



PLANNING AND ZONING COMMISSION

MEETING AGENDA September 28, 2022

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 & 602 HD, Radio Access 102.5 FM Radio, or stream FreeTV.org and RadioAccess.org.

Item No.	Page No.
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MINUTES

1. Consider approval of the minutes of the August 24, 2022 meeting of the Bismarck Planning & Zoning Commission.

CONSENT AGENDA CONSIDERATION

The following items are requests for public hearings.

2. **Aster Ridge Subdivision (JW)**.....6
Gibbs Township

Zoning Change (A to RR5) | ZC2022-017 | *Consideration*
Staff recommendation: schedule a hearing ☐ schedule a hearing ☐ continue ☐ table ☐ deny

Major Subdivision Preliminary Plat | PPLT2022-011 | *Consideration*
Staff recommendation: tentative approval ☐ tentative approval ☐ continue ☐ table ☐ deny



3. **Brunskill Subdivision (version 2) (JW)**.....14

Apple Creek Township

Zoning Change (A to RR5) | ZC2022-018 | *Consideration*

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

Major Subdivision Preliminary Plat | PPLT2022-012 | *Consideration*

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

REGULAR AGENDA

FINAL CONSIDERATION/PUBLIC HEARINGS

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

4. **Daybreak Second Addition (JW)**.....22

Annexation | ANNX2022-002 | *Final Consideration*

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

Zoning Change (A to RT & CG) | ZC2022-003 | *Public Hearing*

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

Major Subdivision Final Plat | FPLT2022-001 | *Public Hearing*

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

5. **Yegen Strip Addition (Klee)**.....39

Major Subdivision Final Plat | FPLT2022-007 | *Public Hearing*

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

6. **Lots 49 & 50, Block 2, Sonnet Heights Subdivision First Replat (JW)**.....46

Zoning Change (R10 to RT) | ZC2022-015 | *Public Hearing*

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

7. **Lot 1 and Part of Lot 2, Block 1, Meadow Lark Hill Second Addition Replat (JW)**.....53

