State level so it would not necessarily change it but could affect it. She said staff will be reaching out to the owners of similar properties to see if they want to pursue other zoning changes as well.

Commissioner Levchak asked if there is a section of homes with buildings or vehicles in the southwest area of the location.

Ms. Lee said that is a Midco yard and it is possible the property lines are slightly skewed. Commissioner Levchak asked if there is a fence between the properties. Ms. Lee said they will check into any projections and verify the accuracy of the property lines as well.

John Squartino, Bismarck MHP, LLC, said the mobile home side of the property is fenced to allow for some overflow storage for the residents.

Ms. Lee said parking is also not allowed on Griffin Street to help avoid congestion.

Greg Tschider, attorney representing the applicant, said staff covered the request well and feels it is important for the zoning to fit the use of the property and that is the request now.

Commissioner Levchak asked if the property would still meet all the requirements of a mobile home park. Ms. Lee said it will not meet all requirements because in 1982 when this zoning district was implemented, it was for new parks. However, this park will be able to meet required separation distances. As new homes are longer than older homes, this change would allow them to be placed with the same front yard setback as the existing homes and fit on the older lease lots

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 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 more specifically described as: all of Auditor's Lot 12, the South 240 feet of the East 101.31 feet and the South 435.5 feet of the West 101.31 feet of Auditor's Lot 17, the South 435.6 feet of Auditor's Lot 18, and the South 385 feet of Auditor's Lot 19, Park Hills Auditor's Lots and the South 535 feet of the East 1 acre and the S½ of the 2nd Acre from East 1 acre of Auditor's Lot 20, Park Hills Auditor's Lots and the East 349.6 feet of Auditor's Lot 11 excluding the South 33 feet, Park Hills Auditor's Lots. Commissioner Johnson seconded the motion and the motion was unanimously approved with Commissioners Bakken, Johnson, Laning, Levchak, Schell, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT (EMC SIGN) LOT 1, BLOCK 1, YMCA ADDITION

Chair Schwartz called for the public hearing on a special use permit to allow an electronic message center sign on Lot 1, Block 1, YMCA Addition.

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, YMCA Addition. Mr. Nairn noted that the precise width of the base may change to conform to dimensional standards before the sign permit is issued, but the overall design would be substantially similar to what is shown.

Commissioner Levchak asked for the location of the proposed sign to be indicated by staff. Staff showed the sign location on the screen at this time.

Commissioner Laning asked if the sign would project into the public right-of-way. Mr. Nairn said it would be directly adjacent to, but would not project into, the right-of-way.

Commissioner Schell asked for staff to elaborate on the perimeter landscaping referenced in the staff report.

Mr. Nairn said certain sizes of parking lots require perimeter parking lot landscaping so they have noted that the owner may be able to relocate some landscaping and still meet the requirements while having the sign be visible as well.

Commissioner Bakken asked if brightness limitations have been discussed since the sign would be right next to a residential neighborhood.

Mr. Nairn said they would follow ambient light level requirements in the ordinance so as to not affect the adjacent homeowners.

Derwin Mann, Mann Signs, said this project has been a long time coming and over the last four years the sign technology options have changed significantly. He said the messages offered on the new sign would be related to programs offered at the facility.

Commissioner Levchak asked if the portable signs on site would continue to be necessary as well.

Bill Bauman, Missouri Valley YMCA, said they do utilize the temporary signs option a couple of times a year, but this would just replace the current message sign and it is more a matter of marketing than it is them trying to consolidate their signs into one.

Chair Schwartz opened the public hearing.

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

Commissioner Levchak said he is disappointed to hear the temporary signs would stay on the property, since with the changes to the sign ordinance he thought that would not be necessary anymore.

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, YMCA Addition. Commissioner Zent seconded the motion and the motion was unanimously approved with Commissioners Bakken, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT (OVERSIZED ACCESSORY BUILDING)
LOT 1, BLOCK 1, HIGHTOP ACRES SECOND SUBDIVISION (7424 MOONSTONE LANE)**

Chair Schwartz called for the public hearing on a special use permit to increase the area of accessory buildings to 2,900 square feet on Lot 1, Block 1, Hightop Acres Second Subdivision.

