Bismarck COMMUNITY DEVELOPMENT

PLANNING AND ZONING COMMISSION

MEETING AGENDA
November 17, 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 October 27, 2021 meeting of the Bismarck Planning & Zoning Commission

CONSENT AGENDA
CONSIDERATION

The following items are requests for public hearings.

2. **Municipal Fifth Addition** (WH)……..…..……..1

   Preliminary Plat | PPLT2021-007

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

3. **Sign Ordinance Technical Amendments** (DN)……..**8**

Zoning Ordinance Text Amendment | ZOTA2021-005

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

REGULAR AGENDA

FINAL CONSIDERATION/PUBLIC HEARINGS

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

4. **Schilling Second Addition** (WH)…….……..……..……..……14

Minor Subdivision Final Plat | MPLT2021-007

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

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

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

5. **Big Pines Addition** (WH)……..……..……..**34**

Minor Subdivision Final Plat | MPLT2021-008

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

6. **Lot 2, Block 3, Hay Creek Pines Subdivision** (DN)……..….**41**

Special Use Permit (Accessory Dwelling Unit) | SUP2021-024

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

7. **Lot Modification Process** (JW)……..……..**48**

Zoning Ordinance Text Amendment | ZOTA2021-004

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

OTHER BUSINESS

8. **Other**

ADJOURNMENT

9. **Adjourn.** The next regular meeting date is scheduled for December 15, 2021.

Enclosures: Meeting Minutes of October 27, 2021
Building Permit Activity Month to Date Report for October 2021
Building Permit Activity Year to Date Report for October 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.

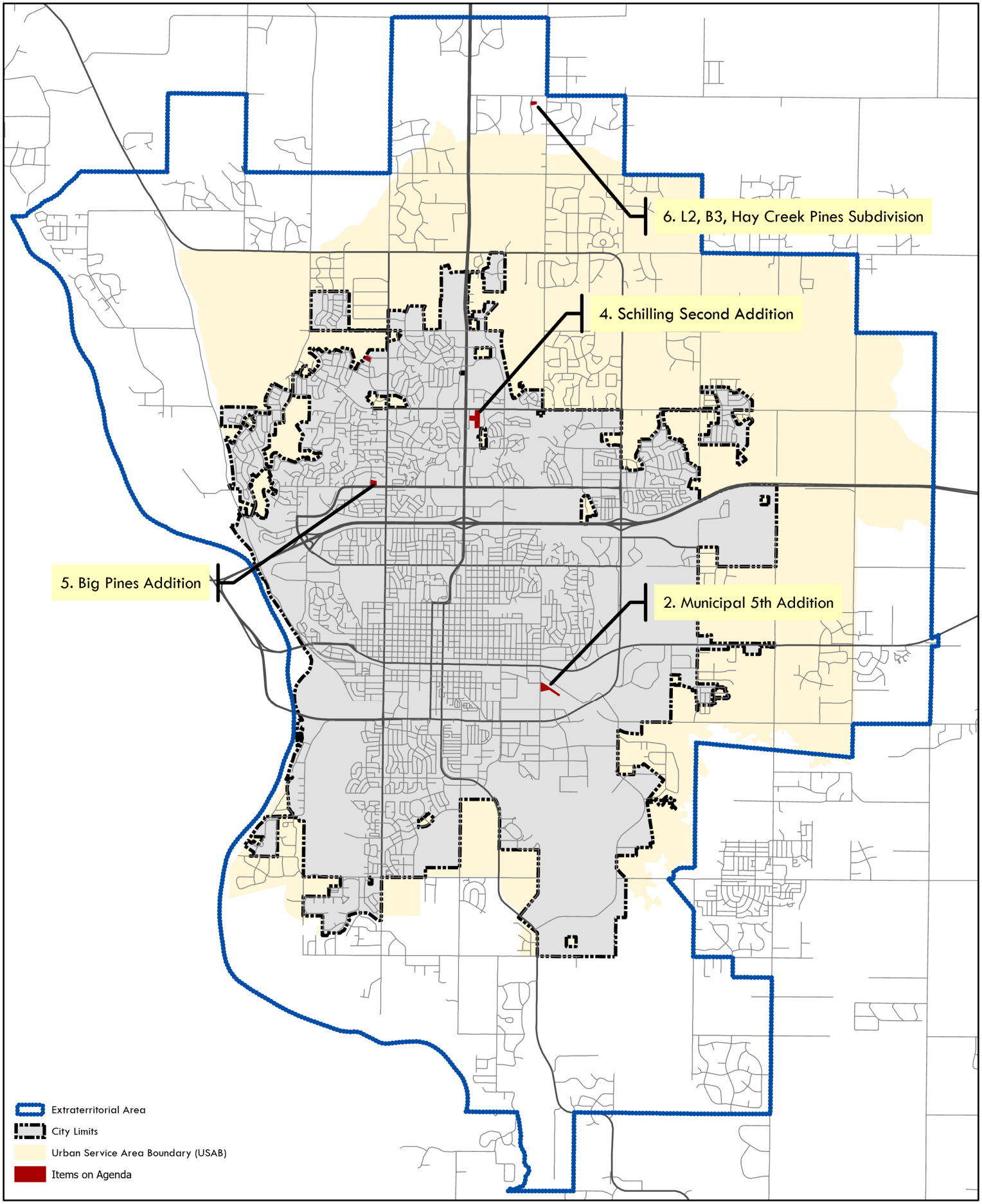
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions 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 - November 17, 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

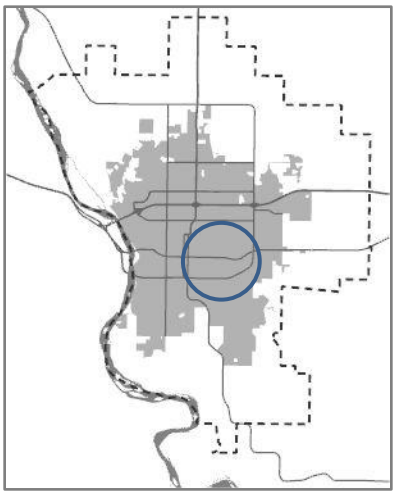
STAFF REPORT

Agenda Item #2
November 17, 2021

Application for: **Major Subdivision Preliminary Plat** Project ID: **PPLT2021-007**

Project Summary

Title:	Municipal Fifth Addition
Status:	Planning & Zoning Commission – Consideration
Owner(s):	City of Bismarck
Project Contact:	Gabe Schell, PE, City Engineer
Location:	In east Bismarck, south of East Main Avenue, north of Vermont Avenue, along the east side of South 26th Street (Tract 335, Lots 1 and 2, Block 1, Sloven Second Subdivision and part of the SW ¼ of Section 2, T138N-R80W/Lincoln Township)
Project Size:	9.29 acres
Request:	Plat city-owned land for future development



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2 parcels	*Number of Lots:*	1 lot in 1 block
Land Use:	Undeveloped	*Land Use:*	Municipal
Future Land Use:	Already zoned. Not in Future Land Use Plan	*Future Land Use:*	Already zoned. Not in Future Land Use Plan
Zoning:	MA – Industrial	*Zoning:*	MA – Industrial
Uses Allowed:	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos	*Uses Allowed:*	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
Max Density:	MA – N/A	*Max Density:*	MA – N/A

Property History

Zoned:	Pre-1980	*Platted:*	Sloven 2nd Subdivision – 07/1984	*Annexed:*	Pre-1980

(continued)

Staff Analysis

The City of Bismarck is requesting approval of a major subdivision preliminary plat for Municipal Fifth Addition. The City previously acquired this land and is now in the design phase to develop a new Bismarck-Burleigh Public Health facility at this location. Since a portion along the north side of the proposed plat has never been platted, a major subdivision final plat is required prior to development.

The proposed plat contains a non-access line along the entirety of South 26th Street. As currently shown, this would create a non-conforming parcel as it lacks required access to a public right-of-way. It is anticipated, that as plans for the new facility are further refined, the location of required access will be identified and reflected on this plat.

The land within the proposed plat may be combined with the already platted parcel for the existing Public Works site located to the south.

Adjacent uses include State of North Dakota facilities and railroad right-of-way to the north and east, City of Bismarck Public Works facility to the east and south, and industrial uses to the west across South 26th Street.

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

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed preliminary plat is not an urban subdivision with residential zoning districts;
4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required;
5. A scoping sheet for a post-construction stormwater management permit (PCSMP) has been approved by the City Engineer;
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision
7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends tentative approval of the preliminary plat for Municipal Fifth Addition.

(continued)

Attachments

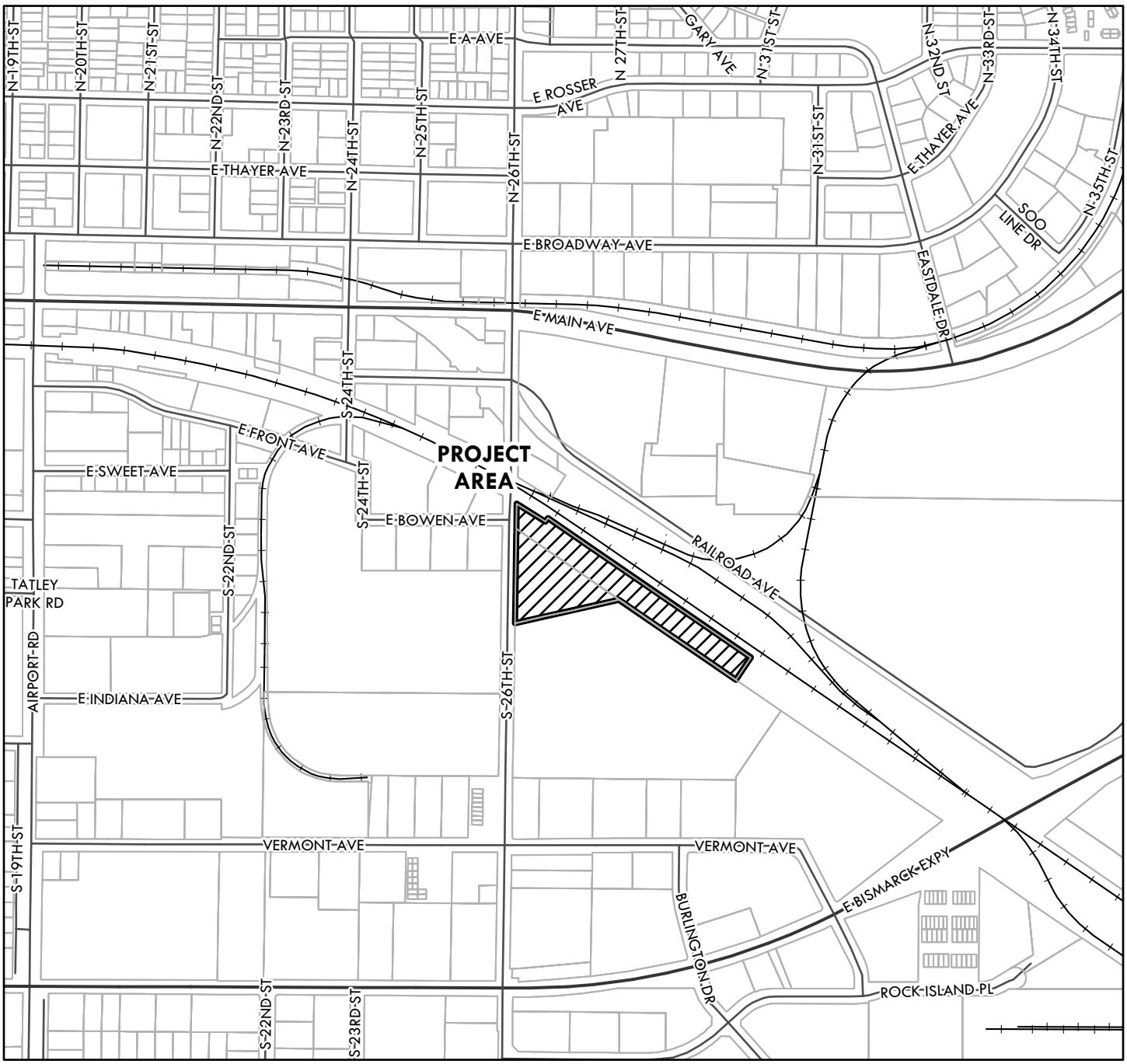
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Preliminary Plat

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

Location Map

MUNICIPAL FIFTH ADDITION

PPLT2021-007



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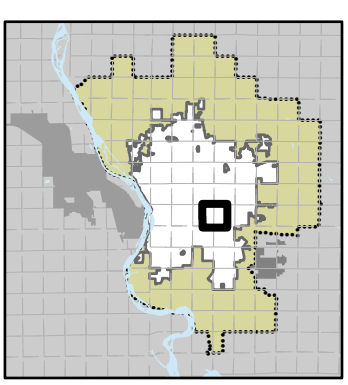

City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
October 26, 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

MUNICIPAL FIFTH ADDITION

PPLT2021-007

Miles

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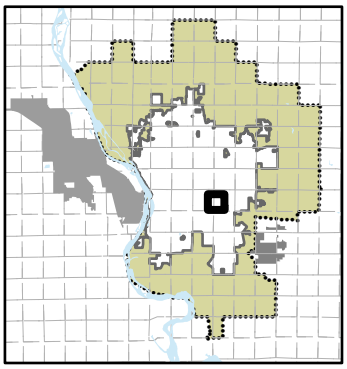
City Limits Bismarck ETA Jurisdiction

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
November 8, 2021

Zoning and Plan Reference Map

MUNICIPAL FIFTH ADDITION

PPLT2021-007

Zoning Districts

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

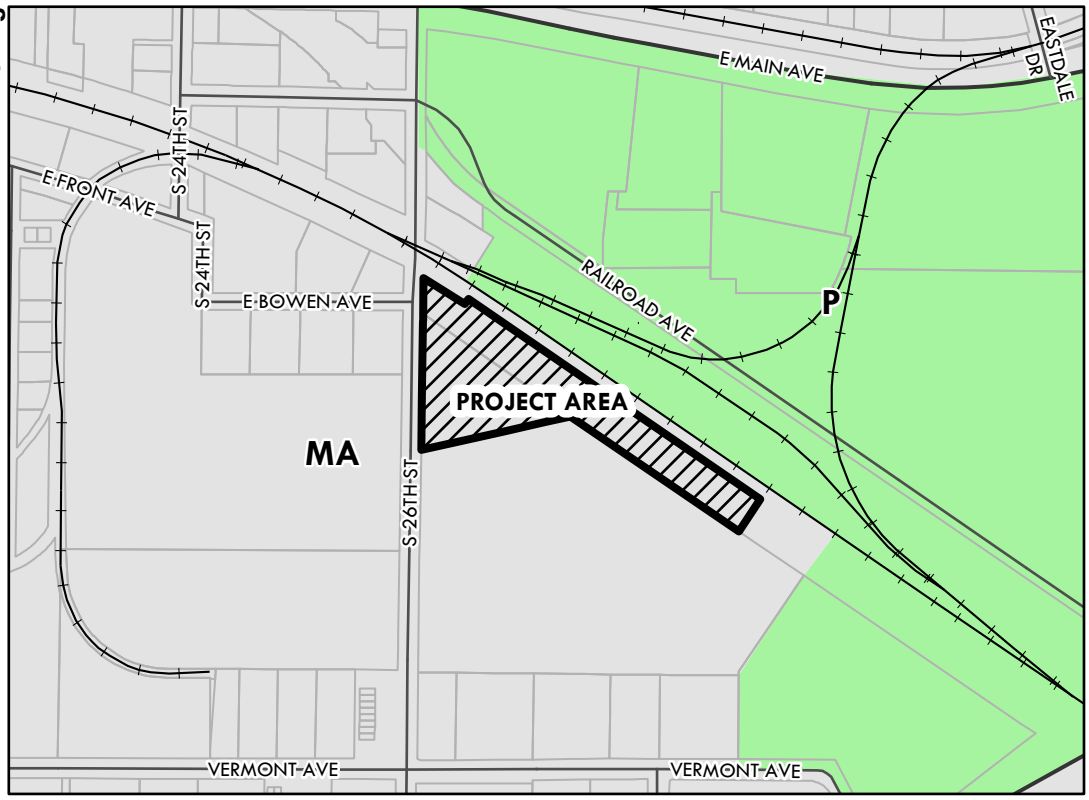
Future Land Use Plan

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

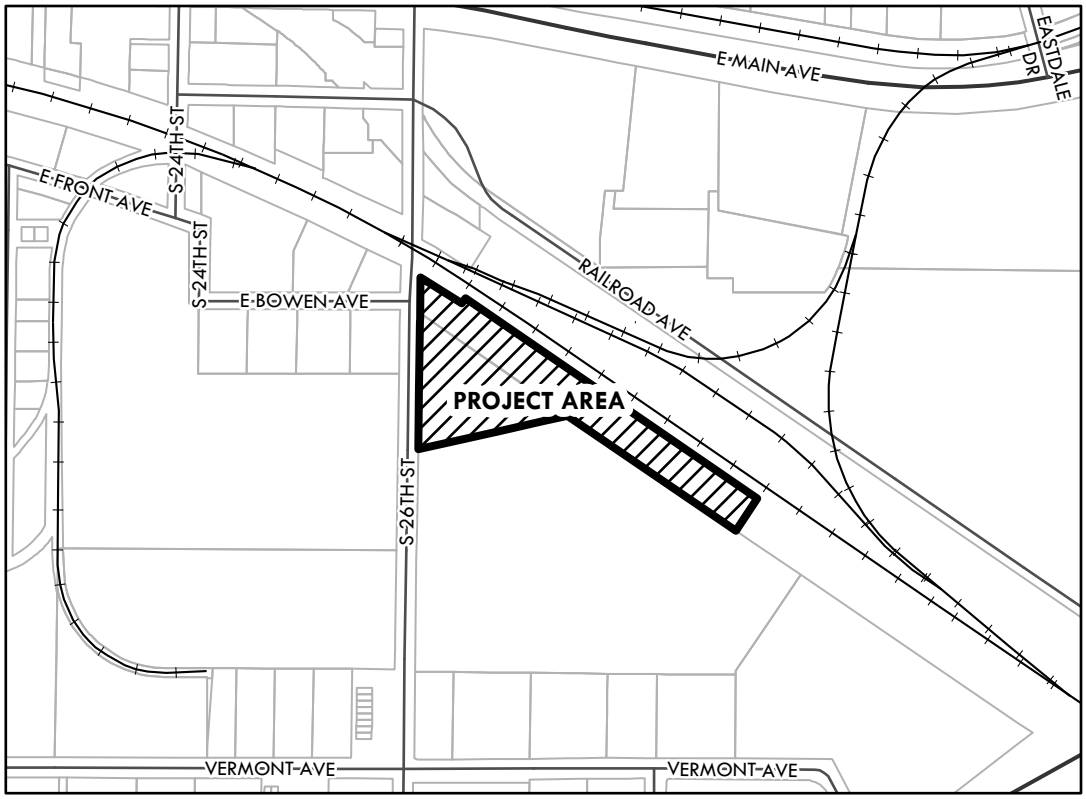
Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road