Zoning Change (RT & CG to CG) | ZC2022-016 | *Public Hearing*

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

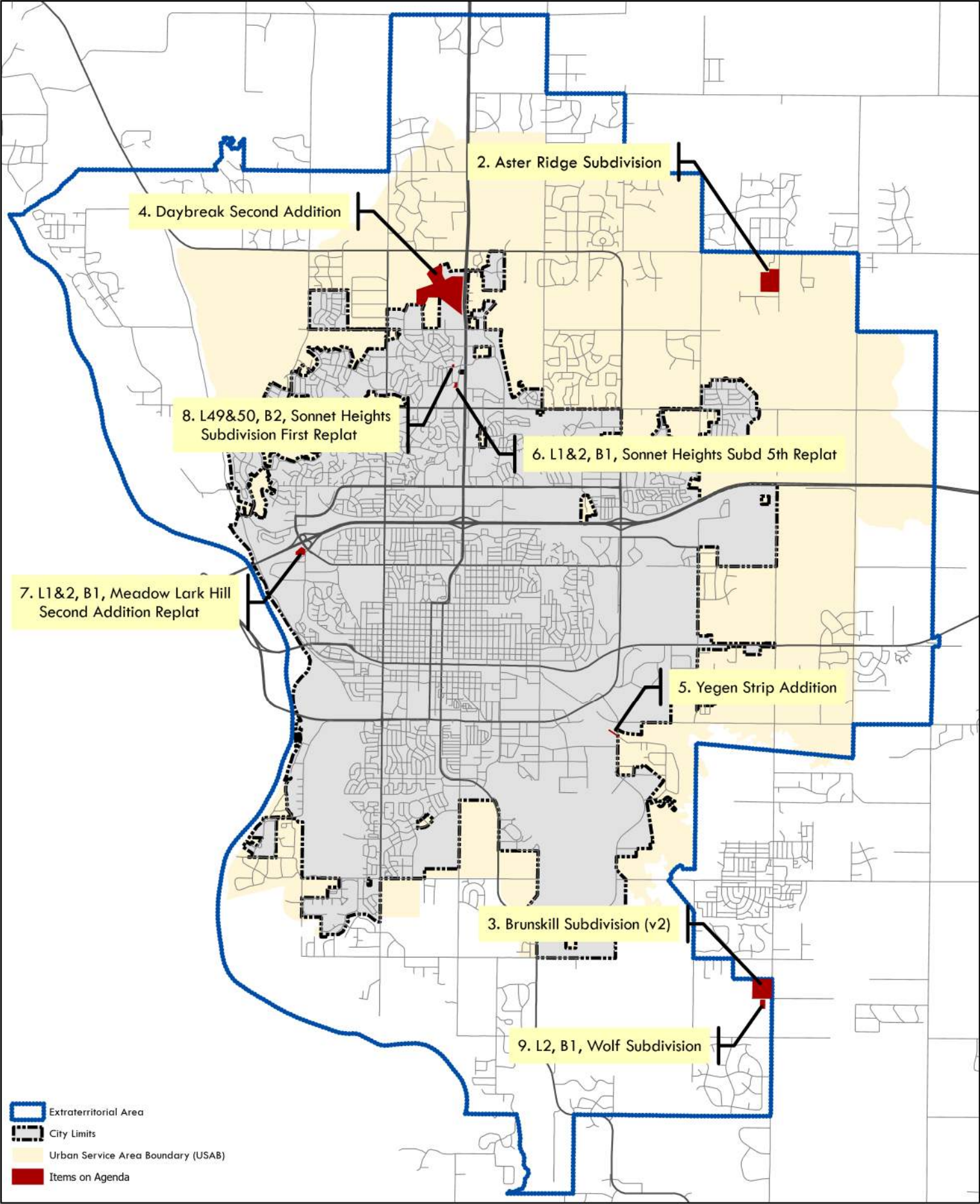
8. Lots 1 & 2, Block 1, Sonnet Heights Subdivision 5th Replat (WH).....62Special Use Permit | SUP2022-015 (Child Care Center) | *Public Hearing*Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny**9. Lot 2, Block 1, Wolf Subdivision (WH).....69***Apple Creek Township*Special Use Permit | SUP2022-016 (Oversized Accessory Building) | *Public Hearing*Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny**OTHER BUSINESS****10. Introduction of Sarah Fricke and Other Staff Changes****11. Update of Together 2045****12. Other****ADJOURNMENT****13. Adjourn.** The next regular meeting date is scheduled for October 26, 2022.

Enclosures: Meeting Minutes of August 24, 2022
Building Permit Activity Month to Date Report for August 2022
Building Permit Activity Year to Date Report for August 2022

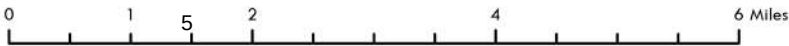
BISMARCK PLANNING AND ZONING COMMISSION PUBLIC HEARING PROCEDURE AND PROTOCOL

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.



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



STAFF REPORT

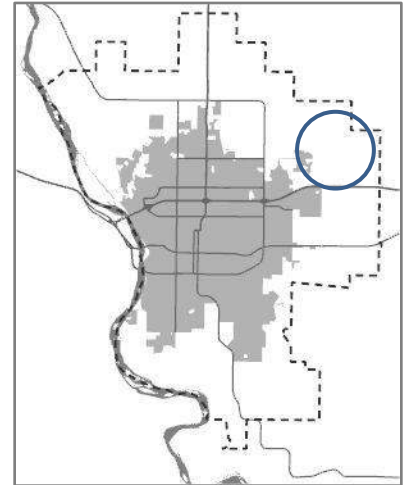
Application for: **Zoning Change
Preliminary Plat**

Agenda Item # 2
September 28, 2022

Project ID: **ZC2022-017
PPLT2022-011**

Project Summary

<i>Title:</i>	Aster Ridge Subdivision
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Owner(s):</i>	Tim and Deb Staloch
<i>Project Contact:</i>	Landon Niemiller, Swenson Hagen & Co.
<i>Location:</i>	Northeast of Bismarck between 57 th Avenue NE and 71 st Avenue NE, along the west side of 66 th Street NE (part of the NE¼ of Section 7, 139N-R79W/Gibbs Township)
<i>Project Size:</i>	40.5 acres
<i>Request:</i>	Rezone and plat property for future large lot rural development