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

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

Mr. Hutchings said, based on these findings, staff recommends approval of the special use permit to increase the area of accessory buildings to 2,900 square feet on Lot 1, Block 1, Hightop Acres Second Subdivision.

Commissioner Levchak asked what the maximum side wall height would be. Mr. Hutchings said the total building height would be limited to 25 feet with a 16-foot sidewall height.

Chair Schwartz opened the public hearing.

Mr. Kraft said he wants to make sure there is not any confusion with his request and that it is done right. He said they just purchased the property and he is excited to be there.

Commissioner Levchak asked if Hopfauf Custom Builders will construct the building. Mr. Kraft said that is correct and they were on site today and are ready to go as soon as possible.

Commissioner Zent said this would still put the property under the 3,200 total square footage limitation with a special use permit. Mr. Kraft said that is correct, that this would bring the total square footage to around 2,900 square feet. He said it would only be for personal use and would match the house as far as the roof lines, pitch to include special trusses, windows, siding and shingles. He added that they also designed it to be wider so that it would fit better on the property and look nice from the road.

Commissioner Schell said comments were received from adjacent owners regarding the size of the structure and asked if it is comparable to others in the area.

Mr. Kraft said he has seen some large accessory buildings but he has not been in the area long enough to have looked at very many of them.

Deb Grueneich, 3010 76th Avenue NE, said she was surprised to hear how large the building would be and said most lots have up to 1,800 square feet, so 2,900 square feet will be much larger. She said she does not want a precedent to be set and wants the development to stay nice, but she is concerned about the size of the building.

Chair Schwartz asked how long she has lived in the neighborhood. Ms. Grueneich said they have lived there since 2002.

Commissioner Levchak said he lives north of the location about a mile and the limitation was 1,800 square feet for many years until the rules changed. He said covenants were referenced and asked if there is an active Homeowners Association.

Ms. Grueneich said the covenants are not actively enforced.

Additional written comments in opposition to the request are attached as Exhibits A and B.

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

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the special use permit to increase the area of accessory buildings to 2,900 square feet on Lot 1, Block 1, Hightop Acres Second Subdivision. Commissioner Laning seconded the motion and the motion was unanimously approved with Commissioners Bakken, Laning, Levchak, Schell, Schwartz and Zent voting in favor of the motion.

OTHER BUSINESS

UPDATE ON TOGETHER 2045

Mr. Nairn said public engagement meetings were held in the last few weeks with good participation, and the online version of those meeting will be available until the end of October. He said staff is now working through the goals and objectives portion of the plan, and focus groups will be held in November to work on this content. He said new reports are also available on the website to include the 2020 US Census results and the housing sample survey results as well.

UPDATE ON BODEN ADDITION

Mr. Nairn said he spoke with a representative of the applicant and there have not been any changes to the application at this time. He said the request regarding proposed park land will be heard by the Bismarck Parks and Recreation District next week and it will be determined at that time how the project might move forward.

Chair Schwartz asked Commissioner Levchak if he would like this item to stay on the agenda for regular updates.

Commissioner Levchak said the request should be set aside and not put back on the agenda until they have submitted a new application/layout

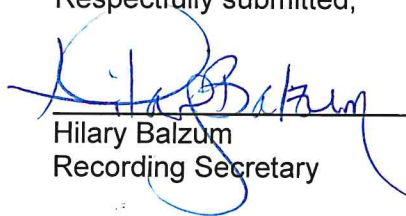
OTHER BUSINESS

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 5:50 p.m. to meet again on November 17, 2021.

Respectfully submitted,


Hilary Balzum
Recording Secretary


Mike Schwartz
Chair

From: [Planning - General Mailbox](#)
To: [Hilary Balzum](#); [Daniel Nairn](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Cc: [Allison Carlson](#); [Michelle Fischer](#)
Subject: FW: Feedback on Special use permit in Hightop Acres Second Subdiviion
Date: Monday, October 25, 2021 12:56:57 PM

From: [REDACTED]
Sent: Saturday, October 23, 2021 1:38 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Feedback on Special use permit in Hightop Acres Second Subdiviion

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

This is in response to the letter we received regarding a hearing that will be held on Wednesday, October 27, 2021 at 5:00 pm. Lana Sanders and Rod Kraft are requesting approval of a special use permit to increase an accessory building to 2900 square feet.