Zoning



Future Land Use Plan



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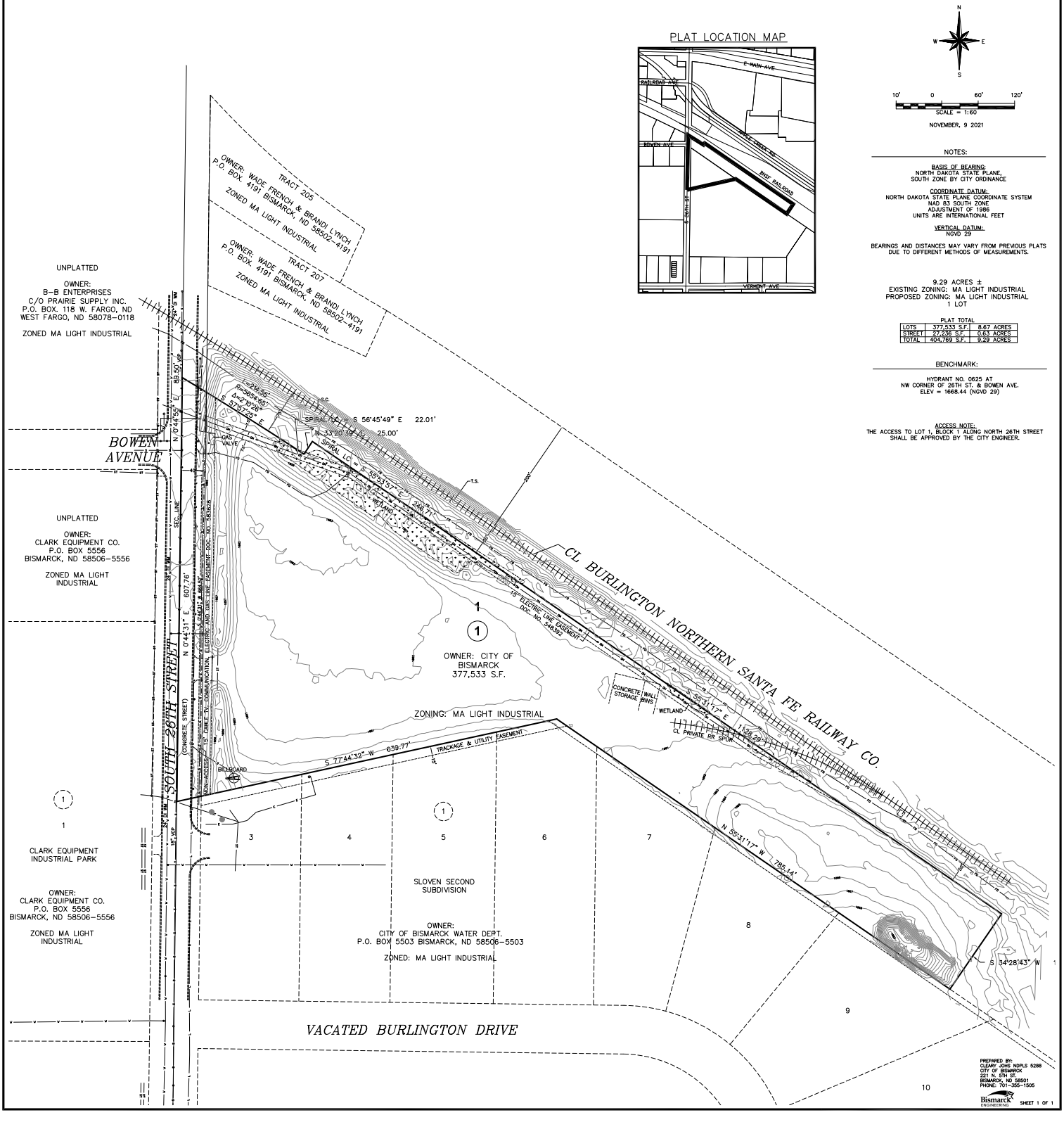
City of Bismarck
Community Development Dept.
Planning Division
November 8, 2021

PRELIMINARY PLAT MUNICIPAL FIFTH ADDITION

TRACT 335, LOTS 1 AND 2, BLOCK 1, SLOVEN SECOND SUBDIVISION, INCLUDING THE RIGHTS OF WAY FOR PART OF THE EAST HALF OF TWENTY-SIXTH STREET
PART OF THE SW1/4 OF SECTION 2, TOWNSHIP 138 NORTH, RANGE 80 WEST
OF THE 5TH PRINCIPAL MERIDIAN TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

Agenda Item #3
November 17, 2021

Application for: **Zoning Ordinance Text Amendment**

Project ID: **ZOTA2021-005**

Project Summary

Title:	Sign Ordinance Technical Revisions
Status:	Planning & Zoning Commission – Consideration
Project Contact:	Daniel Nairn, AICP, Senior Planner
Section(s) Amended:	Chapter 14-03.1 Signs: Sections 01 (Definitions and Measurements), 02 (Permitting Procedures), 03 (General Standards), and 04 (Commercial Zoning District Standards).
Request:	Make technical revisions to the sign ordinance

Staff Analysis

The City of Bismarck Community Development Department is requesting approval of a zoning ordinance text amendment to the sign ordinance Chapter 14-03.1.

The new sign ordinance was adopted by the City Commission and went into effect on July 25, 2020. After a year of administering this new ordinance, staff from the Building Inspections and Planning Divisions have identified a few proposed changes that may clarify certain provisions and ease the permitting process for both the sign industry and city staff.

This amendment is not intended to make substantive changes to the ordinance, and no changes at all are proposed for portable signs, off-premise advertising signs, or signs in the downtown zoning districts.

The following issues are addressed in this proposed amendment:

- Areas that are zoned P – Public and are adjacent to an A – Agricultural district or surrounded by a P – Public district will follow the residential standards, rather than the commercial standards.
- Written permission from the Police and Engineering Departments would no longer be required for approval of Electronic Message Centers (EMCs) or off-premise advertising signs. Staff from these departments will continue to be involved in all reviews and provide recommendations.
- Small-scale “electronic components” would be allowed on any permitted sign without the need to follow the more restrictive EMC process.
- Sign area measurement procedures are adjusted to allow a sign that can be viewed from multiple streets to combine allowable area from all.
- Additional freestanding signs would be permitted on commercial parcels with more street frontage. The difference between pole and monument sign will no longer be relevant.
- EMCs will continue to require some static content, but the proportion and placement of the content will no longer be restricted.

(continued)

- More details are provided on necessary elements of a site exhibit to be submitted with all signs.
- The definition of monument signs is broadened to include different types of bases.

Required Findings of Fact (relating to land use)

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

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning ordinance text amendment for Chapter 14-03.1 (Signs) of the City Code of Ordinances, as presented in the draft ordinance attached to the staff report.

Attachments

1. Draft zoning ordinance amendment

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

Chapter 14-03.1 – SIGNS

…

Section 14-03.1-02 **Definitions and Measurements**

1. **Definitions of Terms**. In addition to the overall definitions for zoning contained in Section 14-02-03 (Definitions) of the City Code of Ordinances, the following definitions represent the meanings of terms as they are used in this chapter:

…

Commercial Zoning District: The CA – Commercial, CG – Commercial, HM – Health Medical, or RT – Residential zoning districts. Street frontages in a P – Public zoning district that are not adjacent to or across from a residential zoning district, the A – Agricultural zoning district, or another P – Public zoning district are considered to be within a commercial zoning district for the purpose of this section.

…

Electronic Component: A small-scale electronic component of a permanent sign that meets all conditions of Section 14-03.1-05(10).

Electronic Message Center Sign (EMC): An on-premise advertising sign with a digital display of information that is capable of displaying characters, letters or illustrations and can be electronically changed by remote or automatic means. Small scale electronic components to signs that comply with all requirements of this ordinance are not included within this definition.

…

Monument Sign: a freestanding sign supported by a solid base, extending to the ground, of at least ~~seventy-five~~fifty (~~75~~50) percent of the sign width with the highest point of the sign face located eight (8) feet or less from the ground. Signs that are affixed to boulders or other inorganic natural features may be considered monument signs.

…

DRAFT

Portable Sign: A sign that is constructed ~~so as~~ to be movable, either by skids, wheels, truck or other conveyance and which does not have a permanent foundation or is otherwise permanently fastened to the ground and is not actively used as a vehicle for movement of goods. When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category, neither does the anchoring of the sign by means of concrete blocks, sandbags, or other types of temporary anchors. However, sidewalk signs are not considered portable signs.

…

Residential Zoning District: The R5 – Residential, R10 – Residential, RM – Residential, RMH – Residential, RR – Residential, or RR5 – Residential zoning districts. Lots or parcels within a P – Public zoning district that is adjacent to or across from a residential zoning district, the A – Agricultural zoning district, or another P – Public zoning district are considered to be within a residential zoning district for the purpose of this section.

…

2. **Method of Measurement**. All dimensional measurements in this chapter shall be calculated based on the following methods:

   a) **Determining Allowable Area.** Wherever a total allowable sign area is applied in this chapter, the following methods shall be used to determine area measurements:

   …

   iv. ~~The total allowable sign area is applied separately to the primary street frontage and any secondary street frontages as herein defined, and allowable area may not be transferred between frontages on a parcel.~~ The total allowable sign area of any street frontage, whether primary or secondary, may be applied to any sign that is visible from that frontage, including the combined total from multiple street frontages. The total allowable sign area of any street frontage may not be applied to any sign that is not visible from that frontage.

   …

Section 14-03.1-04 **Permitting Procedures**

…

3. **Permit Submittal Requirements**. The following items shall be submitted by an applicant to the Zoning Administrator prior to the issuance of any sign permit:

…

a) **Site ~~Plan~~Exhibit**. A site ~~plan~~ exhibit showing the dimensions of the sign, the exact location of the sign and any appurtenant features must be submitted for all pole signs, monuments signs, and off-premise advertising signs. The exhibit must include locations of all property lines, easements, sign setbacks, and structures in proximity to the proposed sign. This requirement may be waived by the Zoning Administrator if the sign is shown on an approved site plan for the overall development of the site.

b) **Street Visualizations**. Street visualizations must be submitted for all new electronic message center signs and off-premise advertising signs, unless waived by the City Engineer. Renderings of the proposed sign superimposed on a photograph of the proposed location, with accurate scale and placement, must be submitted. A separate rendering is required from 100 feet, 300 feet, and 500 feet from each direction of all streets from which the sign would be visible.

…

~~d) **Public Safety Verification**. For all new off-premise advertising signs or electronic message center signs, a written verification from the City Engineer and Chief of Police, or their designees, that the public safety provisions of Section 14-03.1-05 have been, or will be met, with the proposed sign is required.~~

Section 14-03.1-05 **General Standards**

…

10. Small-Scale Electronic Components. Any permanent permitted sign may include small-scale electronic components, which shall not be considered an electronic message center sign, subject to the following conditions:

a) Each electronic component is no greater than five (5) square feet in size.

b) No more than three (3) electronic components are included on any sign.

c) Each frame of all electronic components is held for a minimum of three (3) hours before changing content.

d) Each electronic component uses only one (1) color.

…

Section 14-03.1-08 **Commercial Zoning District Standards**

…

3. **On-Premise Advertising Signs**. In addition to general standards of Section 14-03.1-05, the following provisions apply to all on-premise advertising signs, excluding portable signs.

a) **Freestanding Signs**. Freestanding signs, including pole signs and monument signs, are permitted according to the following provisions:

i. **Number**: ~~Pole~~ Freestanding signs shall be limited to one (1) ~~pole~~ freestanding sign per street frontage per parcel, ~~and monument signs shall be limited to one (1) monument sign per street frontage per parcel.~~ Notwithstanding, parcels with a street frontage of greater than three-hundred and fifty (350) feet are entitled to one (1) additional freestanding sign for each additional three-hundred and fifty feet (350) for frontage. Multiple businesses operating on-premises may be advertised on any single sign.

…

d). **Electronic Message Center Signs**. The following provisions apply to electronic message center signs within commercial zoning districts or industrial zoning districts, with the exception of electronic message center signs located within one hundred and fifty (150) feet of any residential zoning district, as measured from any part of the sign to the nearest property line within any residential zoning district, which are subject to residential requirements for electronic message center signs in Section 14-03.1-07(5)d.

…

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

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Bismarck COMMUNITY DEVELOPMENT

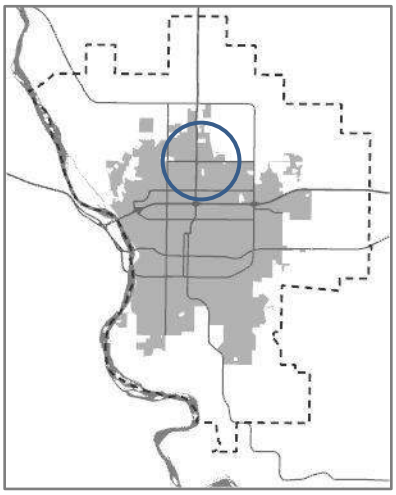
STAFF REPORT

Agenda Item # 4
November 17, 2021

Application for: **Zoning Change** Project ID: **ZC2021-010**
Minor Subdivision Final Plat **MPLT2021-007**

Project Summary

Title:	Schilling Second Addition
Status:	Planning & Zoning Commission – Public Hearing
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. (a replat of Lot 3, Block 1, Capital Electric Headquarters Addition and Lot 3, Block 1, Buffalo Jump Addition)
Project Size:	12.52 acres
Request:	Replat and rezone previously platted 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:*	3 lots in 1 block
Land Use:	Vacant, offices and indoor 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 minor subdivision final plat for Schilling Second Addition and a zoning change from the PUD – Planned Unit Development and CG – Commercial zoning districts to a new PUD – Planned Unit Development and CG – Commercial zoning districts. The boundaries of these proposed zoning districts are different than the current zoning district boundaries and a new PUD will replace the existing PUD.

The Planning and Zoning Commission considered the zoning change request at their meeting of September 22, 2021 and called for a public hearing on the zoning change.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on November 5, 2021 and November 12, 2021 and 23 letters were mailed to the owners of nearby properties on November 5, 2021.

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.

Background

This is the original headquarters of Capital Electric Cooperative. This site was originally developed in 1971 with a two-story office, shop and warehouse. At the time of development, this property was outside of the city limits and was chosen to provide the cooperative's headquarter facilities room to grow. As the City grew north and developed around the site, the area was annexed and brought into the city limits. In 2008 portions of this subject area were replatted as Capital Electric Headquarters Addition and rezoned to the zoning that exists today. A PUD was established at that time that allowed Industrial group A uses, specifically a service center and storage buildings. That same year a site plan was approved for a substantial expansion of the service center and storage building within the center of the lot. The PUD also allowed outdoor storage areas.

Capital Electric also owns Lot 3, Block 1, Buffalo Jump addition which is directly to the south of the service center and storage building. This lot is zoned CG – Commercial wherein outdoor storage is not an allowed use. Overtime the outdoor storage uses crept onto this lot in violation of the zoning and staff was not aware this had occurred.

Requested Actions

Capital Electric is in the process of transitioning out of this site to a new main location further north. The proposed minor subdivision final plat creates new sellable lots and would establish the CG – Commercial zoning district for two of the new created lots and the PUD would allow uses that are more likely to adaptively reuse the

(continued)

existing service center and storage area while being generally harmonious with adjacent uses and zoning.

The proposed plat and zoning change would create a new lot (Lot 2) where the Capital Electric office is located which would be rezoned to CG – Commercial. A new lot (Lot 1) would be created for the northern most vacant area adjacent to 43rd Avenue NE which would also be rezoned to CG – Commercial.

Planned Unit Development Standards

Lot 3, Block 1 is proposed to be zoned as a new PUD. An existing service center and a laydown area, which is in violation of the existing CG – Commercial zoning district standards, would be consolidated within a lot (Lot 3). This new PUD would allow for a greater variety of uses than the current PUD – Planned Unit Development zoning district currently allows.

Under the proposed PUD, most commercial uses would be permitted, with the exception of residential and hotel/motel uses. The PUD would allow the existing building to be used for commercial uses and indoor storage uses. The PUD would also allow for some special uses subject to approval of the Planning and Zoning commission. These special uses include all special uses permitted within the CG – Commercial zoning district, as well as a brewery and ancillary outdoor storage use in conjunction with any principal use on site.

This area is surrounded by typical commercial uses and can be seen from the manufactured home park to the east and southeast. Under the provisions in the proposed PUD, any new outdoor storage use will be required to keep all material within a fenced area enclosed on all sides with a solid wall, compact hedge, chain link security fence, not less than seven feet in height and screened with slats, or other acceptable opaque screening materials. The height of any materials stored in the outdoor storage area may not exceed the height of the fence. If the required fence is greater than seven feet in height it must also meet the required setbacks as outlined within the ordinance.

Additional design and aesthetic standards are outlined within the draft PUD ordinance that would be required for any new buildings and any renovation or additions to the existing building.

A copy of the draft PUD is attached to this staff report.

Change of Use Permit Requirement

The existing building within the proposed Lot 3 is considered an ancillary building to the old headquarters office building. Now that this building will be on a separate lot it will be considered a primary structure and will require a change of use permit. During the review of the change of use permit, staff will determine if any new use(s) will need to make improvements in order to comply with the PUD zoning and adopted building code requirements

Non-Conforming Use Continuance

Capital Electric has indicated that at this time they do not have a buyer and would, in the interim, continue to use the site for outdoor storage purposes without having the required associated principal use as outlined in the PUD. This is would be deemed a non-conforming use and would be allowed as long as it is not further expanded or altered.

Minor Subdivision Final Plat

To facilitate additional access to the proposed Lot 3, which does not have direct access to public right of way, an access easement would be provided within the adjacent lots from the State Street Frontage Road and from 43rd Avenue NE. The location of the break in the non-access line along 43rd Avenue NE and the access easement

(continued)

may need to be relocated in the future to better align with a future development on the proposed Lot 1.

Utility Capital Charges

The creation of any new lots in the City of Bismarck is subject to development capital charges for municipal utilities. The Public Works Department – Utility Operation Division has determined that utility capital charges will be due prior to the recordation of the proposed plat.

Required Findings of Fact (relating to land use)

Zoning

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.

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

Staff Recommendation

Based on the above findings, staff recommends approval of the minor subdivision final plat for Schilling Second Addition and approval of the zoning change from the PUD – Planned Unit Development and CG – Commercial zoning districts to the PUD – Planned Unit Development and CG – Commercial zoning districts as outlined in the attached draft ordinance.

Attachments

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

(continued)

7. Underlying Plats with Replatted Area Highlighted

Staff report prepared by: Will Hutchings, Senior Planner
701-355-1850 | whutchings@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 PUD – Planned Unit Development zoning district and included in the CG - Commercial zoning district:

Lots 1 – 2, Block 1, Schilling Second Addition

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

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

Lot 3, Block 1, Schilling Second Addition

This PUD is subject to the following development standards:

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

~~a. A single- or two- family dwelling when used in conjunction with a commercial use.~~

~~b. Multifamily dwelling.~~

~~c. Group dwelling.~~

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~~d. Multifamily high rise.~~

~~e. Hotel-motel.~~

f. Retail group A.

g. Service group A.

h. Office-bank group.

i. Retail group B.

j. Service group B.

k. Commercial recreation group.

l. Wholesale group.

m. Health-medical group.

n. Education group.

o. Public recreation group.

p. Railroad or bus passenger station.

q. Commercial greenhouse.

r. Commercial parking lot.

s. Religious institution.

t. Microbrew pub.

u. Domestic distillery.

The following uses are allowed as special uses pursuant to Section 14-03-08 hereof:

a. Temporary Christmas tree sales.

b. Temporary farm and garden produce sales.

c. Seasonal nursery and bedding stock sales.

d. Filling station.

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e. Drive-in retail or service establishment.

f. Small animal veterinary clinic.

g. Golf driving range.

h. Auto laundry – car wash.

i. Retail liquor sales.

j. Outdoor Storage Areas provided that:

1. The outdoor storage area shall be wholly within an area enclosed on all sides with a solid wall, compact hedge, chain link security fence, not less than seven feet in height and screened with slats, or other acceptable opaque screening materials. If the required fence is greater than seven feet in height it must meet the required setbacks as outlined within this ordinance;

2. The outdoor storage area shall be ancillary to the principal use within the property;

3. Goods and materials shall be located on a paved or gravel surface;

4. The outdoor storage area shall be maintained in an orderly fashion and stored in a manner such that adequate fire access (i.e. access) lanes to all areas of the yard is possible;

5. The height of materials shall not exceed the height of the fence, with the exception that the height of materials may be increased to one and half times the fence height if the stored material is located greater than 30 feet from the fence;

6. The outdoor storage area shall not reduce the amount of required parking on the site;

7. Storage of wrecked, inoperable, or salvage materials is strictly prohibited; and

8. Outdoor mechanical repair of equipment or vehicles shall not be allowed within the outdoor storage area. All activities including

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manufacturing, assembly, repair, and sales shall occur within the building for the principal use.