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	1 parcel	<i>Number of Lots:</i>	4 lots in 1 block
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Large lot rural residential
<i>Future Land Use:</i>	Conventional Rural Residential Low Density Residential	<i>Future Land Use:</i>	Conventional Rural Residential
<i>Zoning:</i>	A – Agricultural	<i>Zoning:</i>	RR5 – Residential
<i>Uses Allowed:</i>	A – Agriculture	<i>Uses Allowed:</i>	RR5 – RR – Large lot single-family residential and limited agriculture
<i>Max Density:</i>	A – 1 unit / 40 acres	<i>Max Density:</i>	RR5 – 1 unit / 5 acres

Property History

<i>Zoned:</i>	N/A	<i>Platted:</i>	N/A	<i>Annexed:</i>	N/A
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Staff Analysis

Tim and Deb Staloch are requesting approval of a zoning change from the A – Agricultural zoning district to the RR5 – Residential zoning district and major subdivision preliminary plat for Aster Ridge Subdivision.

The proposed plat is located within the Urban Service Area Boundary, and as such, a waiver to the requirement to ghost plat is required. The plat includes four lots in one block ranging from 8.7 acres to 10 acres in size. It is the intent of the owner to retain large lot sizes to allow for the redevelopment and urbanization of these lots in the future when City services are available, and the property is annexed. Planning staff is comfortable with the request to waive ghost platting requirements.