We are opposed to this request. Approving a building this large will only set a precedence to allow future buildings of this size, which devaluates the family residential setting of the neighborhood. Buildings this large may also mean that someone wants to use it for business purposes. This is a residential neighborhood and we believe it is important to keep it that way. Large oversized buildings will destroy the aesthetics of this family neighborhood. There is a limit to the size of accessory buildings. Lets keep it that way. In addition, if large buildings are needed for storage, there are several rental units for that purpose on 71st Avenue.

Thank you for your consideration to oppose this request.

Regards,
Gary and Deb Grueneich

From: [Susie](#)
To: [Planning - General Mailbox](#)
Subject: Response for Public Hearing 10-27-21
Date: Monday, October 25, 2021 10:32:05 PM
Attachments: [Letter to Bismarck Planning and Zoning.docx](#)
[Hightop Acres Covenants.docx](#)

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

To Whom It May Concern:

Please find attached my husband and I's response for the Public Hearing Scheduled for 10-27-2021 at 5PM. This is in regards to the request from Lana Sanders and Rod Kraft to put an additional Larger Accessory Unit at 7424 Moonstone LN (73rd Ave NE and Moonstone LN).

If there are any questions, please let me know.

2 Attachments: (1) Response and (2) Covenants for Hightop Acres 1st, 2nd and 3rd Subdivision.

Thank you,
Susie Franklin

Sent from [Mail](#) for Windows

October 24, 2021

Bismarck Community Development Department – Planning Division:

We are writing with our concerns for the request from Lana Sanders and Rod Kraft to increase the allowable area of accessory building space on 7424 Moonstone Lane. Our names are Travis and Susie Franklin. We are Lana's next-door neighbor to the South (7328 Moonstone LN). I have done the research and went and received the covenants for the development. (High Top Acres First, Second and Third).

The subject property making the request currently has a 31x45 shop and 8x10 shed and oversized 3 stall garage. We do not believe that the property needs another LARGE accessory structure. (28x50 request). Where do the 'Asks' stop? First it is for additional structure, then additional access point, etc. This residential neighborhood is zoned residential with lots averaging in size approximately from 1.81 acres to 2.2 acres. The lots/neighborhood has been developed/constructed in such away that each lot has one house and one large accessory unit/shop if the owner wants, and some have a small garden shed as well such as the subject property. In driving through our development or any surrounding developments even on the west side of Highway 83, no lots of our size and neighborhood have two large outbuildings that we could see. The covenant's state the subject is to be of the same structure and compatible with the home, such as materials etc. No one has pull barns up on the properties (not sure of the material requested for the subject structure; however, covenants do state it needs to be of like material to the home). All out structures in the neighborhood match their homes with the same materials/structure/design. Additionally, there is the ask for 16-foot falls and widening the driveway, so like I stated, where do the asks stop?

Covenants state the accessory structures are not to be used for business or living purposes. Who is monitoring? We are willing to speak up now and voice our concern in opposition for this request. We do not want this out building on the subject property 7424 Moonstone Lane to be approved. However, if our word is not heard or enough and this goes through, who is monitoring the usage? The neighbors? In today's society we do not want to be that person. This should not even be a question if this should be approved. The covenants state that appropriate storage space for your equipment and tools should built. We believe that the current 31x45 shop provides that and if not, there are storage units for sale and rent less than a ¼ mile from our development, then it would be time to rent one.

Additionally, the covenants states that no owner should create permanent or maintain any nuisance on the premises including unsightly landscaping. This new outbuilding would be a request for permanent unsightly landscaping in our opinion. In order to construct the building, they are having to take down trees and the beauty of the landscape to put up a large outbuilding in the front yard. Developments that have multiple out-buildings are properties that are zoned agricultural typically 5+ acres. Multiple large outbuildings are not for lot sizes of our size or neighborhood. We do not have large variation in lot sizes, we are the typical rural/urban residential neighborhood where you see 1 home, 1 large shop/accessory building, and garden shed; the ladder two only if the owner wants. Our development/neighborhood does not have lots with multiple out buildings. In fact, there is a home a block a way that tore down its shop this summer to build a larger one. They did not put in a request to put another shop up in their front yard.