The following use is allowed within the existing building provided that this use cannot be expanded, enlarged or located with any other portion of the property:

a. Storage building and warehouses including refrigerated storage provided that all storage is located within an enclosed building.

The following use is allowed as a special use within the existing building pursuant to Section 14-03-08 hereof provided that these uses cannot be expanded enlarged or enlarged:

a. Manufacturing and storage of alcoholic beverages, including brewery and distilling provided that:

1. The site may not be located within three hundred (300) feet of the nearest lot line of any religious institution, public or parochial school, public library, hospital, or college or university building used for academic purposes, unless the entity(s) affected by the above limitation consent to the granting of the special use permit;

2. A facility at the proposed site will not have an adverse impact on the character of the neighborhood. The following criteria may be used to evaluate proposed sites: the effect on traffic movements in the area; the general nature, character, age and condition of the adjacent development; the proximity to residential areas, regardless of zoning; or any other criteria the City may deem pertinent;

3. All brewing, and/or distilling and storage activities are located within a completely enclosed building;

4. The facility complies with all applicable building code, health and sanitation, and zoning regulations;

5. The facility complies with all applicable licensing and operational requirements of the State.

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6. Beverages brewed or distilled onsite cannot be sold or otherwise provided for consumption on the premises unless the owner holds the appropriate liquor license from the City;

7. Beverages brewed or distilled onsite cannot be sold or otherwise provided to nonwholesale customers for consumption off the premises unless the owner holds appropriate liquor license from the City; and

8. Adequate parking is provided onsite in accordance with the provisions of Section 14-03-10.

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

2. *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.

3. Dimensional Standards.

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a. Front Yard Setback. The minimum front yard setback is 15 feet along the frontage road. The front yard setback is defined as the portion along the western lot line.

b. Side Yard Setback. The minimum side yard setback is 5 feet. The side yard setback is defined as the portion along the northern and southern lot lines.

c. Rear Yard Setback. The minimum rear yard setback is 25 feet. The rear yard setback is defined as the portion along the eastern lot line.

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

4. Design and Aesthetic Standards.

a. Intent. It is the intent of the design standards to create and maintain a high visual quality and appearance for this development, encourage architectural creativity and diversity, 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 new building facades and building exterior renovations 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 prefinished metal architectural panels. If prefinished metal architectural panels are used, no more than 70% of any elevation visible from 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 complementary to adjacent

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commercial uses and shall be designed in a manner that is of a commercial general appearance.

5. *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)

   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 14-03.1 of the City Code of Ordinances (Signs) following the Commercial Zoning District Standards. Off-premise advertising signs (billboards) are specifically prohibited within this development.

   f. Traffic Impact Analysis: Submittal of potential trip generation information for any proposed use(s) may be required by the City Engineer. Based on the trip generation information submitted, a traffic impact analysis may be required.

   g. Portable Storage Containers: Portable Storage Containers may be allowed in accordance with the provisions of Section 14-03-06(3) of the City Code of Ordinances (Incidental Uses) and shall be subject to the same standards as commercial zoning districts.

6. *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.

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

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

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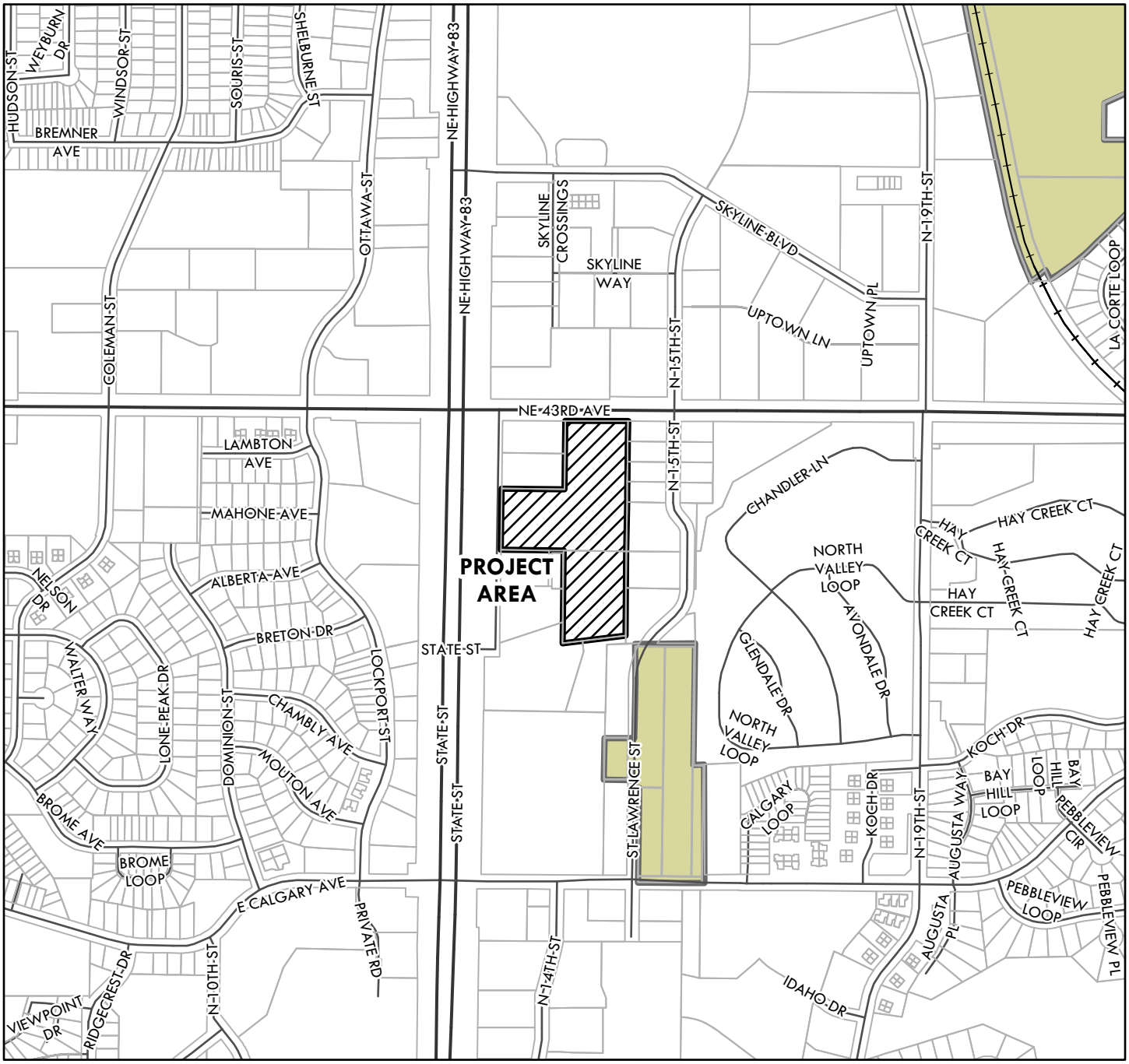
Location Map

SCHILLING SECOND ADDITION

MPLT2021-007
ZC2021-010



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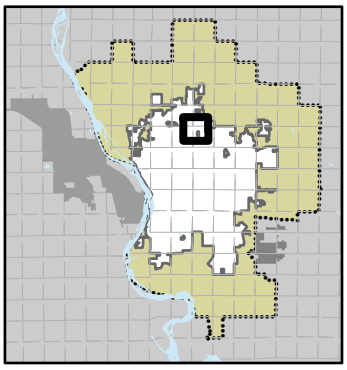


City Limits

Bismarck ETA Jurisdiction

County Outside ETA

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
October 14, 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

SCHILLING SECOND ADDITION

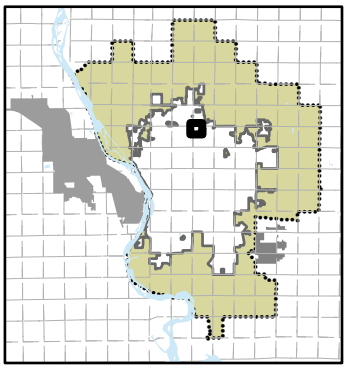
ZC2021-010
MPLT2021-007

0 0.1 0.2 0.4 Miles

City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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



City of Bismarck
Community Development Department
Planning Division
November 8, 2021

Zoning and Plan Reference Map

SCHILLING SECOND ADDITION

ZC2021-010
MPLT2021-007

Zoning Districts

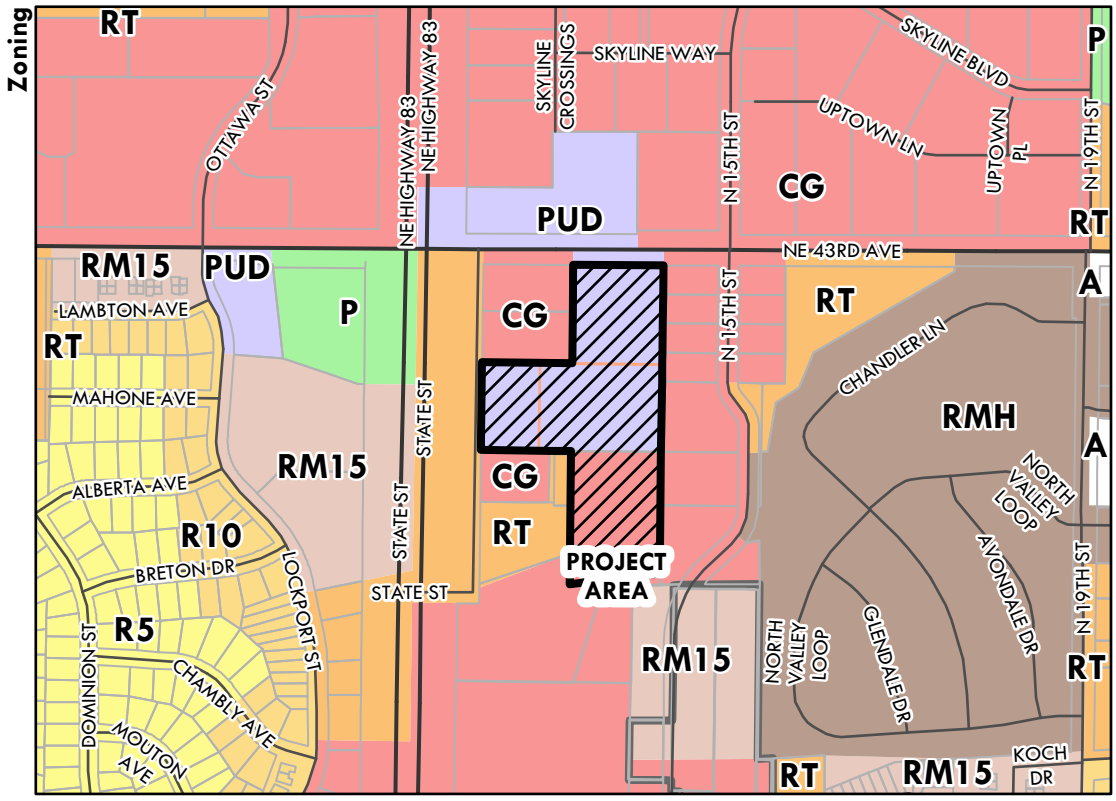
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

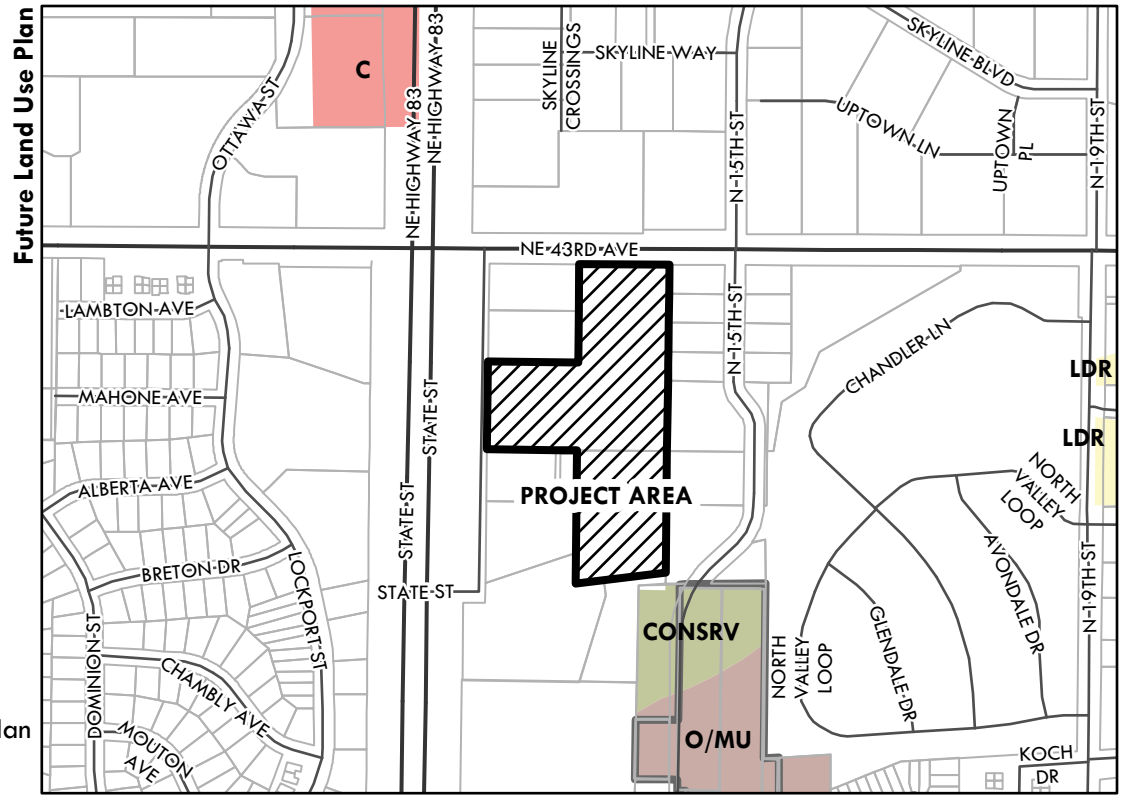
Future Land Use Plan

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

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road





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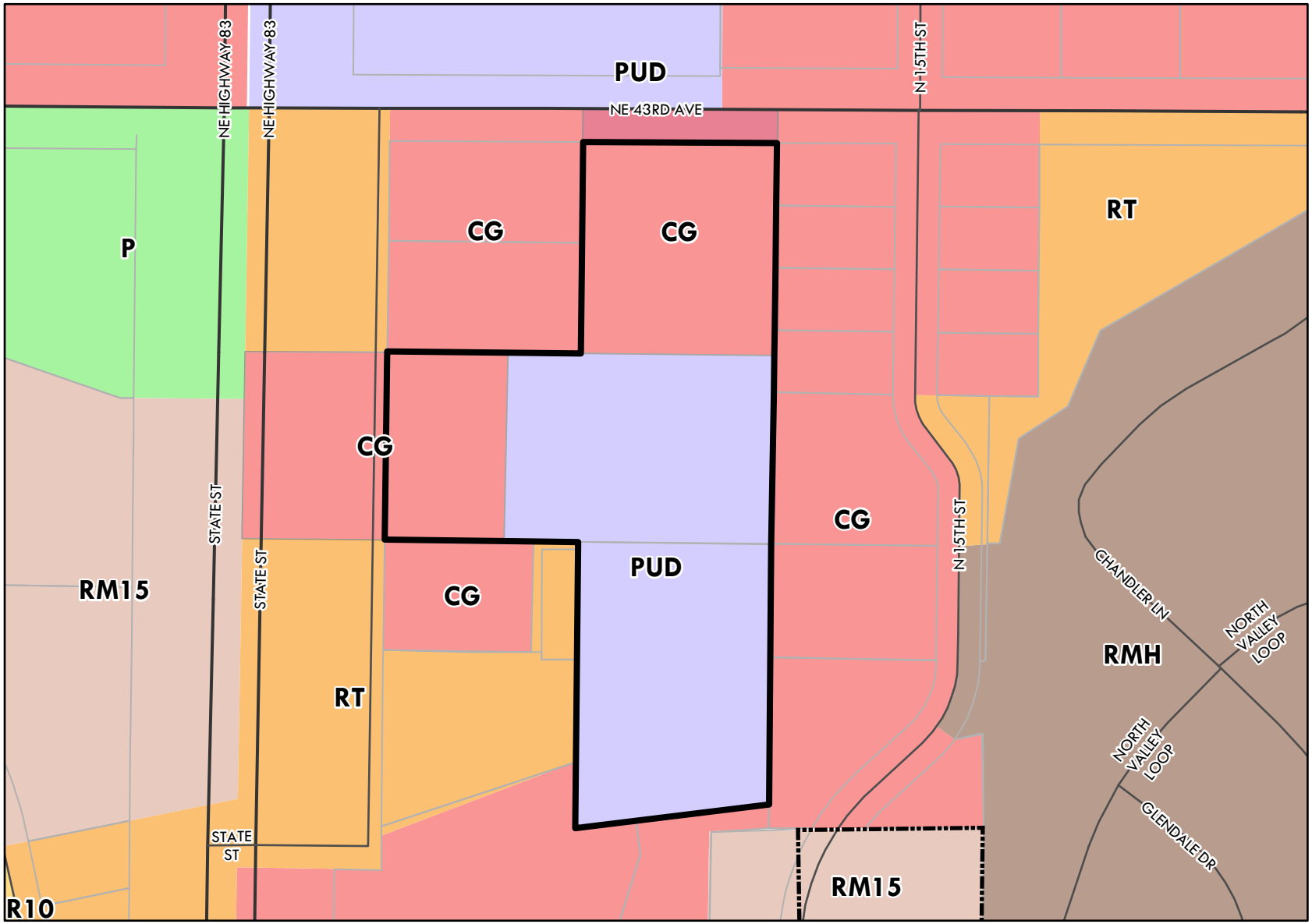
City of Bismarck
Community Development Dept.
Planning Division
November 8, 2021

Potential Zoning Change
SCHILLING 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

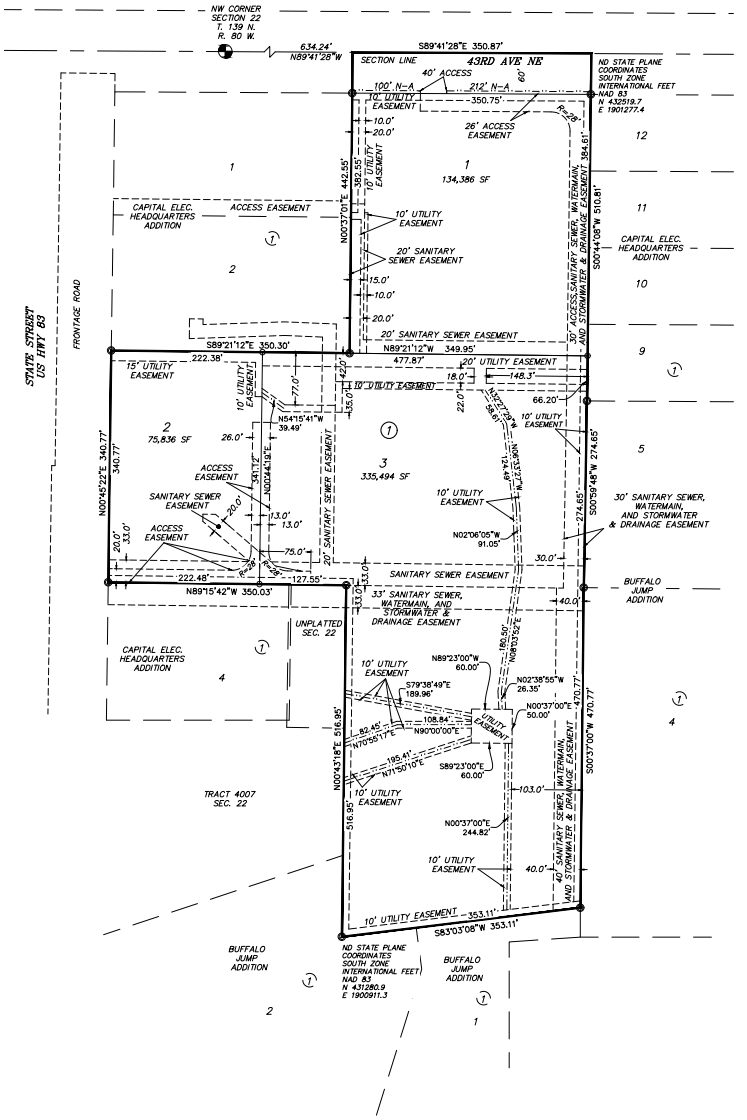
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