The existing single-family residence and accessory buildings on Lot 2, Block 1 of the proposed plat will remain.

Adjacent uses include rural residential to the north, south, east across 66th Street NE and to the west.

Required Findings of Fact (relating to land use)

Zoning Change

1. The proposed zoning change generally conforms to 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 Gibbs Township Board of Supervisors has not yet made a recommendation for the proposed zoning change;
5. 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;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Preliminary Plat

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 Gibbs Township Board of Supervisors has not yet made a recommendation for the proposed preliminary plat;

(continued)

7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is within two miles of the city limits and will require an agreement with the South Central Regional Water District prior to recordation of the plat.
10. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;

11. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
12. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the A - Agricultural zoning district to the RR5 – Residential zoning district and tentative approval of the preliminary plat for Aster Ridge Subdivision.

Attachments

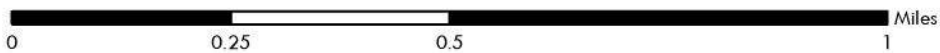
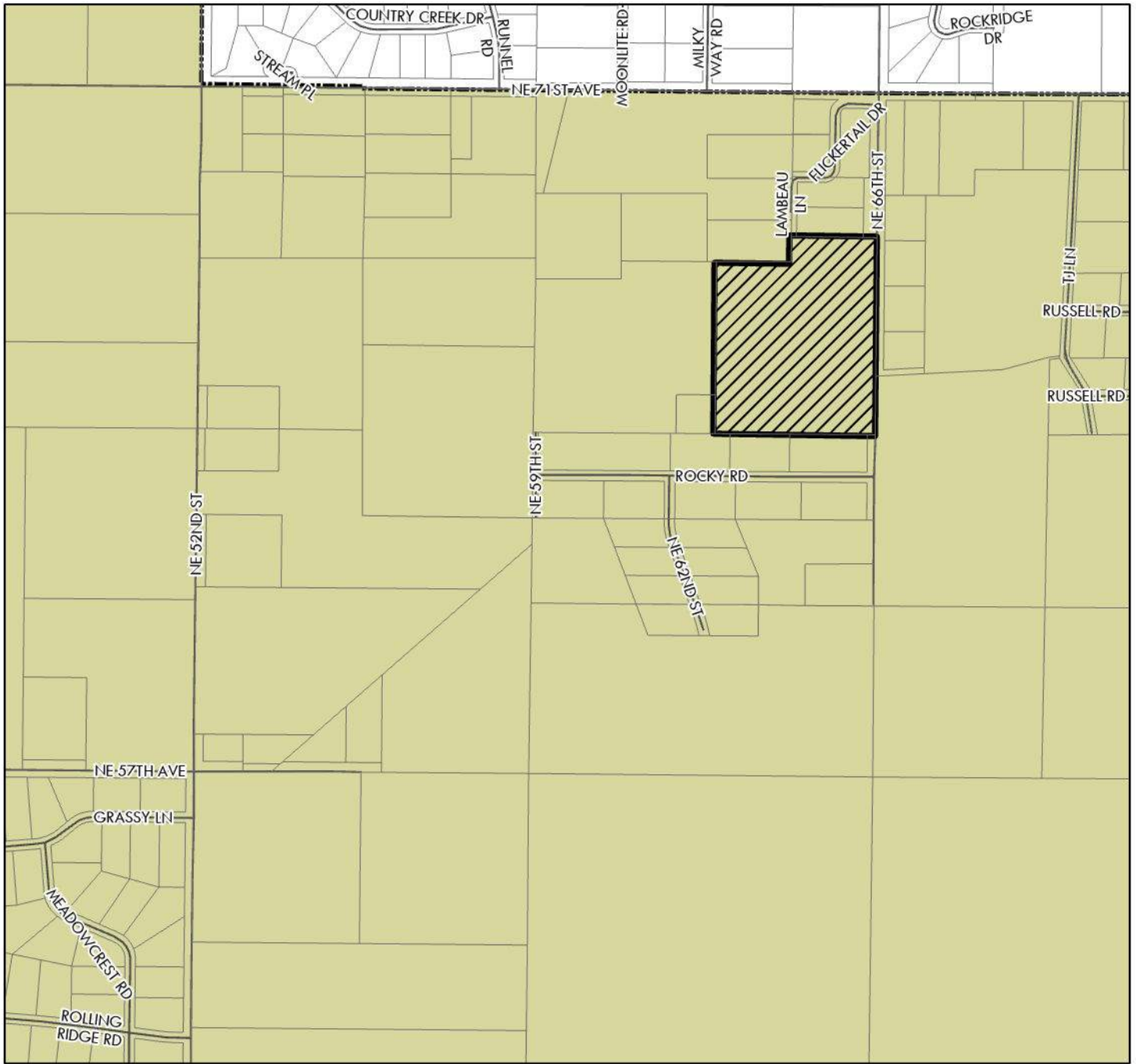
1. Location Map – Plat and Zoning
2. Aerial Map
3. Zoning and Plan Reference Map
4. Preliminary Plat