It is our opinion that this request should not be permitted, and other options should be looked at, such as renting or purchasing a storage unit or making do with the large oversized 3 stall garage, 31x45 shop and garden shed.

If this is approved, where do the asks stop in the future with others moving into the neighborhood? We do not want the beauty of our development to start looking like a commercialized area; or to start being zone agricultural with livestock, because truly where do the asks stop? As stated above, who is monitoring the use of outbuilding, when there gets to be that many of large size buildings on the property.

We in no means want to make it difficult for the seller or purchaser of the property. However, we do believe that the guidelines in place should be adhered to along with the voices of the neighbors should be heard. We love our quiet/beautiful neighborhood and would like it to maintain its beauty. In addition, we believe the planning and zoning department needs to look at the lot size and structures already there and what is being requested. Also, the neighborhood needs to be looked at, and what other properties look like, how the neighborhood is zoned, and what is the look of our development. We believe the for the lot size, the home, shop, and garden shed are feasible for the lot size. No additional LARGE accessory structure should be approved. Other options stated above should be looked at.

Thank you,

Travis and Susie Franklin
7328 Moonstone LN
Bismarck ND 58503

Susie Franklin
Travis Franklin

HIGH TOP ACRES

RESTRICTIONS AND CONDITIONS

SECOND

AFFECTING HIGHTOP ACRES

SUBDIVISION

FIRST, SECOND AND THIRD SUB-
DIVISIONS LOCATED IN THE SW ¼
OF SECTION 2, T139, R80, BURLEIGH
COUNTY, NORTH DAKOTA

JEFFREY B. ANDERSON AND LAURIE A. ANDERSON, AS OWNERS OF HIGHTOP ACRES FIRST, SECOND AND THIRD SUBDIVISIONS LOCATED IN THE SW ¼ OF SECTION 2, T139, R80, BURLEIGH COUNTY, NORTH DAKOTA DO HEREBY PRESCRIBE AND DECLARE THAT THE PROPERTY KNOWN AS HIGHTOP ACRES SUBDIVISION IS SUBJECT TO THE RESTRICTIONS AND CONDITIONS SET FORTH. SUCH RESTRICTIONS AND CONDITIONS SHALL APPLY TO AND BE A PART OF EVERY CONVEYANCE OR DEED TO SUCH PROPERTY, OR ANY PART THEREOF, THE SAME AS THOUGH FULLY INCORPORATED IN SUCH DEED OR CONVEYANCE. SUCH RESTRICTIONS AND CONDITIONS SHALL BE CONSIDERED AS COVENANTS RUNNING WITH THE LAND, AND SHALL BE BINDING ON THE HEIRS, EXECUTORS, ADMINISTRATORS, SUCCESSORS AND ASSIGNS OF ANY PERSON TO WHOM SUCH LAND SHALL BE CONVEYED. ANY VIOLATION OR ATTEMPT TO VIOLATE, OR OMISSION TO PERFORM ANY OF THE CONDITIONS AND RESTRICTIONS SHALL ENTITLE ANY PERSON OWNING REAL ESTATE IN SUCH ADDITION WHICH IS SUBJECT TO SAME RESTRICTIONS OR CONDITIONS TO INSTITUTE AND PRESECUTE APPROPRIATE PROCEEDINGS AT LAW OR IN EQUITY.

THE RESTRICTIONS AND CONDITIONS ARE AS FOLLOWS;