City of Bismarck
Community Development Dept.
Planning Division
November 9, 2021

SCHILLING SECOND ADDITION

BEING A REPLAT OF LOT 3 BLOCK 1 CAPITAL ELECTRIC HEADQUARTERS ADDITION & LOT 3 BLOCK 1 BUFFALO JUMP ADDITION AND PART OF THE SOUTH 1/2 OF 43RD AVE NE OF THE NW 1/4 OF SECTION 22 TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



DESCRIPTION

BEING A REPLAT OF LOT 3 BLOCK 1 CAPITAL ELECTRIC HEADQUARTERS ADDITION & LOT 3 BLOCK 1 BUFFALO JUMP ADDITION AND PART OF THE SOUTH 1/2 OF 43RD AVE NE OF THE NW 1/4 OF SECTION 22 TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 2 BLOCK 1 CAPITAL ELECTRIC HEADQUARTERS ADDITION; THENCE SOUTH89 DEGREES 21 MINUTES 12 SECONDS EAST, ALONG THE BOUNDARY OF SAID LOT 2, A DISTANCE OF 350.30 FEET; THENCE NORTH 00 DEGREES 37 MINUTES 01 SECOND EAST, ALONG SAID BOUNDARY AND THE BOUNDARY OF LOT 1 BLOCK 1 CAPITAL ELECTRIC HEADQUARTERS ADDITION AND THE NORTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 1, A DISTANCE OF 442.55 FEET TO THE CENTERLINE OF 43RD AVENUE NE RIGHT-OF-WAY; THENCE SOUTH 89 DEGREES 41 MINUTES 28 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 350.87 FEET TO THE NORTHERLY EXTENSION OF THE WEST LINE OF LOT 12 BLOCK 1 CAPITAL ELECTRIC HEADQUARTERS ADDITION; THENCE SOUTH 00 DEGREES 44 MINUTES 08 SECONDS WEST, ALONG SAID NORTHERLY EXTENSION AND THE WEST LINE OF LOTS 12, 11, 10, AND 9 BLOCK 1 CAPITAL ELECTRIC HEADQUARTERS ADDITION, A DISTANCE OF 510.81 FEET TO THE NORTH LINE OF BUFFALO JUMP ADDITION; THENCE SOUTH 00 DEGREES 59 MINUTES 48 SECONDS WEST, ALONG THE WEST LINE OF LOT 5 BLOCK 1 BUFFALO JUMP ADDITION, A DISTANCE OF 274.65 FEET TO THE NORTH LINE OF LOT 4 BLOCK 1 BUFFALO JUMP ADDITION; THENCE SOUTH 00 DEGREES 37 MINUTES 00 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 4, A DISTANCE OF 470.77 FEET TO THE NORTH LINE OF LOT 1 BLOCK 1 BUFFALO JUMP ADDITION; THENCE SOUTH 83 DEGREES 03 MINUTES 08 SECONDS WEST, ALONG SAID NORTH LINE AND THE BOUNDARY OF LOT 2 BLOCK 1 BUFFALO JUMP ADDITION, A DISTANCE OF 353.11 FEET; THENCE NORTH 00 DEGREES 43 MINUTES 18 SECONDS EAST, CONTINUING ALONG THE BOUNDARY OF LOT 2 BLOCK 1 BUFFALO JUMP ADDITION, AND THE EAST LINE OF TRACT 4007 AND ITS NORTHERLY EXTENSION, A DISTANCE OF 516.95 FEET; THENCE NORTH 89 DEGREES 15 MINUTES 42 SECONDS WEST, ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 4 BLOCK 1 CAPITAL ELECTRIC HEADQUARTERS ADDITION, A DISTANCE OF 350.03 FEET TO THE EAST LINE OF STATE STREET/US HWY 83 RIGHT-OF-WAY; THENCE NORTH 00 DEGREES 45 MINUTES 22 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 340.77 FEET TO THE POINT OF BEGINNING.

CONTAINING 13.01 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

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

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

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

APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE _____ DAY OF _____, 202__, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

_____ MICHAEL J. SCHWARTZ – CHAIRMAN

_____ ATTEST BEN EHRETH – SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

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

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE _____ DAY OF _____, 202__.

_____ ATTIEST KEITH J. HUNKE – CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

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

_____ GABRIEL J. SCHELL CITY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

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

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

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

THEY ALSO DEDICATE ACCESS EASEMENTS TO RUN WITH THE LAND FOR USE BY ALL LAND OWNING PARTIES, THEIR TENANTS, VISITORS AND LICENSEES, TO PASS AND REPASS ALONG SAID EASEMENT, AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, IT'S OFFICERS AND EMPLOYEES FOR EMERGENCY SERVICES AND ANY OTHER GOVERNMENTAL USE OR USES, PROVIDED THAT MAINTENANCE AND CLEARANCE OF THE EASEMENTS IS THE RESPONSIBILITY OF THE LAND OWNING PARTIES AND THE CITY SHALL NOT BE RESPONSIBLE IN ANY WAY TO FURNISH ANY CITY SERVICES IF SUCH ACCESS EASEMENTS ARE NOT PROPERLY MAINTAINED OR ARE OBSTRUCTED BY THE OWNERS OF THE PROPERTY IN THE SUBDIVISION.

THEY ALSO DEDICATE WATERMAIN & SANITARY SEWER EASEMENTS TO RUN WITH THE LAND FOR USE BY ALL LAND OWNING PARTIES TO CONSTRUCT, OPERATE, MAINTAIN AND REPAIR WATERMAIN & SANITARY SEWER FACILITIES UNDER OR UPON THOSE AREAS DESIGNATED AS SUCH.

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)

_____
CAPITAL ELECTRIC COOPERATIVE

ON THIS _____ DAY OF _____, 202__, BEFORE ME PERSONALLY APPEARED _____ OF CAPITAL ELECTRIC COOPERATIVE, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

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

NOTES

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

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

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

ACCESS ONTO 43RD AVE NE IS LIMITED TO A RIGHT IN/RIGHT OUT ACCESS FOR LOT 1 BLOCK 1

N

0 80'

SCALE – 1" = 80'
NOVEMBER 3, 2021

○ MONUMENT TO BE SET
◎ MONUMENT IN PLACE

AREA DATA

LOTS	545,695 S.F.	12.53 ACRES
STREETS	21,045 S.F.	0.48 ACRES
TOTAL	566,740 S.F.	13.01 ACRES

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

1625

CAPITAL ELECTRIC HEADQUARTERS ADDITION

A REPLAT OF PART OF LOT 1 BLOCK 1, NORTH VALLEY ESTATES 2ND ADDITION, AND LOT 21 BLOCK 1, NORTH VALLEY ESTATES, AND AN UNPLATTED PORTION OF THE NORTHWEST 1/4 OF SECTION 22, T139N–R80W OF THE FIFTH PRINCIPAL MERIDIAN

BURLEIGH COUNTY, NORTH DAKOTA

SURVEYOR'S CERTIFICATE

I, John G. Lindvig, a Registered Land Surveyor in the State of North Dakota, hereby certify that this Plat is a true representation of the Capitol Electric Headquarters Addition, Burleigh County, North Dakota, further that all information shown hereon is true and correct to the best of my belief and knowledge.

John G. Lindvig
PLS #3855

STATE OF NORTH DAKOTA)
)SS
COUNTY OF BURLEIGH)

On this, the 13 day of Sept., 2007, before me personally appeared John G. Lindvig, known to me to be the person described in and who executed the foregoing Surveyor's Certificate, and he acknowledged to me that he executed the same.

ALAN W. ERICKSON
Notary Public
State of North Dakota
My Commission Expires Aug. 23, 2012

Notary Public
Burleigh County, North Dakota
My Commission Expires 8/23/12

APPROVAL OF CITY PLANNING COMMISSION

The Addition of land as shown on this plat has been approved by the Planning Commission of the City of Bismarck, on the 17 day of June, 2007, in accordance with the laws of the State of North Dakota, ordinances of the City of Bismarck and regulations adopted by said City Planning Commission. In witness whereof are set the hands and seals of the Chairman and the Secretary of the Planning Commission of the City of Bismarck.

David Blackwood
Chairman

Curt Hickenstad
Secretary

APPROVAL OF BOARD OF CITY COMMISSIONERS

The Board of City Commissioners of the City of Bismarck, North Dakota, has approved the Addition of land as shown on this plat, has accepted the dedication of all streets shown thereon, has approved the grounds as shown on this plat as an amendment to the Master Plan to the City of Bismarck, North Dakota.

The foregoing action of the Board of City Commissioners of Bismarck, North Dakota, was taken by resolution approved on the 24th day of July, 2007.

W.C. Wocken
City Administrator

APPROVAL OF CITY ENGINEER

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

Melvin J. Bullinger, P.E.
City Engineer
11/29/2007

OWNER'S CERTIFICATE AND DEDICATION

We, the undersigned, hereby certify that we are the owners of the land which is included in this plat, this plat being entitled: Capital Electric Headquarters Addition, City of Bismarck, Burleigh County, North Dakota, that the plat has been made at our request and under our direction, for the purpose of defining and describing the property as shown by this plat.

We hereby dedicate to the public, for public use forever as such, the streets, utility easements, storm sewer easements, sanitary sewer easements, drainage easement and the temporary access easements as shown and marked on this plat, including the sewer, culverts, water and other public utility lines. In witness whereof we have hereunto set our hands this.

Dwight Wrangham Pres.
Capitol Electric
Owner of Lots 1, 3, 5, 6, 7 & 8 Blocks 1 and Lot 5 Block 2

LeRoy J. Mitzel
Owner of Lot 6 Block 1 and Lots 6 & 7 Block 2

Patrick Smith
Owner of Lots 9, 10, 11 & 12 Block 1 and Lots 1, 2, 3 & 4 Block 2

Joan Dwight et al
M.C. Bellin, et al
Owner of Lot 2 Block 1

Nodak Mutual Ins.
Owner of Lot 4 Block 1

STATE OF NORTH DAKOTA)
)SS
COUNTY OF BURLEIGH)

On this, the 14th day of September, 2007, before me personally appeared Patrick Smith, known to me to be the person described in and who executed the foregoing Owner's Certificate, and he/she acknowledged to me that he/she executed the same.

SHERYL TODD
Notary Public
State of North Dakota
My Commission Expires Aug. 21, 2008

Notary Public
Burleigh County, North Dakota
My Commission Expires 8/21/08

STATE OF NORTH DAKOTA)
)SS
COUNTY OF BURLEIGH)

On this, the 21st day of Sept., 2007, before me personally appeared Jens Tracholt, known to me to be the person described in and who executed the foregoing Owner's Certificate, and he/she acknowledged to me that he/she executed the same.

MARLYS HEIER
Notary Public
State of North Dakota
My Commission Expires July 30, 2010

Notary Public
Burleigh County, North Dakota
My Commission Expires 7/30/10

STATE OF NORTH DAKOTA)
)SS
COUNTY OF BURLEIGH)

On this, the 2nd day of Oct., 2007, before me personally appeared LeRoy J. Mitzel, known to me to be the person described in and who executed the foregoing Owner's Certificate, and he/she acknowledged to me that he/she executed the same.

TERRY A. SUNNENBERG
Notary Public
State of North Dakota
My Commission Expires Dec. 25, 2008

Notary Public
Burleigh County, North Dakota
My Commission Expires 12-25-08

STATE OF NORTH DAKOTA)
)SS
COUNTY OF BURLEIGH)

On this, the 4th day of Oct., 2007, before me personally appeared Nodak Mutual Ins. Co., known to me to be the person described in and who executed the foregoing Owner's Certificate, and he/she acknowledged to me that he/she executed the same.

DIANE JOHNSON
Notary Public
State of North Dakota
My Commission Expires Feb. 13, 2010

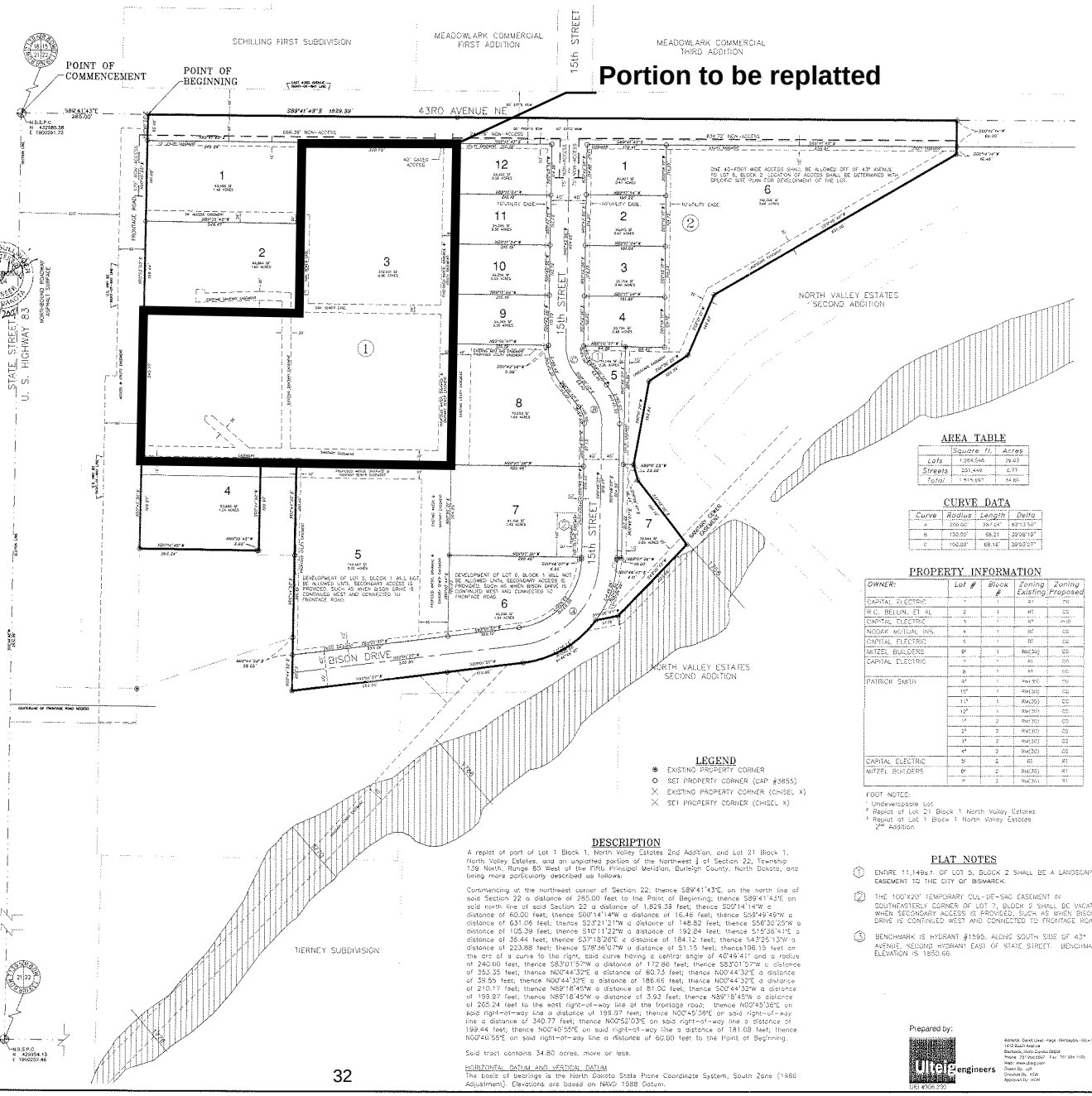
Notary Public
Burleigh County, North Dakota
My Commission Expires 2-13-10

STATE OF NORTH DAKOTA)
)SS
COUNTY OF BURLEIGH)

On this, the 12th day of Oct., 2007, before me personally appeared Dwight Wrangham, known to me to be the person described in and who executed the foregoing Owner's Certificate, and he/she acknowledged to me that he/she executed the same.

PAUL PITTERER
Notary Public
State of North Dakota
My Commission Expires Oct. 8, 2011

Notary Public
Burleigh County, North Dakota
My Commission Expires 10/8/2011



LEGEND

- ⊛ EXISTING PROPERTY CORNER
- ○ SET PROPERTY CORNER (CAP #3855)
- × EXISTING PROPERTY CORNER (CHISEL X)
- × SET PROPERTY CORNER (CHISEL X)

DESCRIPTION

A replat of part of Lot 1 Block 1, North Valley Estates 2nd Addition, and Lot 21 Block 1, North Valley Estates, and an unplatted portion of the northwest ¼ of Section 22, Township 139 North, Range 80 West of the Fifth Principal Meridian, Burleigh County, North Dakota, and being more particularly described as follows:

Commencing at the northwest corner of Section 22; thence S89°41'43"E, on the north line of said Section 22 a distance of 285.00 feet to the Point of Beginning; thence S89°41'43"E on said north line of said Section 22 a distance of 1,829.39 feet; thence S00°14'14"W a distance of 60.00 feet; thence S00°14'14"W a distance of 16.46 feet; thence S05°49'49"W a distance of 631.06 feet; thence S23°21'27"W a distance of 148.82 feet; thence S56°30'25"W a distance of 133.39 feet; thence S10°11'22"W a distance of 192.84 feet; thence S15°38'41"E a distance of 36.44 feet; thence S37°18'26"E a distance of 184.12 feet; thence S43°25'13"W a distance of 223.88 feet; thence S78°36'07"W a distance of 51.15 feet; thence196.16 feet on the arc of a curve to the right, said curve having a central angle of 40°49'41" and a radius of 240.00 feet, thence S83°01'57"W a distance of 172.86 feet; thence S8°01'57"W a distance of 353.35 feet; thence N00°44'32"E a distance of 80.73 feet; thence N00°44'32"E a distance of 39.55 feet; thence N00°44'32"E a distance of 186.66 feet; thence N00°44'32"E a distance of 210.17 feet; thence N89°18'45"W a distance of 81.00 feet; thence S00°44'32"W a distance of 188.87 feet; thence N89°18'45"W a distance of 3.93 feet; thence N89°18'45"W a distance of 265.24 feet to the east right-of-way line of the frontage road; thence N00°45'36"E on said right-of-way line a distance of 199.97 feet; thence N00°45'36"E on said right-of-way line a distance of 340.77 feet; thence N00°52'03"E on said right-of-way line a distance of 199.44 feet; thence N00°40'55"E on said right-of-way line a distance of 181.08 feet; thence N00°40'55"E on said right-of-way line a distance of 60.00 feet to the Point of Beginning.

Said tract contains 34.80 acres, more or less.

HORIZONTAL DATUM AND VERTICAL DATUM

The basis of bearings is the North Dakota State Plane Coordinate System, South Zone (1986 Adjustment). Elevations are based on NAVD 1988 Datum.