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



Location Map
ASTER RIDGE SUBDIVISION

PPLT2022-011
ZC2022-017

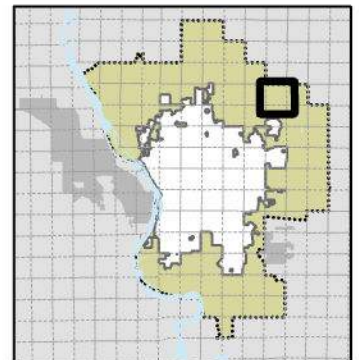


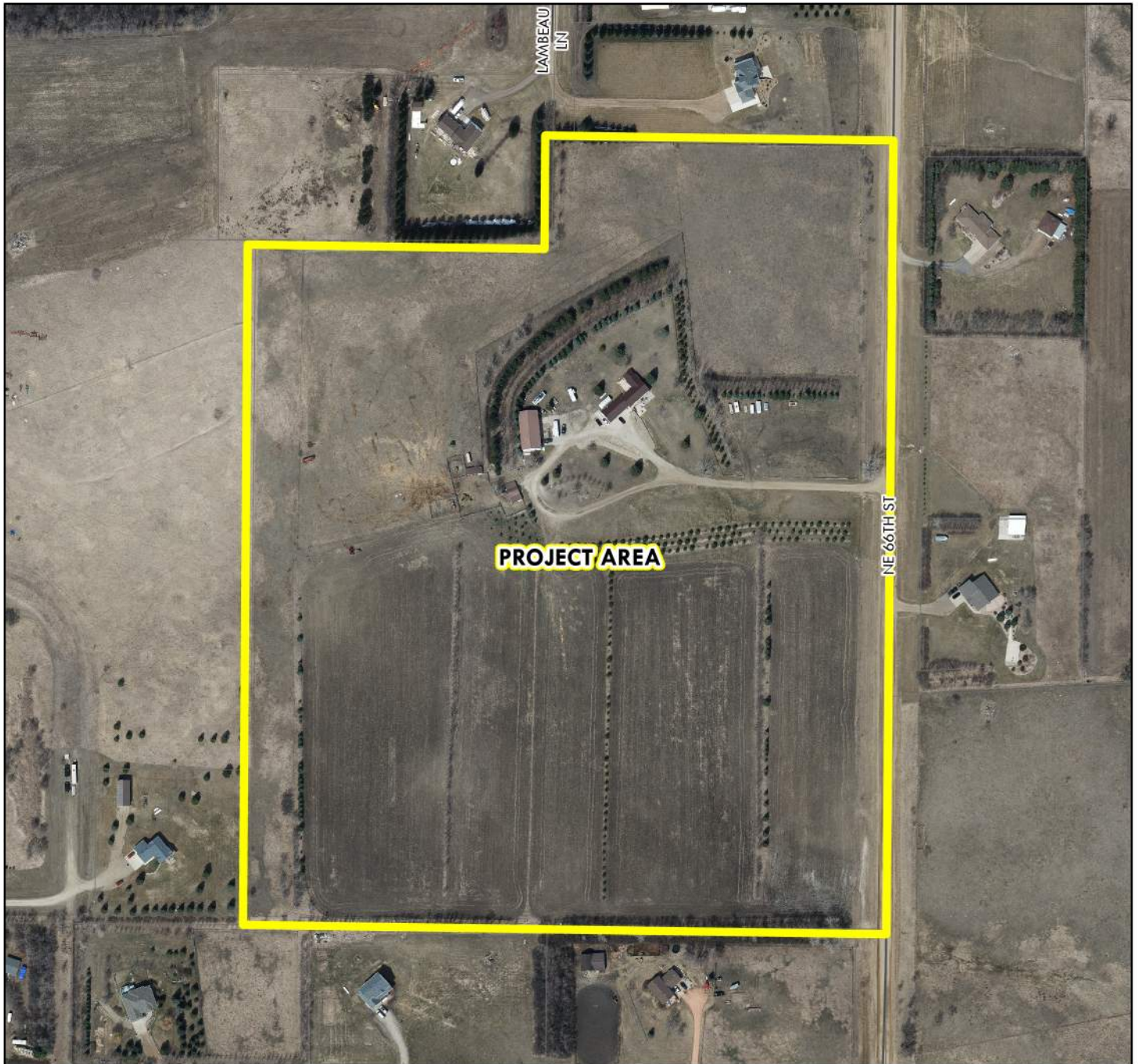
Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
August 29, 2022 (HLB)

*Section, township, and
range indicated in orange*

*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.*

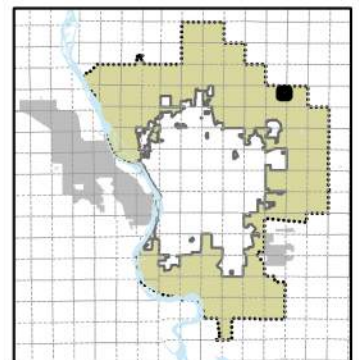




Aerial Imagery from April 2020

City of Bismarck
Community Development Dept.
Planning Division
September 21, 2022

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Zoning and Plan Reference Map