1. THE LAND WITHIN THIS SUBDIVISION SHALL BE USED FOR RESIDENTIAL PURPOSES. ONLY RESIDENTIAL BUILDINGS MAY BE ERECTED UPON THE LAND TOGETHER WITH SUCH OUTBUILDINGS AS ARE ESTHETICALLY AND ARCHITECTUALLY COMPATIBLE WITH OTHER RESIDENTIAL CONSTRUCTION WITHIN THE PLATTED AREA.
2. NO HOUSE OR OTHER STRUCTURE TO BE USED FOR LIVING PURPOSES SHALL BE MOVED INTO ANY PART OF THE SUBDIVISION. ALL STRUCTURES TO BE USED FOR RESIDENTIAL PURPOSES SHALL BE OF NEW CONSTRUCTION. NO BUILDING SHALL BE CONSTRUCTED UNLESS A PERMIT SHALL HAVE BEEN RECEIVED AS MAY BE REQUIRED BY HAY CREEK TOWNSHIP AND APPROPRIATE ZONING REGULATIONS. NO SEPTIC TANK OR OTHER MEANS OF SANITARY DISPOSAL SHALL BE CONSTRUCTED, USED OR MAINTAINED UNLESS THE SAME MEETS WITH THE REQUIREMENTS OF ALL STATE AND LOCAL HEALTH LAWS. IN NO EVENT SHALL ANY PERSON UNDERTAKE OR PERMIT ANY USE OF THE PROPERTY WHICH WOULD BE DANGEROUS TO THE HEALTH OF ANY PERSON RESIDING IN THE AREA. NO SUBDIVISIONS OF ANY LOT WILL BE ALLOWED.
3. APPROPRIATE STORAGE SPACE WILL BE PROVIDED FOR ANY AND ALL EQUIPMENT, TOOLS, OR VEHICLES KEPT ON THE PREMISES. THE GROUND SHALL BE KEPT AND MAINTAINED IN A NEAT, ATTRACTIVE AND ORDERLY CONDITION AND SHALL NOT BE PERMITTED TO FALL INTO DISREPAIR.
4. NO LIVESTOCK, ANIMALS OR POULTRY OF ANY KIND SHALL BE RAISED, BRED, OR KEPT ON ANY LOT EXCEPT THAT DOGS OR CATS OR OTHER HOUSEHOLD PETS MAY BE KEPT PROVIDED THEY ARE NOT KEPT OR MAINTAINED FOR COMMERCIAL PURPOSES. DOGS OR CATS SHALL NOT BE ALLOWED TO ROAM FROM OWNERS LOT.

5. NO DUMPING OF TRASH OR GARBAGE, OLD LUNBER, OR UNSIGHTLY MATERIAL IS ALLOWED ON ANY LOTS AND PARTICULARLY ON THE EASEMENTS. ALL EASEMENTS ARE TO BE KEPT MOWED AND MAINTAINED BY THE PROPERTY OWNERS.
6. NO ONE OWNING OR OCCUPYING ANY LOT WITHIN HIGHTOP ACRES SUBDIVISION SHALL CREATE, PERMIT, OR MAINTAIN ANY NUISANCE ON THE PREMISES INCLUDING BUT NOT LIMITED TO UNSIGHTLY SIGNS, REFUSE PILES, UNKEPT YARDS, POULTRY, LIVESTOCK, (EXCEPT AS HEREIN PROVIDED), AND UNSIGHTLY AND UGLY FENCES, LANDSCAPING, AND EXTERIOR PAINT COLOR. FURTHER, NO NOXIOUS OR OFFENSIVE TRADE OR ACTIVITY SHALL BE CARRIED OUT UPON ANY LOT, NOR SHALL ANYTHING BE DONE THERON WHICH MAY BE OR BECOME ANY ANNOYANCE OR NUISANCE TO THE NEIGHBORHOOD.
7. A PERPUTUAL EASEMENT FOR INGRESS AND EGRESS WITH THE RIGHT TO INSTALL AND MAINTAIN OR REPAIR FACILITIES SHALL ALWAYS BE MAINTAINED FOR TELEPHONE, ELECTRIC, GAS, OR OTHER UTILITY LINES.
8. TREE SHELTER BELTS MUST BE SET BACK ON EACH LOT TO BUILDING SET-BACK LINES AS INDICATED IN THE FINAL PLAT SO AS TO PREVENT SNOW DRIFTING ON SUBDIVISION ROADS. ALL UTILITY LINES SHALL BE UNDERGROUND, EXCEPT FOR YARD LIGHTS. NO WIRING SHALL BE PERMITTED ABOVE GROUND.

DATED AT BISMARCK, NORTH DAKOTA THIS 30th DAY OF March

Jeffrey B. Anderson
JEFFREY B. ANDERSON

Laurie A. Anderson
LAURIE A. ANDERSON

SUBSCRIBED AND SWORN TO BEFORE ME THIS 30th DAY OF MARCH, 2000



Grenda Moxter
NOTARY PUBLIC

MY COMMISSION EXPIRES: 6-21-2001



539270
Page: 2 of 2
03/28/2000 12:22P
LAURIE ANDERSON RESTR 10.00 Burleigh County