AREA TABLE

	Square ft.	Acres
Lots	1,264,546	29.03
Streets	251,449	5.77
Total	1,515,995	34.80

CURVE DATA

Curve	Radius	Length	Delta
A	200.00'	167.54'	48°13'50"
B	150.00'	68.21'	29°08'19"
C	150.00'	68.18'	29°03'07"

PROPERTY INFORMATION

OWNER:	Lot #	Block #	Zoning Existing	Zoning Proposed
CAPITAL ELECTRIC	1	1	R1	CG
M.C. BELLIN, ET AL	2	1	R1	CG
CAPITAL ELECTRIC	3	1	R1	R1/CG
NODAK MUTUAL INS.	4	1	R1	CG
CAPITAL ELECTRIC	5	1	R1	CG
MITZEL BUILDERS	6*	1	R4(30)	CG
CAPITAL ELECTRIC	7	1	R1	CG
	8	1	R1	CG
PATRICK SMITH	9*	1	R4(30)	CG
	10*	1	R4(30)	CG
	11*	1	R4(30)	CG
	12*	1	R4(30)	CG
	1*	2	R4(30)	CG
	2*	2	R4(30)	CG
	3*	2	R4(30)	CG
	4*	2	R4(30)	CG
CAPITAL ELECTRIC	5*	2	R1	R1
MITZEL BUILDERS	6*	2	R4(30)	R1
	7*	2	R4(30)	R1

FOOT NOTES:
1 Undeveloped Lot
2 Replat of Lot 21 Block 1 North Valley Estates
3 Replat of Lot 1 Block 1 North Valley Estates 2nd Addition

PLAT NOTES

1. ENTIRE 11,149±s.f. OF LOT 5, BLOCK 2 SHALL BE A LANDSCAPE EASEMENT TO THE CITY OF BISMARCK.
2. THE 100'X20' TEMPORARY CUL-DE-SAC EASEMENT IN SOUTHEASTERLY CORNER OF LOT 7, BLOCK 2 SHALL BE VACATED WHEN SECONDARY ACCESS IS PROVIDED, SUCH AS WHEN BISON DRIVE IS CONTINUED WEST AND CONNECTED TO FRONTAGE ROAD.
3. BENCHMARK IS HYDRANT #1596, ALONG SOUTH SIDE OF 43rd AVENUE, SECOND HYDRANT EAST OF STATE STREET. BENCHMARK ELEVATION IS 1950.06.

OWNER / DEVELOPER:
CAPITAL ELECTRIC COOPERATIVE
4111 STATE STREET
BOX 730
BISMARCK, NORTH DAKOTA 58502

SURVEYOR:
JOHN G. LINDVIG, PLS 3855
ULTEIG ENGINEERS, INC.
1412 BASIN AVENUE
BISMARCK, NORTH DAKOTA 58504

SCALE: 1"=100'
AUGUST 2007

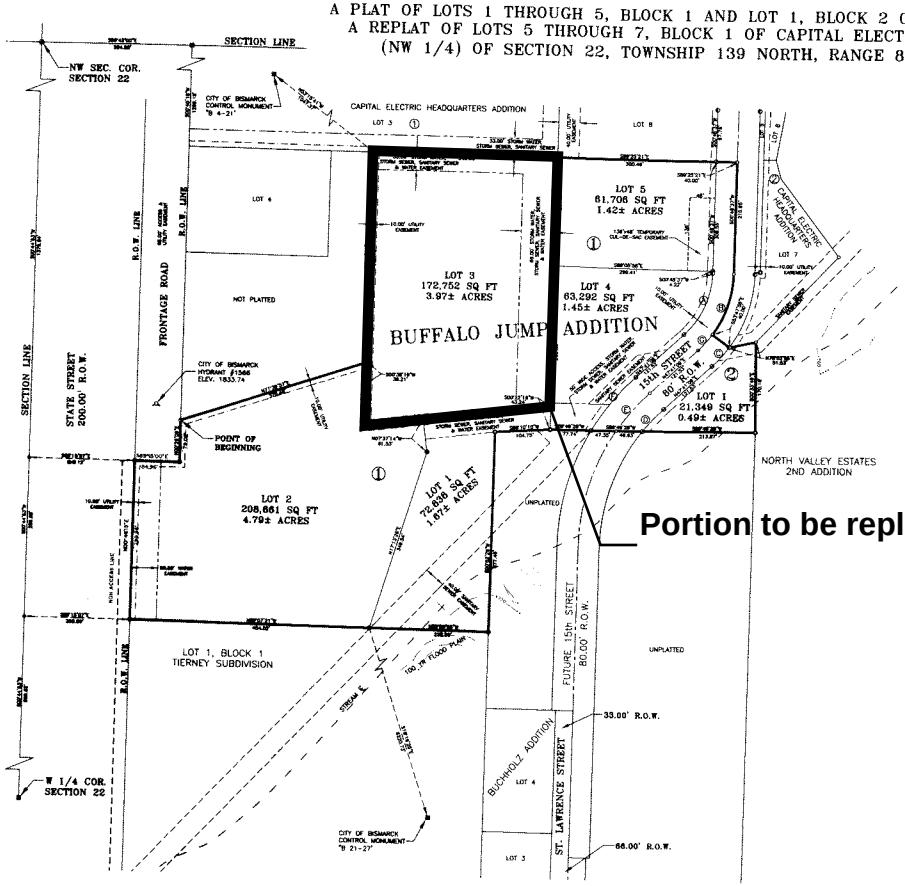
Prepared by:
Ulteig engineers

32

1625

PLAT OF BUFFALO JUMP ADDITION

A PLAT OF LOTS 1 THROUGH 5, BLOCK 1 AND LOT 1, BLOCK 2 OF BUFFALO JUMP ADDITION TO THE CITY OF BISMARCK, ALSO BEING A REPLAT OF LOTS 5 THROUGH 7, BLOCK 1 OF CAPITAL ELECTRIC HEADQUARTERS ADDITION, LYING IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 22, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH P.M., BURLEIGH COUNTY, NORTH DAKOTA.



OWNER'S DEDICATION

We, the undersigned, hereby certify that we are the owners of the land which is included in this plat, this plat being entitled: A Plat of Lots 1 through 5, Block 1 and Lot 1, Block 2 of Buffalo Jump Addition to the City of Bismarck, also being a replat of Lots 5 through 7, Block 1 of Capital Electric Headquarters Addition, lying in the Northwest Quarter (NW 1/4) of Section 22, Township 139 North, Range 80 West of the 5th P.M., Burleigh County, North Dakota, that the plat has been made at our request and under our direction, for the purpose of defining and describing the property as shown by this plat.

We hereby dedicate to the public, for public use forever as such, the streets, utility easements, storm sewer easements, storm water easements, sanitary sewer easements, water, access easements and temporary cul-de-sac easement as shown and marked on this plat, including the sewer, water, culverts and other public utility lines.

In witness whereof we have hereunto set our hands this date.

Capitol Electric Cooperative
Owner of Lots 3 & 5, Block 1
By Craig Wrangham
Title President CEC

Metro Office Park, L.L.C.
Owner of Lots 1 & 2, Block 1
By Don Schmaltz
Title Authorized Agent / Member

North Valley Homes
Owner of Lot 4, Block 1 & Lot 1, Block 2
By Leeroy J. Mitzel
Title President

STATE OF NORTH DAKOTA } SS
COUNTY OF BURLEIGH }

On this, the 23rd day of February, 2011, before me, the undersigned, a Notary Public, personally appeared Don Schmaltz, Authorized Agent/Member of Metro Office Park, L.L.C., known to me to be the person whose name is subscribed to the foregoing instrument, and I hereby acknowledge that he/she executed the foregoing instrument.

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

My commission expires 2-21-13

Notary Public

STATE OF NORTH DAKOTA } SS
COUNTY OF BURLEIGH }

On this, the 1 day of March, 2011, before me, the undersigned, a Notary Public, personally appeared Leeroy J. Mitzel, of North Valley Homes, known to be the person whose name is subscribed to the foregoing instrument, and I hereby acknowledge that he/she executed the foregoing instrument.

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

My commission expires January 2017

Notary Public

KATIE JO WRIGLEY
Notary Public
State of North Dakota
My Commission Expires Jan. 11, 2017

STATE OF NORTH DAKOTA } SS
COUNTY OF BURLEIGH }

On this, the 26th day of February, 2011, before me, the undersigned, a Notary Public, personally appeared Dwight Wrangham, of Capitol Electric Cooperative, known to me to be the person whose name is subscribed to the foregoing instrument, and I hereby acknowledge that he/she executed the foregoing instrument.

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

My commission expires 10-4-11

Notary Public

APPROVAL OF CITY PLANNING & ZONING COMMISSION

The subdivision of land as shown on this plat has been approved by the City Planning & Zoning Commission of the City of Bismarck, on this, the 28th day of April, 2011, in accordance with the laws of the State of North Dakota, ordinances of the City of Bismarck and regulations adopted by said City Planning & Zoning Commission. In witness whereof we set the hands and seals of the Chairman and the Secretary of the City Planning & Zoning Commission of the City of Bismarck.

I. Wayne Lee Yedger
Chairman

Carl D. Hokenstad
Secretary

APPROVAL OF BOARD OF CITY COMMISSIONERS

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

The foregoing action of the Board of City Commissioners of Bismarck, North Dakota, was taken by resolution approved on the 28th day of April, 2011.

N.C. Nocken
City Administrator

APPROVAL OF CITY ENGINEER

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

Dated this 25th day of March, 2011

Melvin J. Bullinger, P.E.
City Engineer

SURVEYOR'S CERTIFICATE

I, Bruce P. Zelmer, a Licensed Land Surveyor in and for the state of North Dakota, do hereby certify that at the request of Metro Office Park, L.L.C. and Capital Electric Cooperative and North Valley Homes as owners and under their direction, did on or prior to February 12th, 2010, survey the land described as follows: A Plat of Lots 1 through 5, Block 1 and Lot 1, Block 2 of Buffalo Jump Addition to the City of Bismarck, also being a replat of Lots 5 through 7, Block 1 of Capital Electric Headquarters Addition, lying in the Northwest Quarter (NW 1/4) of Section 22, Township 139 North, Range 80 West of the 5th P.M., Burleigh County, North Dakota.

I also hereby certify that this plat is a correct representation of the survey made under my direct supervision, and that the monuments shown thereon are accurate, the required monuments have been set and that the dimensional and geodetic details are correct, and that this plat is to the best of my knowledge and belief, in all respects, a true description of said property.

Dated this 21st day of FEBRUARY, 2011

Bruce P. Zelmer, L.S. #3756

STATE OF NORTH DAKOTA } SS
COUNTY OF BURLEIGH }

On this, the 21st day of February, 2011, before me, the undersigned, a Notary Public, personally appeared Bruce P. Zelmer, a Licensed Land Surveyor in and for the State of North Dakota, known to me to be the person whose name is subscribed to the foregoing Surveyor's Certificate, and I hereby acknowledge that he executed the foregoing instrument.

My commission expires 2-21-13

Notary Public

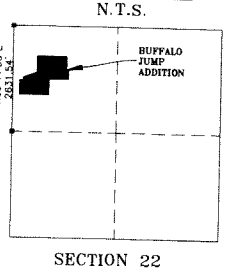
PERIMETER METES & BOUNDS DESCRIPTION

A plat of Lots 1 through 5, Block 1 and Lot 1 Block 2 of Buffalo Jump Addition to the City of Bismarck, also being a replat of Lots 5 through 7, Block 1 of Capital Electric Headquarters Addition, lying in the Northwest Quarter (NW 1/4) of Section 22, Township 156 North, Range 80 West, of the 5th P.M., Burleigh County, North Dakota, and being more particularly described as follows:

Commencing at the Northeast Section Corner of said Section 22; thence S89°42'00"E, along the north section line of said Section 22, a distance of 284.66 feet to the west line of Block 1 of Capital Electric Headquarters Addition; thence S00°40'16"W along said west line and a parcel of unplatted land, a distance of 1298.15 feet to the Point of Beginning; thence N71°59'07"E, a distance of 370.46 feet; thence N00°44'41"E, a distance of 397.12 feet; thence S89°25'21"E, a distance of 889.56 feet to the centerline of 15th Street; thence S00°40'37"W along said centerline, a distance of 215.00 feet; thence southwesterly along said centerline and an arc of a curve to the right, having a central angle of 35°23'19" and a radius of 200.00 feet, an arc distance of 123.53 feet; thence S53°47'58"E, a distance of 40.00 feet; thence N71°53'55"E, a distance of 51.53 feet; thence S00°35'45"E, a distance of 170.18 feet; thence S89°48'22"W, a distance of 388.50 feet; thence S89°18'10"W, a distance of 104.75 feet; thence S00°52'29"W, a distance of 277.40 feet to the northeast corner of Lot 1, Block 1, Tierney Subdivision; thence N89°09'56"W, a distance of 225.99 feet; thence N89°07'21"W, a distance of 454.02 feet to the east right-of-way line of State Street; thence N00°46'19"E along said right-of-way line, a distance of 299.00 feet; thence S89°15'56"E, a distance of 84.98 feet; thence N00°29'00"E, a distance of 79.02 feet to the Point of Beginning and containing 14.55 acres, more or less.

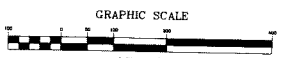
LOCATION MAP

N.T.S.



SECTION 22
T 139 N, R 80 W

GRAPHIC SCALE



CURVE	DELTA	ARC LENGTH	RADIUS
A	46°52'32"	130.89'	160.00'
B	35°23'19"	123.53'	200.00'
C	11°28'59"	48.10'	240.00'
D	09°17'41"	58.40'	360.00'
E	13°43'51"	95.86'	400.00'
F	17°11'34"	132.03'	440.00'
G	11°29'06"	40.09'	200.00'

LEGEND

- SET 5/8"x18" REBAR W/ L.S. CAP STAMPED "ZELMER #3756"
- FOUND 5/8"x18" REBAR W/ L.S. CAP STAMPED "ZELMER #3756"
- FOUND 3/4" IRON PIPE
- FOUND IRON MONUMENT W/ ALUM. CAP STAMPED "ULTEIG ENG. #3858"
- FOUND IRON MONUMENT W/ L.S. CAP STAMPED "ULTEIG ENG. #1202"
- FOUND IRON MONUMENT W/ L.S. CAP STAMPED "SHAICO. #2358"
- FOUND 1/2" REBAR, NO CAP
- FOUND 5/8" REBAR, NO CAP
- FOUND 1-1/4" IRON PIPE
- FOUND IRON MONUMENT W/ ALUM. CAP
- COMPUTER CORNER LOCATION
- CITY OF BISMARCK CONTROL MONUMENT
- MON ACCESS LINE

PLAT NOTES

THE 136'x48' TEMPORARY CUL-DE-SAC EASEMENT LOCATED IN LOT 4, BLOCK 1 SHALL BE VACATED WHEN A SECONDARY ACCESS IS PROVIDED.

DEVELOPMENT OF LOTS 1, 3 AND 4, BLOCK 1 AND LOT 1, BLOCK 2 WILL NOT BE ALLOWED UNTIL A SECONDARY ACCESS IS PROVIDED.

VERTICAL DATUM

THE CITY OF BISMARCK VERTICAL CONTROL NETWORK, NGVD29

BASIS OF BEARINGS & HORIZONTAL DATUM

BEARINGS SHOWN ARE GRID BEARINGS BASED ON THE NORTH DAKOTA STATE PLANE COORDINATE SYSTEM, NAD 83, SOUTH ZONE, REFERENCED FROM THE CITY OF BISMARCK GPS CONTROL MONUMENTS "B 4-21" AND "B 21-27".

STATE PLANE COORDINATES ND SOUTH ZONE, N.A.D. 83 (INTERNATIONAL FEET)

NW SEC. COR. SECTION 22
NORTH. 432,584.90
EAST. 1,900,292.81

WEST 1/4 COR. SECTION 22
NORTH. 429,953.58
EAST. 1,900,258.45

TOTAL ACREAGE WITHIN PLAT

14.55± ACRES Total

ACREAGE OF LOTS
13.78± ACRES

ACREAGE OF STREETS
0.77± ACRES

BURLEIGH COUNTY RECORDER

SURVEYOR

BRUCE P. ZELMER, LS
BARTLETT & WEST
3456 EAST CENTURY AVE.
BISMARCK, ND 58503

DATE
August 13th, 2010

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

OWNERS	LOTS
METRO OFFICE PARK, LLC P.O. BOX 2219 BISMARCK, ND 58502-2219	LOTS 1 & 2, BLOCK 1
CAPITAL ELECTRIC COOP. 4111 STATE STREET BISMARCK, ND 58502	LOTS 3 & 5, BLOCK 1
NORTH VALLEY HOMES 2401 48th AVE. SE STE. 101 MANDAN, ND 58554	LOT 4, BLOCK 1 & LOT 1, BLOCK 2

Bismarck COMMUNITY DEVELOPMENT

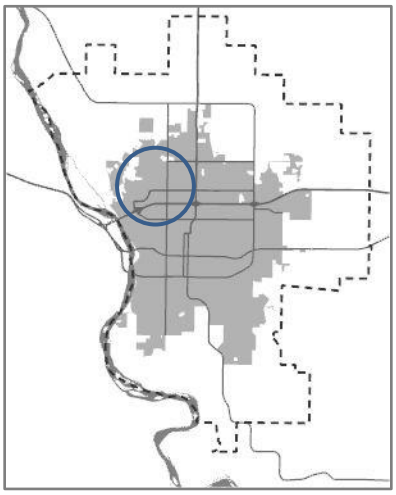
STAFF REPORT

Agenda Item #5
November 17, 2021

Application for: **Minor Subdivision Final Plat** Project ID: **MPLT2021-008**

Project Summary

Title:	Big Pines Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Big Pines, LLC
Project Contact:	Brad Krogstad, PE, KLJ
Location:	In north-central Bismarck, north of West Century Avenue and west of North Washington Street, along the east side of Hackberry Street (a replat of Lot 21, Block 2, Replat of Pinehurst Third Addition)
Project Size:	4.792 acres
Request:	Replat property to create an additional lot with a dedicated access, utility and stormwater easements



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	*Number of Lots:*	2 lots in 1 block
Land Use:	Office	*Land Use:*	Offices
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	*Zoning:*	RT – Residential
Uses Allowed:	RT – Offices and multi-family residential	*Uses Allowed:*	RT – Offices and multi-family residential
Max Density:	RT – 30 units / acre	*Max Density:*	RT – 30 units / acre

Property History

Zoned:	Pre-1980	*Platted:*	01/1980	*Annexed:*	Pre-1980

Staff Analysis

Big Pines, LLC is requesting approval of a minor subdivision final plat for Big Pines Addition.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune

(continued)

on November 5th and November 12th, and 24 letters were mailed to the owners of nearby properties on November 5th.

Adjacent uses include single family residential to the north, office uses to the east, multi-family residential to the south across West Century Avenue, and undeveloped land zoned RT – Residential and RM15 – Residential to the west across Hackberry Street.

The proposed minor subdivision final plat would replat an existing parcel to create a new lot for future development. An existing office building exists on the western side of this site and would remain. A new lot would be created on the eastern side to be sold for future development. The proposed plat provides new utility, stormwater and access easements necessary to support the new buildable lot.

The new proposed lot line would bisect portions of an existing parking lot. Staff have confirmed that the parking requirements for the existing development will still be met if this request is approved.

Utility Capital Charges

The creation of any new lots in the City of Bismarck is subject to development capital charges for municipal utilities. The Public Works Department – Utility Operation Division has determined that utility capital charges will be due prior to the recordation of the proposed plat.

Required Findings of Fact (relating to land use)

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

Staff Recommendation

Based on the above findings, staff recommends approval of the minor subdivision final plat of Big Pines Addition.