ASTER RIDGE SUBDIVISION

ZC2022-017
PPLT2022-011

Zoning Districts

A	Agriculture
RR	Rural
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

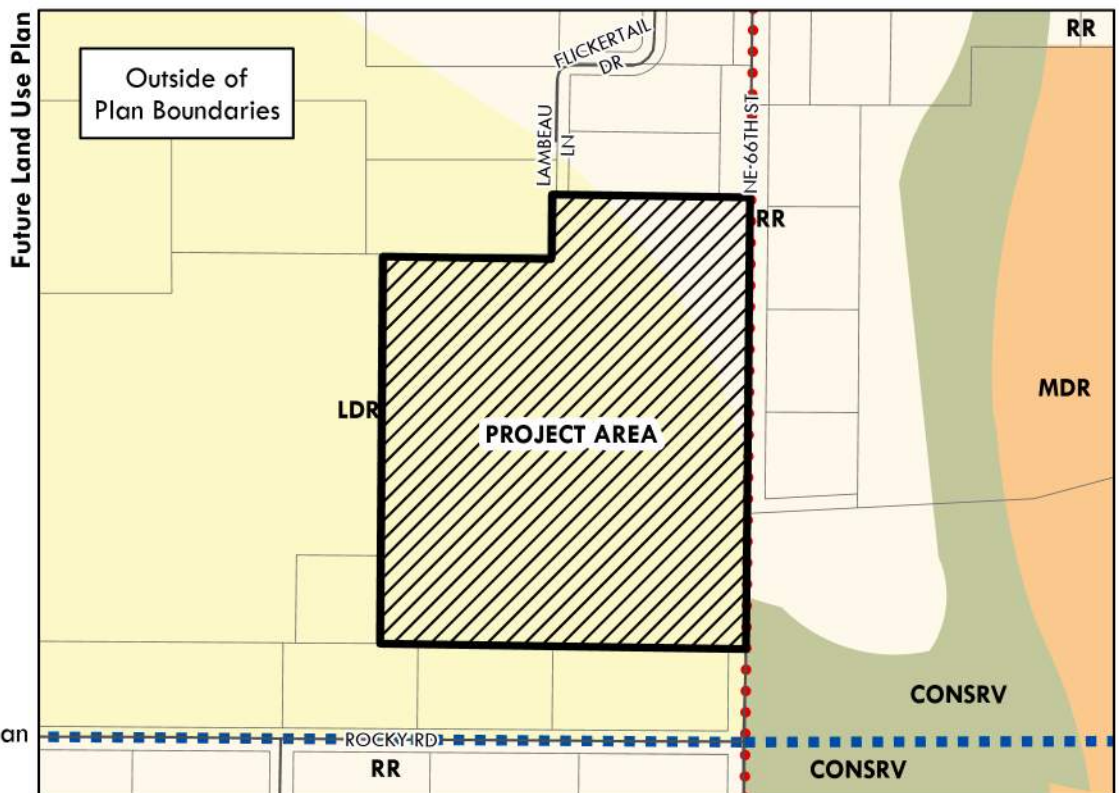
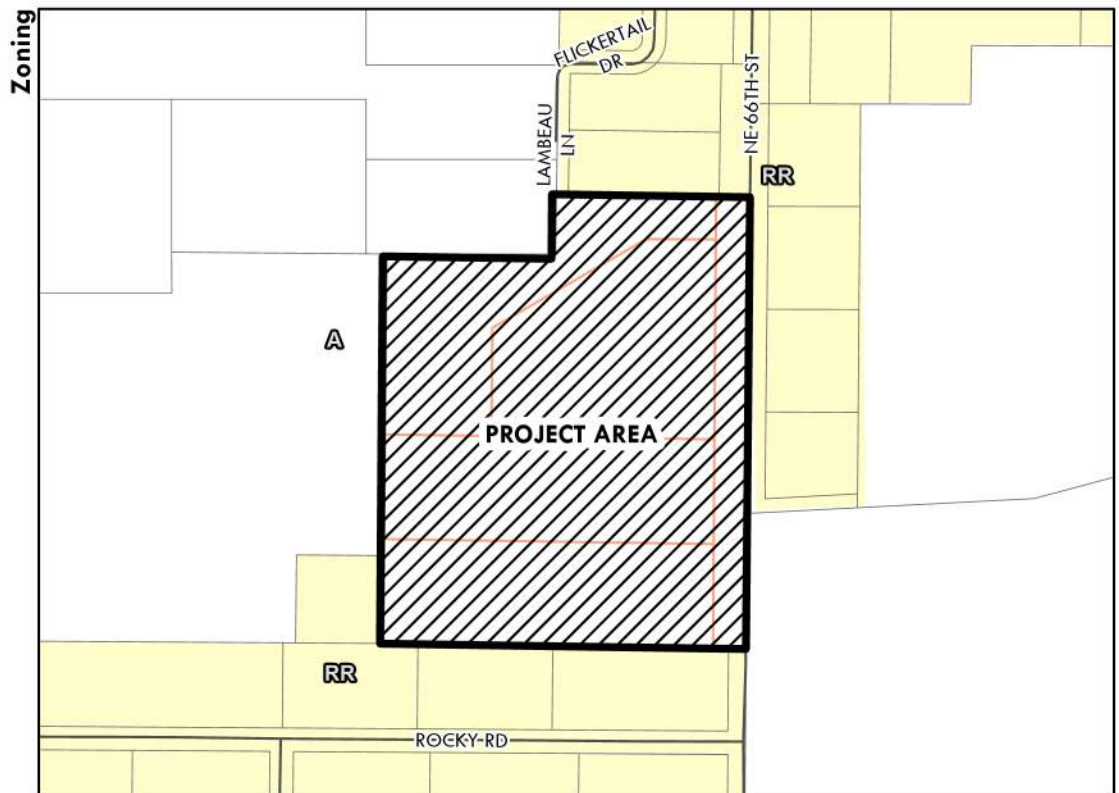
Future Land Use Plan

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

0 0.07 0.15 0.3 Miles



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City of Bismarck
Community Development Dept.
Planning Division
September 22, 2022

**Proposed New
Zoning Map**

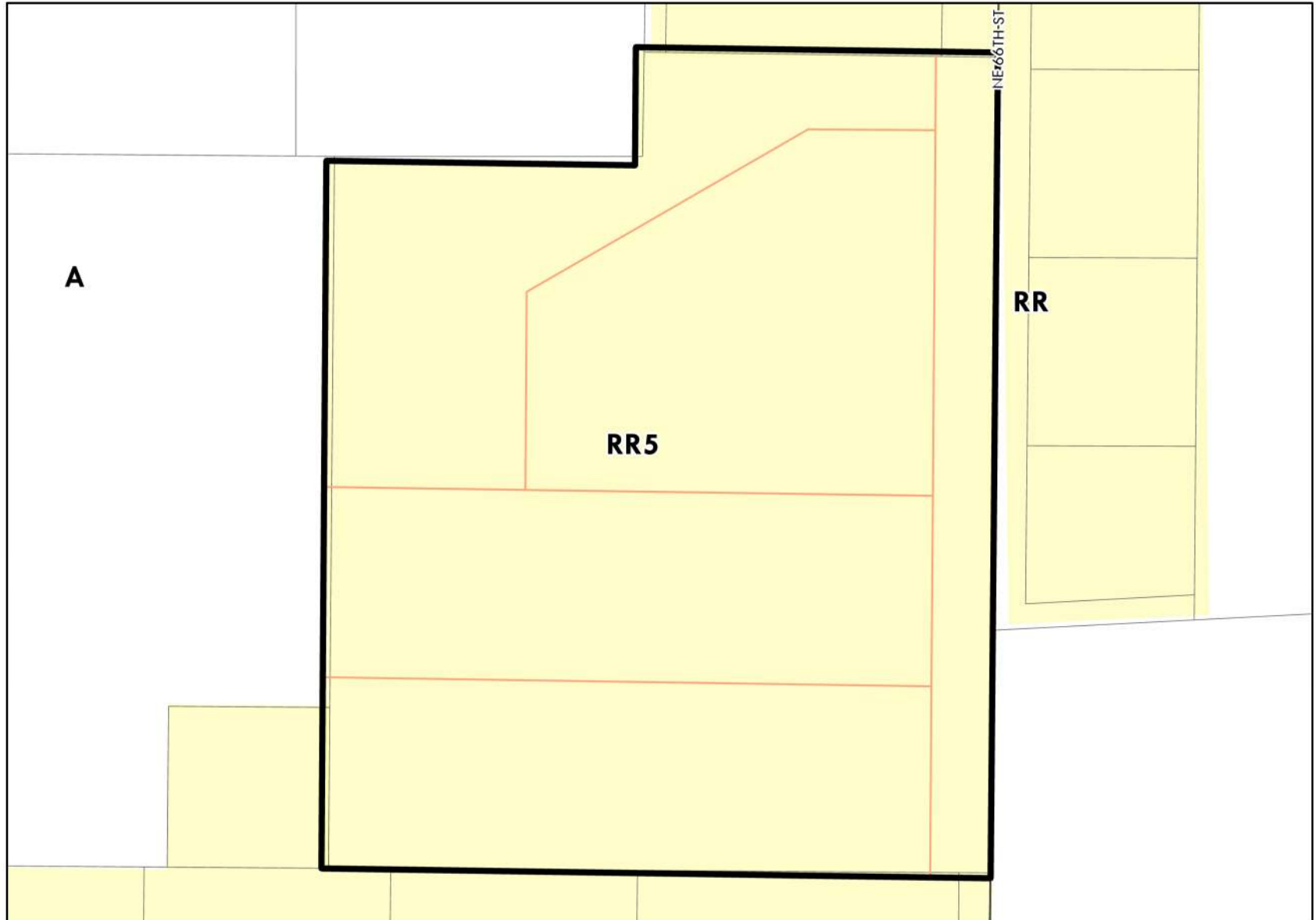
 Project Area
(zoning within
is proposed)