Attachments

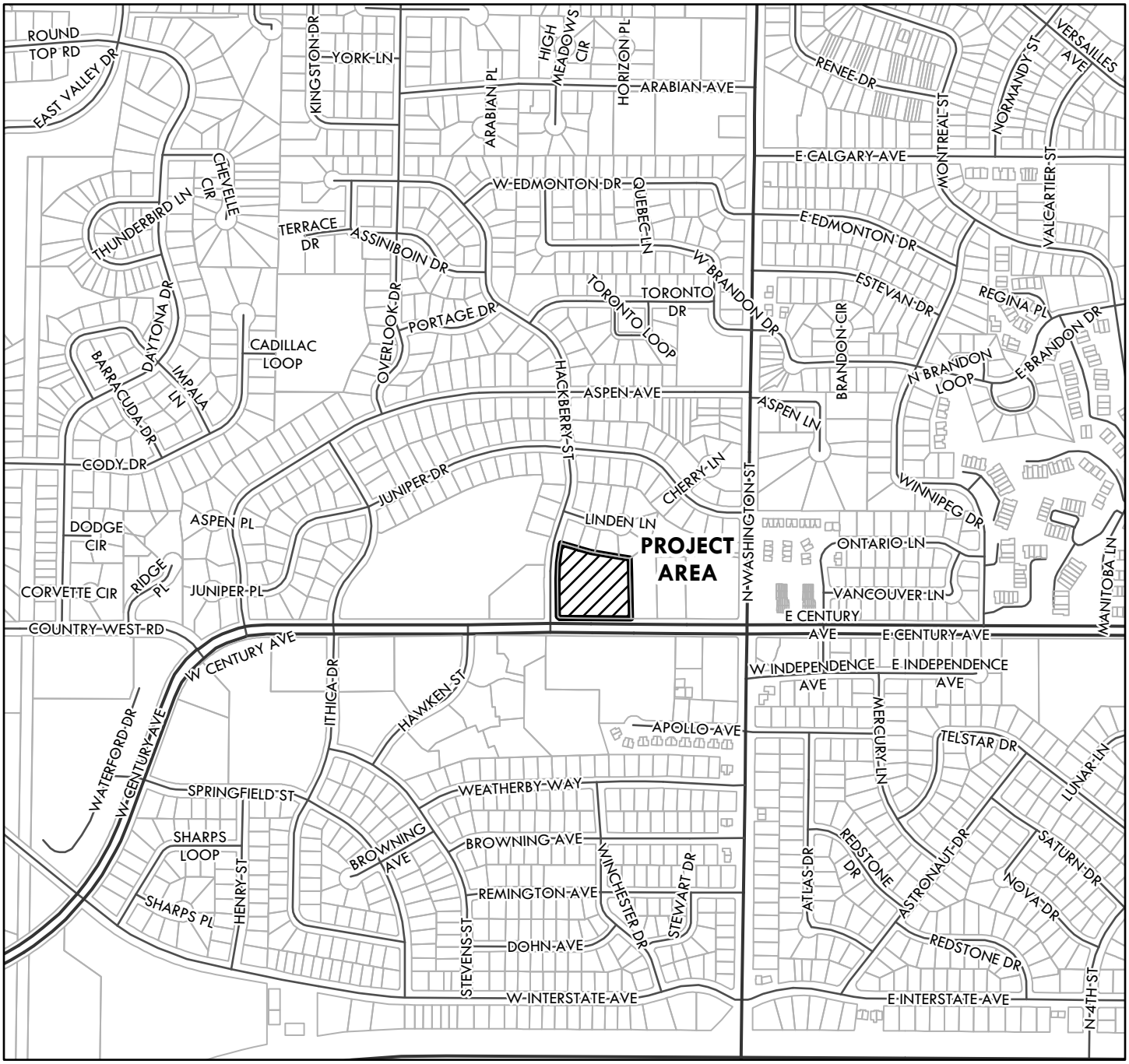
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Minor Plat
5. Original Plat with Replatted Area Highlighted

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

Location Map

BIG PINES ADDITION

MPLT2021-008



0 0.17 0.35 0.7 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 24, 2021 (HLB)

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

Aerial Map

BIG PINES ADDITION

MPLT2021-008

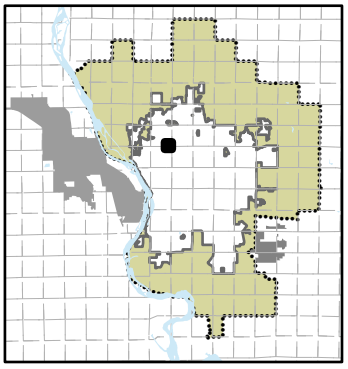
0 0.05 0.1 0.2 Miles

City Limits

Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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



City of Bismarck
Community Development Department
Planning Division
November 8, 2021

Zoning and Plan Reference Map

BIG PINES ADDITION

MPLT2021-008

Zoning Districts

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

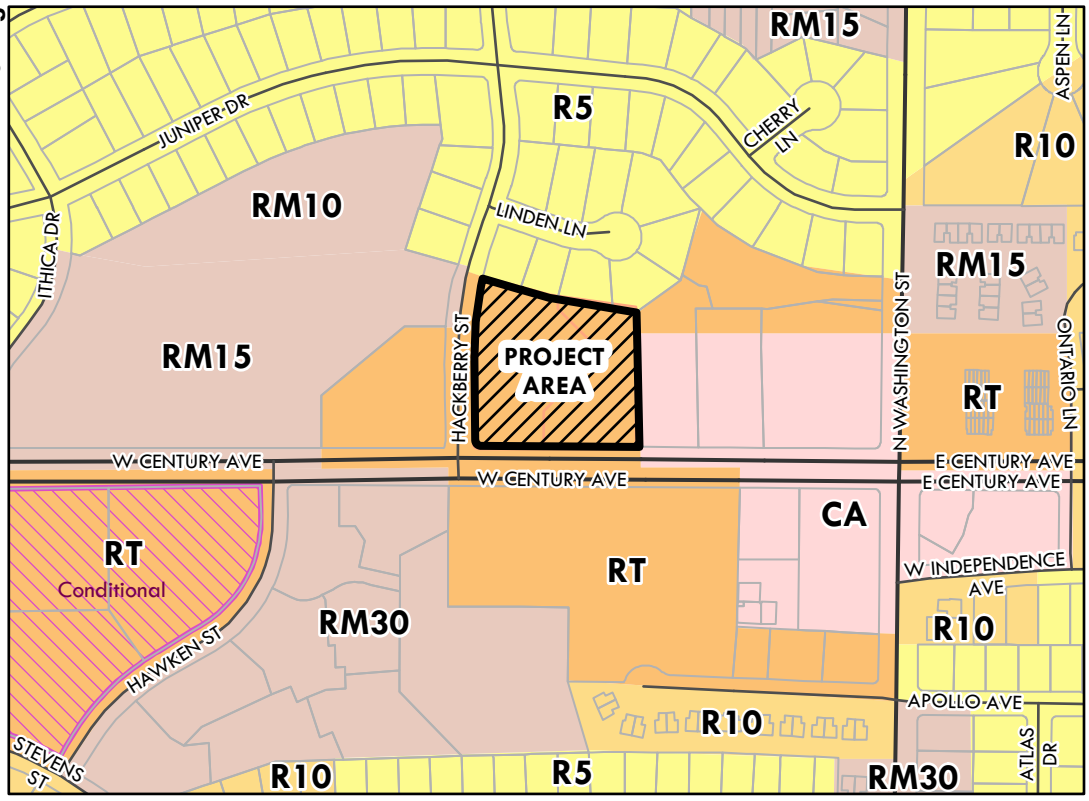
Future Land Use Plan

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

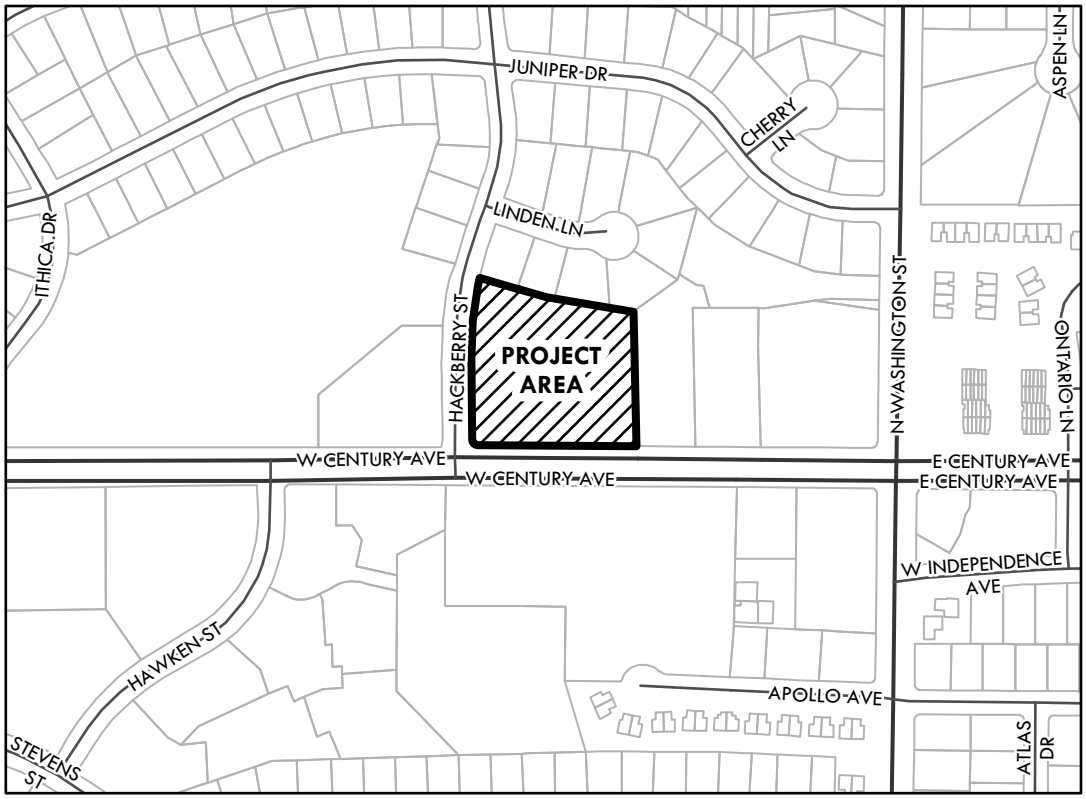
Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road

Zoning



Future Land Use Plan



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

0 0.05 0.1 0.2 Miles

N

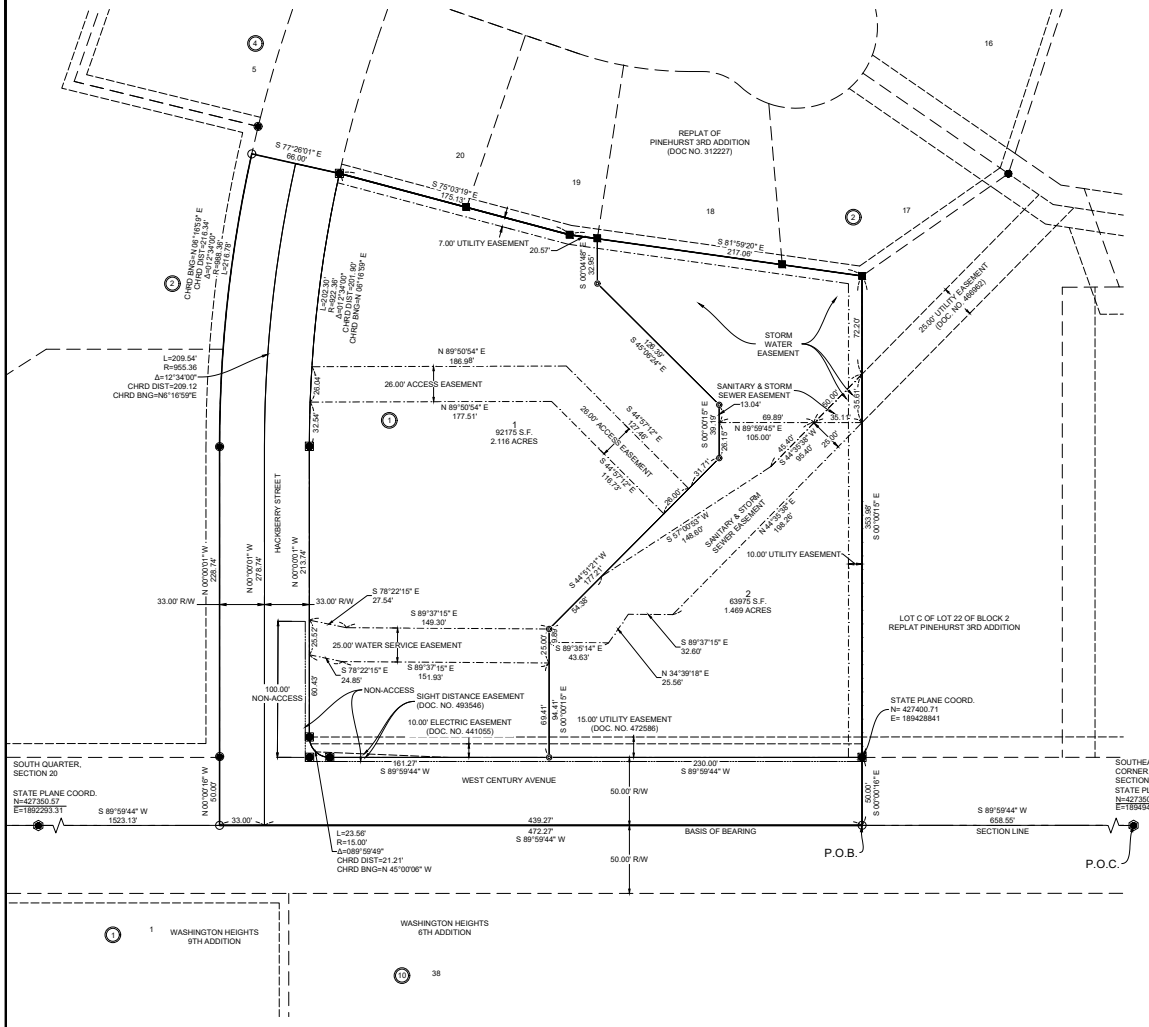
City of Bismarck
Community Development Dept.
Planning Division
November 8, 2021

BIG PINES ADDITION

BEING A REPLAT OF LOT 21, BLOCK 2 OF THE REPLAT OF PINEHURST THIRD ADDITION AND THE ENTIRE WIDTH OF THE ADJACENT HACKBERRY STREET RIGHT OF WAY AND PORTIONS OF THE NORTH 1/2 OF THE WEST CENTURY AVENUE RIGHT OF WAY, SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 139 NORTH, RANGE 80 WEST, FIFTH PRINCIPAL MERIDIAN, CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

SURVEYOR:
KLJ ENGINEERING LLC
4585 COLEMAN STREET
BISMARCK, NORTH DAKOTA 58503-0431

OWNER:
BIG PINES, LLC
PO BOX 4247
BISMARCK, ND 58502



DESCRIPTION

BEING A REPLAT OF LOT 21, BLOCK 2 OF THE REPLAT OF PINEHURST THIRD ADDITION AND THE ENTIRE WIDTH OF THE ADJACENT HACKBERRY STREET RIGHT OF WAY AND PORTIONS OF THE NORTH 1/2 OF THE WEST CENTURY AVENUE RIGHT OF WAY, SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 139 NORTH, RANGE 80 WEST, FIFTH PRINCIPAL MERIDIAN, TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 20, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN; THENCE S 89°59'44" W, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 20, A DISTANCE OF 658.55 FEET TO THE POINT OF BEGINNING; THENCE S 89°59'44" W, CONTINUING ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 20, A DISTANCE OF 472.27 FEET; THENCE N 00°00'16" W, BEING PERPENDICULAR TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 20, A DISTANCE OF 50.00 FEET TO THE SOUTHWEST CORNER OF LOT 4B OF LOT 4 OF BLOCK 2 PINEHURST 4TH ADDITION, SAID PLAT BEING ON FILE AT THE BURLEIGH COUNTY RECORDER; THENCE N 00°00'01" W, ALONG THE EAST LINE OF SAID LOT 4B, A DISTANCE OF 228.74 FEET; THENCE ALONG A CURVE TO THE RIGHT, SAID CURVE HAS A RADIUS OF 988.36 FEET, AND ARC LENGTH OF 216.78 FEET AND A CENTRAL ANGLE OF 12°34'00"; THENCE S 77°26'01" E, A DISTANCE OF 66.00 FEET TO THE NORTHWEST CORNER OF LOT 21, BLOCK 2 OF SAID REPLAT OF PINEHURST 3RD ADDITION; THENCE S 75°03'19" E, ALONG THE NORTH LINE OF SAID LOT 21, A DISTANCE OF 175.13 FEET; THENCE S 81°59'20" E, ALONG THE NORTH LINE OF SAID LOT 21, A DISTANCE OF 217.06 FEET TO THE NORTHEAST CORNER OF SAID LOT 21; THENCE S 00°00'15" E, ALONG THE EAST LINE OF SAID LOT 21, A DISTANCE OF 353.98 FEET TO THE SOUTHEAST CORNER OF SAID LOT 21; THENCE S 00°00'16" E, BEING PERPENDICULAR TO THE SOUTH LINE OF THE SOUTHEAST QUARTER, A DISTANCE OF 50.00 FEET, TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 208,739 SQUARE FEET OR 4.792 ACRES.

SURVEYOR'S CERTIFICATE

I, BRETT ZELTINGER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THIS PLAT IS A CORRECT REPRESENTATION OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON THE 11TH DAY OF AUGUST, 2021, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT ALL REQUIRED MONUMENTS HAVE BEEN SET.

BRETT ZELTINGER
PROFESSIONAL LAND SURVEYOR
N.D. REGISTRATION NO. 27331
4585 COLEMAN STREET
BISMARCK, NORTH DAKOTA 58503

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE APPROVED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE APPROVED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK.

THE FOREGOING ACTION OF THE CITY COMMISSION OF BISMARCK, NORTH DAKOTA WAS TAKEN BY RESOLUTION APPROVED THE _____ DAY OF _____, ___.

ATTEST
KEITH HUNKE - CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "BIG PINES ADDITION" AS SHOWN ON THE APPROVED PLAT.

GABRIEL J. SCHELL - CITY ENGINEER

APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE APPROVED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE _____ DAY OF _____, _____, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION.

IN WITNESS WHEREON ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ - CHAIRMAN

ATTEST: BEN EHRETH - SECRETARY

OWNER'S CERTIFICATE AND DEDICATION

I, RANDALL BAKKE, MANAGER OF BIG PINES, LLC., BEING THE OWNER OF THE LANDS PLATTED HEREIN, DO HEREBY VOLUNTARY CONSENT TO THE EXECUTION OF THIS PLAT TITLED BIG PINES ADDITION, AND REDEDICATE ALL RIGHTS OF WAY AS SHOWN ON THIS PLAT TO THE CITY OF BISMARCK.

I HEREBY REDEDICATE ALL EASEMENTS SHOWN ON THIS PLAT TO RUN WITH THE LAND FOR GAS, ELECTRIC, TELEPHONE AND OTHER PUBLIC UTILITIES OR SERVICES, ON, ACROSS, OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS "UTILITY EASEMENTS". I REDEDICATE ALL EASEMENTS TO RUN WITH THE LAND, FOR ELECTRIC SERVICES OR UTILITIES, ON, ACROSS, OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS "ELECTRIC EASEMENTS". I REDEDICATE ALL EASEMENTS TO RUN WITH THE LAND FOR VISUAL SIGHT CLEARANCE, ON, ACROSS OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS "SIGHT DISTANCE EASEMENTS".

I ALSO DEDICATE AN ACCESS EASEMENT UNTO ALL LAND OWNING PARTIES WITHIN THE PLAT TO RUN WITH THE LAND. SAID EASEMENT TO INCLUDE THE FULL AND FREE RIGHT OF ACCESS TO SAID PARTIES, THEIR TENANTS, VISITORS, AND LICENSEES, EMERGENCY SERVICES PERSONNEL, AND THE AGENTS, OFFICERS, AND EMPLOYEES OF ANY GOVERNMENTAL SUBDIVISION, IN COMMON WITH ALL OTHERS HAVING LIKE RIGHT AT ALL TIMES HEREAFTER FOR ALL PURPOSES CONNECTED WITH THE USE OF SAID PARTIES, TO PASS AND REPASS ALONG SAID EASEMENT AND TO HOLD SAID EASEMENT TO SAID PARTIES, THEIR HEIRS AND ASIGNS AND APPURTENANT TO THE LAND OF SAID PARTIES.

I ALSO DEDICATE A "WATER SERVICE EASEMENT" AND A "SANITARY & STORM SEWER EASEMENT" UNTO ALL LAND OWNING PARTIES WITHIN THE PLAT TO RUN WITH THE LAND FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, ENLARGENING AND MAINTAINING SAID WATER SERVICES, SANITARY SEWER, AND STORM SEWER UNDER, OVER, THROUGH AND/OR ACROSS THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON.

I FURTHERMORE DEDICATE UNTO ALL LAND OWNING PARTIES WITHIN THE PLAT, A "STORMWATER EASEMENT" TO RUN WITH THE LAND FOR THE PURPOSE OF SURFACE WATER DRAINAGE UNDER, OVER, THROUGH AND/OR ACROSS THOSE AREAS DEDICATED HEREON AS "STORMWATER EASEMENTS" FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, ENLARGENING AND MAINTAINING STORM WATER MANAGEMENT FACILITIES TOGETHER WITH NECESSARY APPURTENANCES THERETO FOR STORM WATER, STORM SEWER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORM WATER FLOW IN A MANNER THAT WILL PERMIT THE FLOW AND/OR DETENTION OF STORMWATER UNDER, OVER AND/OR ACROSS THE EASEMENT AREA.

RANDALL BAKKE
MANAGER
BIG PINES, LLC
PO BOX 4247
BISMARCK, ND 58502

STATE OF NORTH DAKOTA)
)SS
COUNTY OF _____)

ON THIS _____ DAY OF _____, _____, BEFORE ME PERSONALLY APPEARED RANDALL BAKKE, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE WITHIN CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

_____ COUNTY, NORTH DAKOTA

MY COMMISSION EXPIRES _____

NOTES:

BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS.
PLAT IS SUBJECT TO ALL PRIOR CONVEYANCES AND EASEMENTS OF RECORD.
ALL DISTANCES SHOWN ARE MEASURED IN GROUND USING A SCALE FACTOR OF 1.000148521.

DURABLE BENCHMARK MONUMENT IS DESCRIBED AS SE PROPERTY CORNER OF BIG PINES ADDITION, BLOCK 1, LOT 2. DATA FOR MONUMENT IS SHOWN BELOW.
NORTHING: 427400.71
EASTING: 189428841
ELEVATION: 1857.55

PLAT INFORMATION

- NUMBER OF LOTS: 2
- LOT ACREAGE - 3.585 ACRES
- R.O.W. ACREAGE - 1.207 ACRES
- TOTAL ACREAGE - 4.792 ACRES

FLOOD PLAIN INFORMATION:

THE PROPERTY IS NOT LOCATED IN A FLOOD PLAIN.

PLAT LEGEND

- MONUMENT TO BE SET
- 1/2" PIPE FOUND
- 1" PIPE FOUND
- REBAR AND LS 3595 CAP FOUND
- REBAR AND LS 27331 CAP SET
- ALUMINUM CAP LS 1203
- CALCULATED POSITION
- EXISTING EASEMENT
- EXISTING PROPERTY LINE
- BOUNDARY LINE
- RIGHT OF WAY LINE
- PROPOSED LOT LINE
- NON-ACCESS LINE
- EASEMENT LINE
- 1 BLOCK/LOT NUMBERS

N E S W

SCALE 40 0 40 80 1" = 40' FEET

DATE: NOVEMBER 1, 2021
HORIZONTAL DATUM - US STATE PLANE NAD 83 (ADJUSTED 86) ND SOUTH ZONE 3302
UNITS OF MEASURE: INTERNATIONAL FEET
VERTICAL DATUM - NAVD 88

A REPLAT OF
PINEHURST THIRD ADDITION

Part Of The SE 1/4 Of The SE 1/4 Section 20, T. 139 N., R. 80 W.

Bismarck, North Dakota

DESCRIPTION

BLOCKS ONE (1), TWO (2), THREE (3) AND FOUR (4) PINEHURST THIRD ADDITION TO THE CITY OF BISMARCK, NORTH DAKOTA.

OWNERS CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS THAT DR. L. E. ANDERSON, GRACE E. JANSSEN, BOB VALEU, JANE STEWART, JOHN F. RENNER, THOMAS P. KAPLA AND REV. S. E. GRAF, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN ON THE ANNEXED PLAT, HAVE CAUSED THAT PORTION DESCRIBED ABOVE AND SHOWN ON THE ANNEXED PLAT TO BE SURVEYED AND PLATTED AS "REPLAT OF PINEHURST THIRD ADDITION".

THEY ALSO DEDICATE EASEMENTS TO RUN WITH THE LAND, FOR PUBLIC UTILITIES AND SERVICES UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS "UTILITY EASEMENTS". THEY FURTHER REDEDICATE ALL STREETS IN THE SAME LOCATION SHOWN ON "PINEHURST THIRD ADDITION".

DR. L. E. ANDERSON, Owner: All of Blk. 1 except Lots 10 & 18; All of Blk. 2 except Lots 10, 13 & 18; All of Blk. 3 except Lot 1; All of Blk. 4.

GRACE E. JANSSEN, Owner Lot 10, Block 1

BOB VALEU, Owner Lot 18, Block 1

JANE STEWART, Owner Lot 10, Block 2

JOHN F. RENNER, Owner Lot 13, Block 2

THOMAS P. KAPLA, Owner Lot 18, Block 2

REV. S. E. GRAF, Owner Lot 1, Block 3

STATE OF NORTH DAKOTA)
) SS
COUNTY OF BURLEIGH)

ON THIS 31 DAY OF January, 1979, BEFORE ME PERSONALLY APPEARED DR. L. E. ANDERSON, GRACE E. JANSSEN, BOB VALEU, JANE STEWART, JOHN F. RENNER, THOMAS P. KAPLA AND REV. S. E. GRAF, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

Donna Vogel
NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES: 4-27-1983

SURVEYOR'S CERTIFICATE

I, HARLEY SWENSON, A REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE BOUNDARY AND STREETS OF PINEHURST THIRD ADDITION, BISMARCK, NORTH DAKOTA AS FILED AT THE REGISTER OF DEEDS, BURLEIGH COUNTY, NORTH DAKOTA.

SWENSON, HAGEN & CO.
CONSULTING ENGINEERS
909 BASIN AVENUE P.O. BOX 1135
BISMARCK, NORTH DAKOTA

HARLEY SWENSON
REG. PROF. ENGINEER &
LAND SURVEYOR
ND REG. NO. 951

HARLEY SWENSON REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR 951 NORTH DAKOTA

STATE OF NORTH DAKOTA)
) SS
COUNTY OF BURLEIGH)

ON THIS 19th DAY OF February, 1980, BEFORE ME PERSONALLY APPEARED HARLEY SWENSON, KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

Edward W. Hagen
EDWARD W. HAGEN, NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES: 7-9-81

EDWARD W. HAGEN NOTARY PUBLIC STATE OF NORTH DAKOTA

CITY PLANNING COMMISSION APPROVAL

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK ON THE 19th DAY OF DECEMBER, 1979, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK, AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

David Blackstead
DAVID BLACKSTEAD - CHAIRMAN

W. C. Wocken
W. C. WOCKEN - SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

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

THE FOREGOING ACTION OF THE OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE 22nd DAY OF JANUARY, 1980.

ATTEST:

TOM BAKER, CITY AUDITOR

APPROVAL OF CITY ENGINEER

I, RAYMOND J. JUNDT, CITY ENGINEER FOR THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "REPLAT OF PINEHURST THIRD ADDITION" AS SHOWN ON THE ANNEXED PLAT.

Raymond J. Jundt
RAYMOND J. JUNDT, CITY ENGINEER

NOTES

1. All Curve Data Is Based On Chord Definition Unless Otherwise Stated.
2. All Block Corners At Street Intersections Are Rounded To A 15' Radius.

Centerline Curve Data

Curve	Δ	D (Chord)	T	L(Chord)	R	Ext.	D (arc)	L (arc)
A	51°-09'-06"	17°-00'-00"	161.90'	300.89'	338.27'	36.75'	16°-56'-16"	302.00'
B	47°-00'-00"	19°-00'-00"	131.72'	247.37'	302.94'	27.40'	18°-54'-48"	248.50'
C	5°-55'-47"	4°-00'-00"	74.20'	148.24'	1432.69'	1.92'	3°-59'-57"	148.27'
D	25°-00'-00"	16°-00'-00"	79.65'	156.25'	359.26'	8.72'	15°-56'-54"	156.76'
E	12°-00'-00"	5°-00'-00"	120.48'	240.00'	1146.28'	6.31'	4°-59'-54"	240.08'
F	19°-00'-00"	6°-00'-00"	159.87'	316.67'	955.37'	13.28'	5°-59'-50"	316.81'
G	19°-00'-00"	26°00'-00"	37.20'	73.08'	222.27'	3.09'	26°-46'-39"	73.71'

Area of proposed replat

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

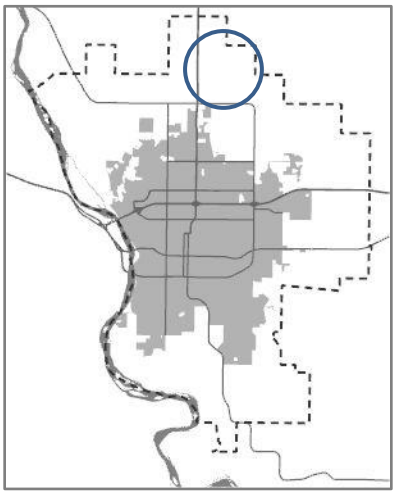
Agenda Item #6
November 17, 2021

Application for: **Special Use Permit**

Project ID: **SUP2021-024**

Project Summary

Title:	Lot 2, Block 3, Hay Creek Pines Subdivision
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Denise and Stephen McDonough
Project Contact:	Brian Eiseman, Stoneshire Builders
Location:	North of Bismarck, south of 97th Avenue NE and west of 26th Street NE, along the east side of Oak Drive (9501 Oak Drive)
Project Size:	691 SF (dwelling unit)
Request:	Include an accessory dwelling unit in new accessory structure



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	*Number of Lots:*	1 lot in 1 block
Land Use:	Rural Residential	*Land Use:*	Rural Residential
Future Land Use:	Conventional Rural Residential	*Future Land Use:*	Conventional Rural Residential
Zoning:	RR – Residential	*Zoning:*	RR – Residential
Uses Allowed:	RR – Large lot single-family residential and limited agriculture	*Uses Allowed:*	RR – Large lot single-family residential and limited agriculture
Max Density:	RR – 1 unit per 65,000 square feet	*Max Density:*	RR – 1 unit per 65,000 square feet

Property History

Zoned:	06/2004	*Platted:*	11/1979	*Annexed:*	N/A

Staff Analysis

Denise and Stephen McDonough are requesting approval of a special use permit to allow an accessary dwelling unit in a new accessory structure on Lot 2, Block 3, Hay Creek Pines Subdivision.

(continued)

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on November 5th and November 12th, and 55 letters were mailed to the owners of nearby properties on November 5th, 2021.

Adjacent uses include rural residences in all directions.

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

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

   One accessory dwelling unit is proposed.

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

   The total height of the accessory dwelling unit portion of the structure is approximately 17 feet to the peak. The height of the overall structure, including the garage, is approximately 24 ½ feet which is within the allowable 25-foot height limit for accessory structures in general.

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

   The requirement would apply to ongoing occupation of the structure.

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

   Sufficient parking is provided on the lot for both the primary residence and the accessory dwelling unit.

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

   The proposed accessory dwelling unit includes one bedroom.

6. *Units within Accessory Structure: The floor area of an accessory dwelling unit may not be greater than 800 square feet or less than 300 square feet on any lot or parcel five (5) acres in area or less.*

   The proposed accessory dwelling unit is approximately 691 square feet in size.

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

   The homeowner intends to install a small secondary septic system to treat this unit. Soil tests and design have been completed for this system, and sufficient space is available on the lot.

Required Findings of Fact (relating to land use)

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

(continued)

general intent and purpose of the zoning ordinance;

2. The proposed special use is compatible with adjacent land uses and zoning;
3. The property is located in Burnt Creek Township, which is not an organized township;
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; and
9. The proposed special use would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit for an accessory dwelling unit on Lot 2, Block 3, Hay Creek Pines Subdivision, with the following condition:

1. The accessory dwelling unit will substantially conform to all submitted documents.

Attachments

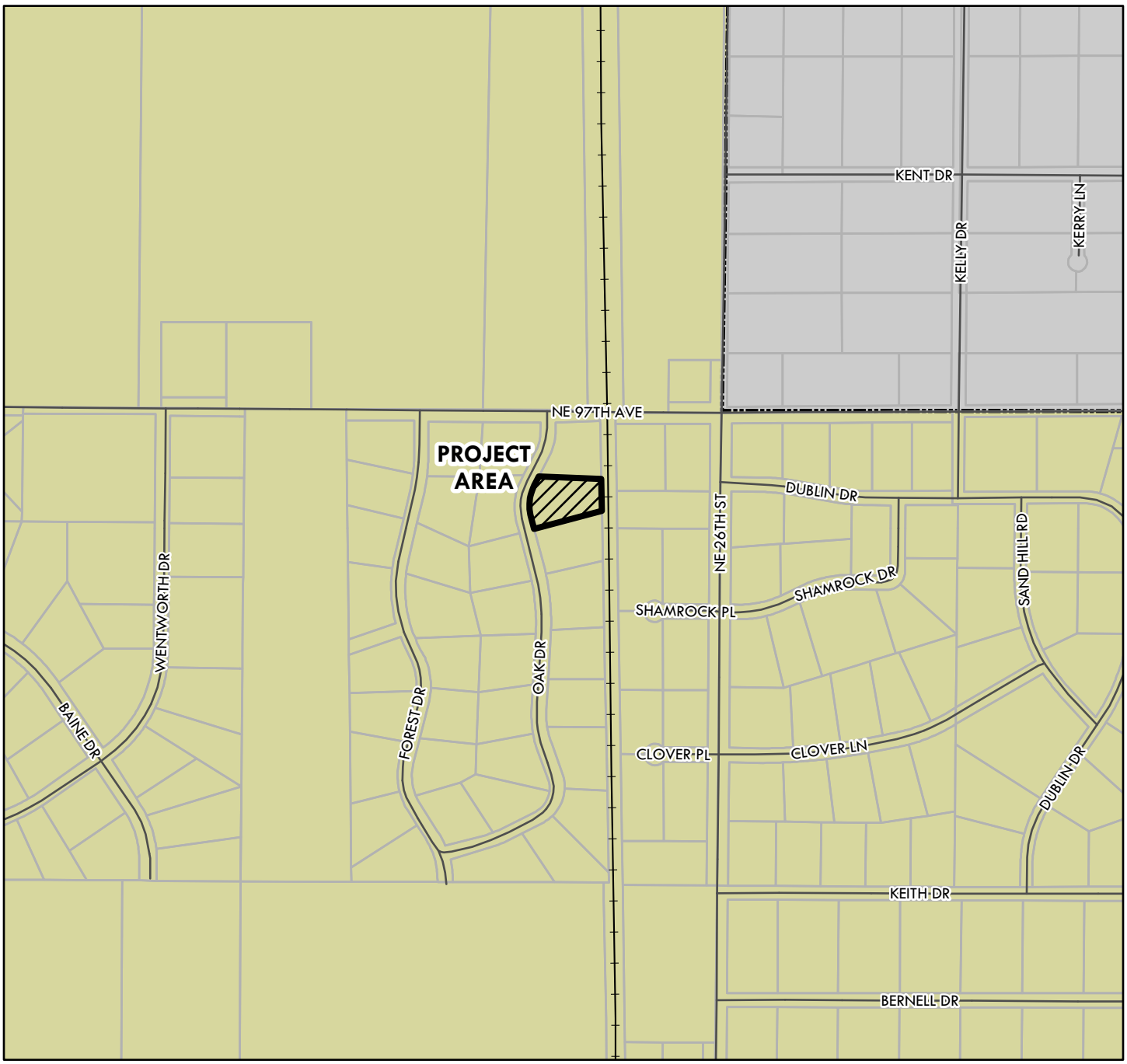
1. Location Map
2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan

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

Location Map

HAY CREEK PINES SUBDIVISION, L2, B3

SUP2021-024

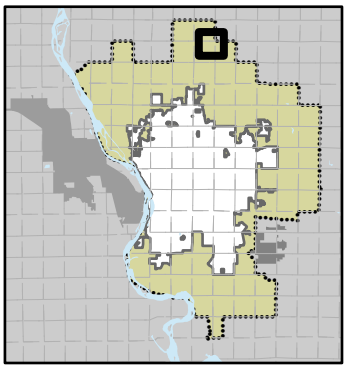


0 0.17 0.35 0.7 Miles

N

Bismarck ETA Jurisdiction

County Outside ETA



Section, township, and range indicated in orange

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

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

Aerial Map

HAY CREEK PINES SUBDIVISION, L2, B3

SUP2021-024

Miles

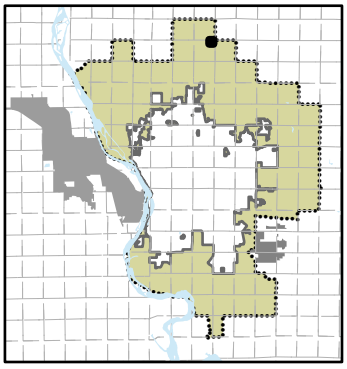
0 0.04 0.07 0.14

Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck
Community Development Department
Planning Division
November 4, 2021

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



Zoning and Plan Reference Map

HAY CREEK PINES SUBDIVISION, L2, B3

SUP2021-024

Zoning Districts

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

Future Land Use Plan

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

Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road

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

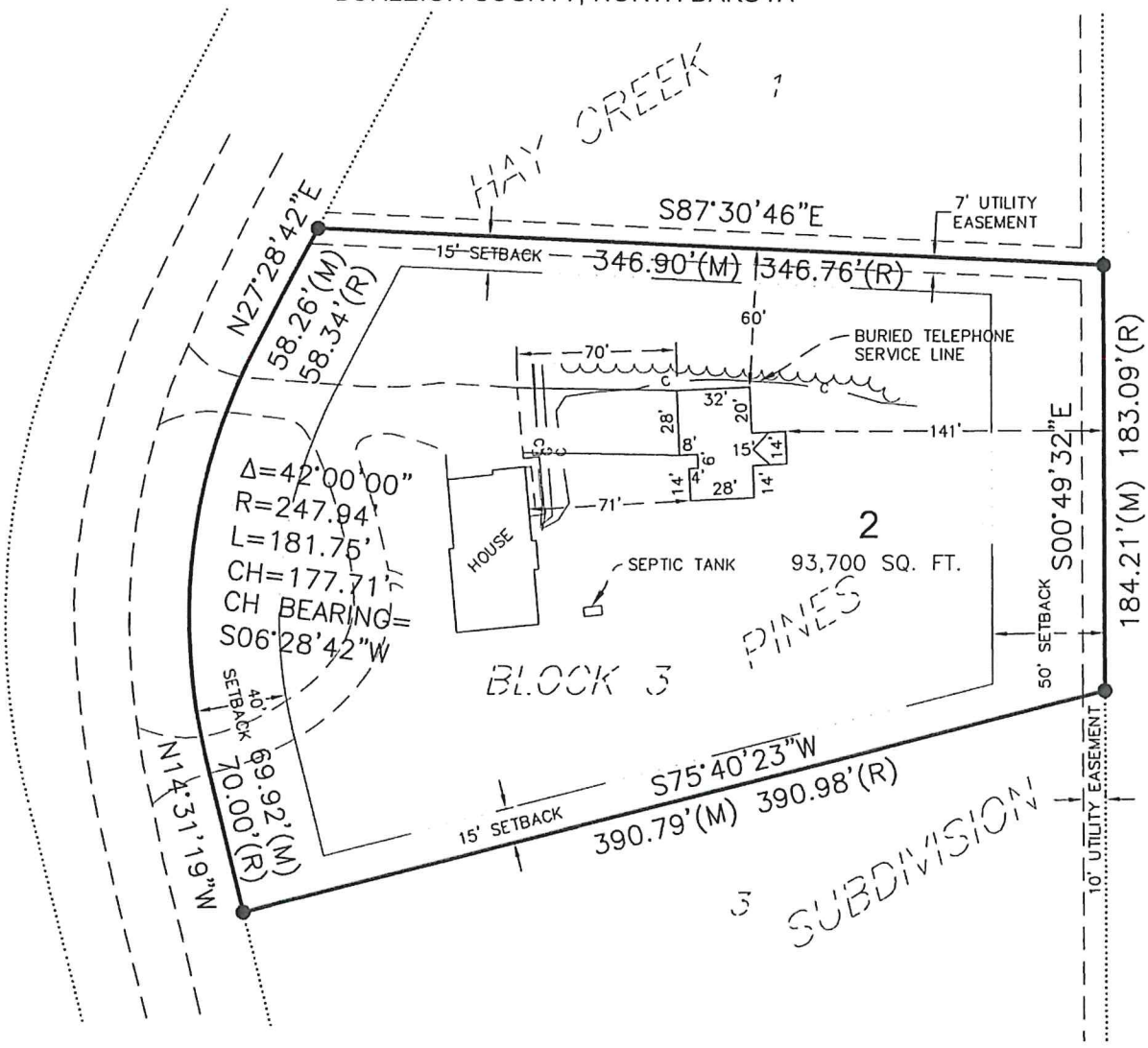
Miles
0 0.05 0.1 0.2

N

City of Bismarck
Community Development Dept.
Planning Division
November 4, 2021

LOT SURVEY EXHIBIT

LOT 2, BLOCK 3
HAY CREEK PINES SUBDIVISION,
BURLEIGH COUNTY, NORTH DAKOTA



LEGEND

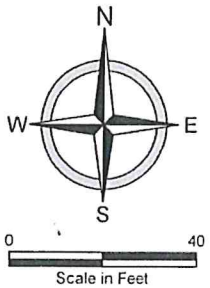
- ● IRON MONUMENT FOUND

CERTIFICATION

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

JAMES ALBER, R.L.S.
N.D. LICENSE NO. LS-4730

REGISTERED LAND SURVEYOR
JAMES ALBER
LS-4730
DATE
10-7-2021
NORTH DAKOTA



BASIS OF BEARINGS:
NORTH DAKOTA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD83(2011).

STONESHIRE BUILDERS
9501 OAK DRIVE
BISMARCK, NORTH DAKOTA

PROJECT No.	22205
DATE:	10.07.21
REVISED:	-
DRAFTER:	JA
REVIEWER:	JA

moore engineering, inc.

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

Agenda Item #7
November 17, 2021

Application for: **Zoning Ordinance Text Amendment**

Project ID: **ZOTA2021-004**

Project Summary

Title:	Amendment to Lot Modification Process
Status:	Planning & Zoning Commission – Consideration
Project Contact:	Jenny Wollmuth, AICP, CFM, Senior Planner
Section(s) Amended:	Section(s) 14-09-03 (Definitions), 14-09-04(6) (Procedure / Lot Modifications)
Request:	Revise definition of and process for approving lot modifications

Staff Analysis

The Community Development Department – Planning Division is initiating a zoning ordinance text amendment for Section 14-09-04(6) of the City Code of Ordinances (Procedure / Lot Modifications) to adhere to provisions outlined in Section 57-02-39 of the North Dakota Century Code (General Property Assessment / Irregularities of Land to be Platted into Lots if Required).

Background Information

The Planning and Zoning Commission considered this request at their meeting of October 27, 2021 and called for a public hearing on the proposed zoning ordinance text amendment.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on November 5th and November 12th.

The lot modification process is an administrative process that is intended to facilitate the modification of previously platted lots, provided certain criteria are met. This includes the following modifications:

- Lot Line Adjustment: Adjustments of an existing platted lot line between two adjoining lots by relocation of a common boundary.
- Lot Split: The division of an existing platted lot into not more than three parcels.
- Lot Combination: A combination of two or more existing platted lots into a single parcel whose boundaries coincide with the lot lines shown on the recorded plat of the subdivision.

The zoning ordinance allows lot line adjustments and lot splits to be approved utilizing a property description (legal description) of no more than two directional descriptors. For example, the North 100 feet of the West 200 feet of Lot 1, Block 1, ABC Addition.

The zoning ordinance also allows for the limit of two directional descriptions for a property description (legal description) for irregularly shaped lots to be waived if a Plat of Irregular Description (Auditor's Plat) is prepared and signed by the County Engineer or signed by the City Engineer, depending on property location,

(continued)

and recorded with the Burleigh County Recorder's office. The intent of the Plat of Irregular Description (Auditor's Plat) is to clear up any confusion that may result from a complicated or insufficient legal description for irregularly shaped lots.

These provisions were added to the zoning ordinance in 2002 and were based on a verbal agreement with the previous County Auditor.

The Burleigh County Auditor and Director of Tax Equalization have asked Planning Staff to revise the zoning ordinance to adhere to provisions outlined in the North Dakota Century Code, which indicate that a plat of irregular description may only be ordered by the County Auditor.

The County Auditor and Director of Tax Equalization have reviewed the proposed amendments and have indicated that their concerns have been addressed.

Changes to Existing Requirements

The proposed changes would allow for an irregularly shaped lot or parcel to be modified utilizing an accurate metes and bounds description instead of utilizing a Plat of Irregular Description (Auditor's Plat) and clarify approval criteria for lots or parcels that would need access via a private access easement.

Required Findings of Fact (relating to land use)

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

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment for Section(s) 14-09-03 (Definitions), 14-09-04(6) (Procedure / Lot Modifications) of the City Code of Ordinances, as presented in the draft ordinance attached to the staff report.

Attachments

1. Draft zoning ordinance amendment

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

ORDINANCE NO. XXXX

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

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-09-03 (DEFINITIONS) AND 14-09-04 (PROCEDURES) OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO REGULATIONS GOVERNING THE SUBDIVISION OF LAND AND LOT MODIFICATIONS

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

Section 1. Amendment. Section 14-09-03 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Definitions is hereby amended to read as follows:

14-09-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

* * * * *

Lot Combination: A combination of two (2) or more previously platted lots or parcels into a single ~~lot~~ parcel ~~whose boundaries coincide with the lot lines shown on the recorded plat of the subdivision~~.

Lot Line Adjustment: An administrative adjustment of an existing previously platted lot line between two (2) adjoining lots or parcels by relocation of a common boundary.

Lot Modification: A lot line adjustment, lot split or lot combination as defined herein.

Lot Split: The division of a previously platted lot or parcel into not more than three (3) lots or parcels.

* * * * *

Section 2. Amendment. Section 14-09-04(6) of the Code of Ordinances of the City of Bismarck, North Dakota, relating to Procedures/Lot Modifications – Lot Line Adjustments, Lot Combinations, and Lot Splits is hereby amended to read as follows:

14-09-04. Procedure

* * * * *

6. Lot Modifications - Lot Line Adjustments, Lot Combinations, and Lot Splits.

a. The purpose of this subsection is to provide for approval of lot modifications that meet specific criteria and for the waiver of standard platting requirements specified elsewhere in this Chapter. This process is intended to facilitate the further division of previously platted lots, the combination of previously platted lots or for the adjustment of an existing lot line or parcel line by relocation of a common boundary.

b. Lot line adjustments must meet the following criteria to be approved administratively:

i. Does not involve lots or parcels within more than one zoning classification;

ii. Is not one lot line adjustment in a series of lot line adjustments proposed for contiguous lots as a way to circumvent the minor subdivision plat process;

iii. Both of the resulting parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located, or will when combined with an adjacent parcel as part of the same lot modification action; and

iv. The resulting parcels can be legally described with no more than two (2) directional

descriptors (e.g. the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition). For lot line adjustments between irregularly-shaped parcels or to transfer an irregularly-shaped portion of a lot to an adjacent land owner, the Director of Community Development may waive this requirement, provided the resulting parcels can be legally described ~~as the original lot number combined with a letter (e.g. Lot 1 would become Lots 1A, 1B and 1C) and a plat of irregular description is prepared, signed by the City Engineer or County Engineer, and recorded with the Burleigh County Recorder's Office~~ with an accurate metes and bounds or other legal description.

c. Lot combinations must meet the following criteria to be approved administratively:

i. Does not involve the vacation of existing easements; and

ii. Does not involve lots or parcels within more than one zoning classification.

d. Lot splits must meet the following criteria to be approved administratively:

i. The property is not in a rural residential zoning district (RR or RR5);

ii. The lot split does not involve the creation of any new utility easements;

iii. The lot split does not require the dedication of a public right~~s~~-of-way or a private access easement for the purpose of gaining access to any part of the property;

iv. All resulting parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located;

v. The resulting parcels can be legally described with no more than two (2) directional descriptors (e.g. the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition). For an irregularly-shaped lot, the Director of Community Development may waive this requirement, provided the resulting parcels can be legally described ~~as the original lot number combined with a letter (e.g. Lot 1 would become Lots 1A, 1B and 1C); a plat of irregular description is prepared, signed by the City Engineer or County Engineer, and recorded with the Burleigh County Recorder's Office~~ with an accurate metes and bounds or other legal description; and provided that any line dividing the parcel along a common wall is a straight line from the front property line to the back property line among the common wall; and

vi. The property has not previously been divided through the lot split provisions of this ordinance.

e. Any person having a legal interest in the property may file an application for a lot modification. For an adjustment of an existing lot line, an affidavit or separate signature sheet with signatures from all affected property owners indicating their consent must also be submitted.

f. An application for approval of a lot modification shall be submitted to the Director of Community Development on the proper form. The application shall be accompanied by:

i. The applicable fee;

ii. A sketch of the proposed modification with all existing buildings or structures on the property, ~~and~~ setbacks from existing or proposed parcel boundaries, and the location and dimensions of any previously recorded easements;

iii. The legal description(s) of the existing lot(s) and/or parcel(s); and

iv. The legal description(s)of the resulting lots(s) and/or parcel(s).

g. For lot combinations and lot line adjustments in all zoning districts and for lot splits in all zoning districts except RR – Residential and RR5 – Residential, the application will be reviewed by the Director of Community Development, in consultation with other impacted departments, and shall be tentatively approved ~~administratively~~ if all requirements are met. No hearing or review by either the Planning and Zoning Commission or City Commission is necessary.

h. Upon tentative approval of a lot line adjustment or a lot split, a Certificate of Survey showing the location of any found and set pins and signed by a registered land surveyor licensed in the State of North Dakota will be required prior to a lot modification being administratively finalized and the resulting parcels created. The County Auditor may also require an Auditor's Plat or Plat of Irregular Description of the parcel(s) prior to the acceptance of a deed transferring ownership of any resulting parcel.

* * * * *

Section 4. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

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

DRAFT

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 Subdivsiion
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 Subdivsiion

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 Convenants.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) Convenants 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 Frankin
7328 Moonstone LN
Bismarck ND 58503

Susie Frankin
Travis Frankin

539270
Page: 1 of 2
03/28/2000 12:22P
LAURIE ANDERSON RESTR 10.00 Burleigh County

HIGH TOP ACRES

SECOND

SUBDIVISION

RESTRICTIONS AND CONDITIONS

AFFECTING HIGHTOP ACRES 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 SUB-DIVISION 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, LANSDCAPING, 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

Brenda Mattern
, NOTARY PUBLIC

MY COMMISSION EXPIRES: 6-21-2001

OFFICE OF REGISTER OF DEEDS BURLEIGH COUNTY ND

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

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 10/2021

	**********City**********				**********ETA**********			
	10/2021		**10/2020**		**10/2021**		**10/2020**	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	24	$7,010,718.97	17	$4,384,105.72	2	$1,335,028.20	11	$3,403,796.34
ROWHOUSE (2) 1-HR FIRE SEPARATION	14	$2,995,216.18	19	$3,897,791.09	0	$0.00	0	$0.00
MULTI FAMILY RESIDENTIAL	1	$191,457.83	0	$0.00	0	$0.00	0	$0.00
MANUFACTURED HOMES	2	$0.00	4	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	1	$3,120.00	4	$148,415.72	4	$107,321.28	1	$37,893.60
DETACHED GARAGE	3	$28,400.00	2	$32,760.00	5	$166,400.00	6	$280,007.00
DECKS\PORCHES & COVERED PORCHES	11	$148,894.88	12	$113,959.42	1	$1,800.00	2	$13,150.50
SWIMMING POOLS	2	$165,000.00	2	$172,000.00	0	$0.00	0	$0.00
RESIDENTIAL ALTERATION/OTHER	7	$67,264.63	14	$212,716.57	1	$60,200.00	1	$22,320.00
HOME OCCUPATION	1	$0.00	0	$0.00	1	$0.00	0	$0.00
STORAGE SHED	0	$0.00	5	$13,260.00	0	$0.00	0	$0.00
BASEMENT FINISH	6	$101,824.00	7	$109,776.50	0	$0.00	2	$33,775.50
RESIDENTIAL	0	$0.00	1	$0.00	0	$0.00	0	$0.00
NEW SIGN PERMITS	14	$137,513.00	17	$262,108.00	0	$0.00	0	$0.00
SIGN ALTERATION	0	$0.00	2	$40,750.00	0	$0.00	0	$0.00
COMMERCIAL NEW CONSTRUCTION	5	$1,869,231.00	3	$4,890,752.00	14	$2,106,000.00	0	$0.00
COMMERCIAL ADDITION	2	$660,000.00	1	$969,500.00	0	$0.00	0	$0.00
COMMERCIAL ALTERATION	7	$3,708,171.00	12	$1,369,669.00	0	$0.00	0	$0.00
Total	**100**	**$17,086,811.49**	**122**	**$16,617,564.02**	**28**	**$3,776,749.48**	**23**	**$3,790,942.94**

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 10/2021

	*******************City*******************				*******************ETA*******************			
	10/2021		**10/2020**		**10/2021**		**10/2020**	
Trade Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	100	$18,000.00	109	$35,000.00	0	$0.00	0	$0.00
BUILDING MECHANICAL	137	$1,744,385.10	133	$1,098,013.00	26	$254,226.46	27	$153,141.00
BUILDING PLUMBING	56	$837,721.00	40	$492,971.81	8	$291,400.00	12	$245,782.00
BUILDING SEPTIC	0	$0.00	1	$0.00	7	$7,000.00	10	$27,000.00
Total	**293**	**$2,600,106.10**	**283**	**$1,625,984.81**	**41**	**$552,626.46**	**49**	**$425,923.00**

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 10/2021

	*******************City*******************		*******************ETA*******************	
	10/2021	**10/2020**	**10/2021**	**10/2020**
Living Units	**Units**	**Units**	**Units**	**Units**
MANUFACTURED HOMES	2	3	0	0
BASEMENT FINISH	0	0	0	0
DECKS\PORCHES & COVERED PORCHES	0	0	0	0
DETACHED GARAGE	0	0	0	1
RESIDENTIAL ADDITION	0	0	0	0
RESIDENTIAL ALTERATION/OTHER	0	0	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	9	19	0	0
SINGLE FAMILY DETACHED	24	17	2	10
SWIMMING POOLS	0	1	0	0
Total	**35**	**40**	**2**	**11**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 10/2021

	**********City**********				**********ETA**********			
	10/2021		10/2020		10/2021		10/2020	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	179	$50,117,979.04	164	$41,073,738.79	48	$18,035,208.23	55	$17,979,504.05
ROWHOUSE (2) 1-HR FIRE SEPARATION	152	$32,807,991.70	63	$12,736,167.24	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	7	$1,612,170.04	0	$0.00	0	$0.00
MULTI FAMILY RESIDENTIAL	1	$191,457.83	13	$1,500,000.00	0	$0.00	0	$0.00
MANUFACTURED HOMES	23	$0.00	20	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	23	$1,256,567.17	15	$657,538.78	12	$808,522.68	20	$1,185,347.42
DETACHED GARAGE	29	$369,900.00	33	$624,525.50	58	$2,273,940.00	70	$2,428,526.50
DECKS\PORCHES & COVERED PORCHES	107	$818,176.33	150	$813,128.47	11	$53,544.00	23	$117,064.25
SWIMMING POOLS	14	$1,141,584.00	15	$1,007,497.00	7	$585,849.00	4	$275,020.00
RESIDENTIAL ALTERATION/OTHER	56	$1,727,446.76	49	$1,577,227.29	3	$144,025.77	10	$314,015.00
HOME OCCUPATION	5	$0.00	6	$0.00	2	$0.00	2	$0.00
STORAGE SHED	17	$53,800.00	17	$78,440.00	1	$2,880.00	4	$10,800.00
BASEMENT FINISH	76	$1,709,058.50	78	$1,507,254.39	9	$201,111.00	14	$212,885.00
COMMERCIAL BUILDINGS	0	$0.00	7	$0.00	0	$0.00	0	$0.00
RESIDENTIAL	10	$0.00	9	$0.00	0	$0.00	1	$0.00
COMMERCIAL	0	$0.00	3	$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	101	$1,573,049.46	96	$1,297,180.00	0	$0.00	3	$25,175.00
SIGN ALTERATION	14	$245,697.00	19	$269,555.00	0	$0.00	0	$0.00
ELECTRONIC MESSAGE CENTER	1	$40,000.00	1	$36,000.00	0	$0.00	0	$0.00
COMMERCIAL NEW CONSTRUCTION	66	$53,865,157.21	26	$90,982,213.00	31	$16,538,813.00	9	$2,338,998.00

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 10/2021

	*******************City*******************				*******************ETA*******************			
	10/2021		**10/2020**		**10/2021**		**10/2020**	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
COMMERCIAL ADDITION	7	$5,362,176.00	8	$11,819,705.00	2	$2,800,000.00	0	$0.00
COMMERCIAL ALTERATION	82	$29,343,885.86	112	$28,545,618.07	4	$4,643,457.00	5	$4,117,730.28
Total	**972**	**$180,623,926.86**	**918**	**$196,423,831.61**	**197**	**$46,540,265.98**	**234**	**$29,434,695.18**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 10/2021

	*******************City*******************				*******************ETA*******************			
	10/2021		**10/2020**		**10/2021**		**10/2020**	
Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	856	$2,303,717.15	861	$304,648.00	2	$0.00	7	$0.00
BUILDING MECHANICAL	1244	$12,298,275.55	1103	$17,471,461.65	239	$2,552,471.14	246	$2,432,568.53
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	405	$12,051,783.63	346	$12,354,298.12	97	$2,691,592.00	81	$2,004,351.18
BUILDING SEPTIC	0	$0.00	1	$0.00	33	$39,500.00	48	$48,850.00
Total	**2505**	**$26,653,776.33**	**2312**	**$30,153,407.77**	**371**	**$5,283,563.14**	**383**	**$4,488,769.71**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 10/2021

	*******************City*******************		*******************ETA*******************	
	10/2021	**10/2020**	**10/2021**	**10/2020**
Living Units	**Units**	**Units**	**Units**	**Units**
DECKS\PORCHES & COVERED PORCHES	133	164	0	0
MULTI FAMILY RESIDENTIAL	0	22	0	0
MANUFACTURED HOMES	15	16	0	0
2-UNIT DUPLEX OR CONDO	0	0	0	0
BASEMENT FINISH	0	2	0	0
DECKS\PORCHES & COVERED PORCHES	0	0	0	1
DETACHED GARAGE	0	1	2	4
RESIDENTIAL ADDITION	1	2	0	1
RESIDENTIAL ALTERATION/OTHER	1	3	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	133	60	2	2
SINGLE FAMILY DETACHED	167	159	44	48
SWIMMING POOLS	1	2	0	0
THREE OR FOUR UNIT	0	11	0	0
Total	**451**	**442**	**48**	**56**