 City Limits

Zoning Districts

A	Agriculture
RR	Rural
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

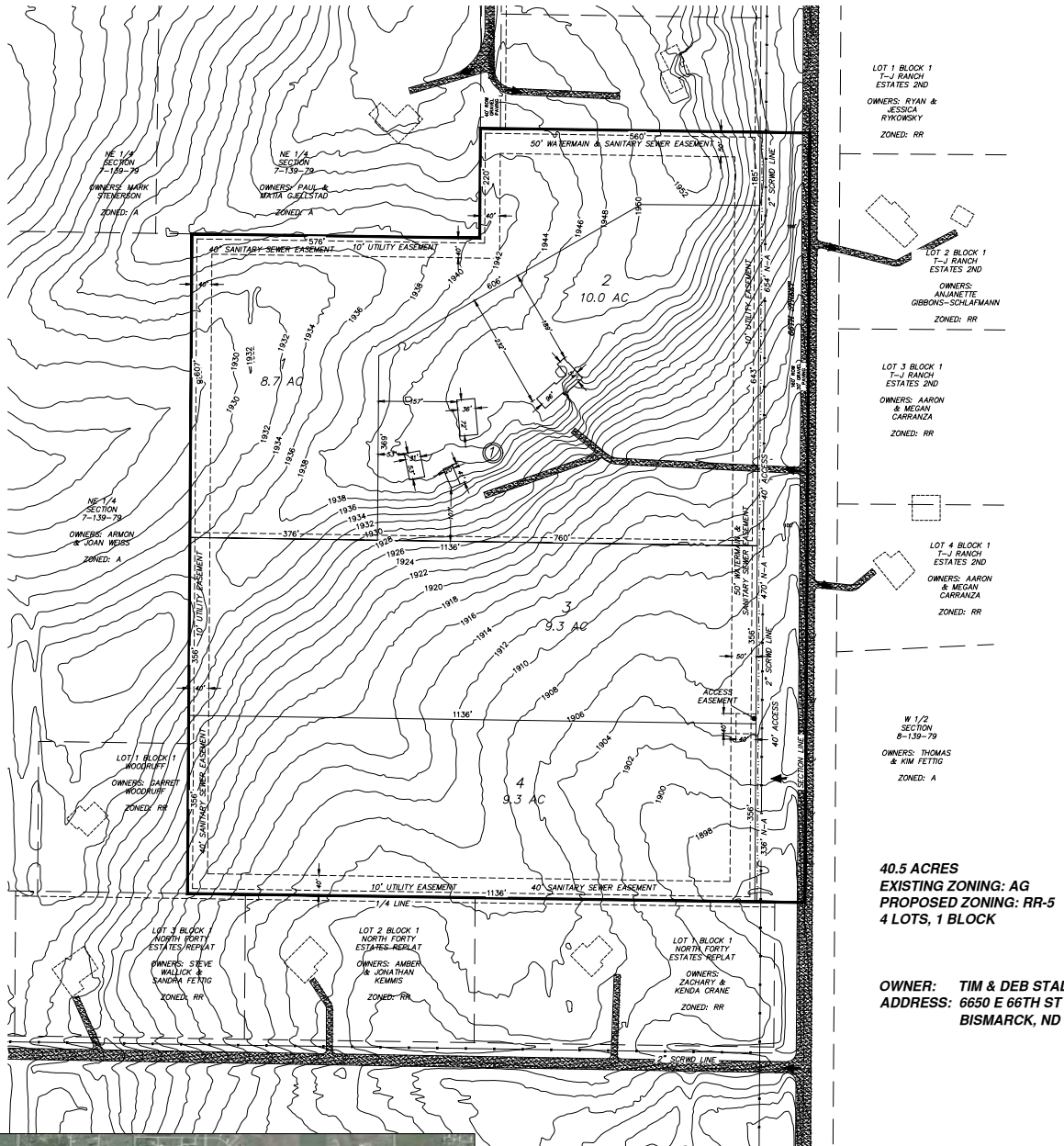
A "C-" prior to the district
indicates that special
conditions would apply
to the zoning district



ASTER RIDGE SUBDIVISION

PART OF THE NE 1/4 OF SECTION 7
TOWNSHIP 139 NORTH, RANGE 79 WEST
OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA PRELIMINARY PLAT



LOCATION MAP



SCALE: 1" = 100'
SEPTEMBER 8, 2022

STAFF REPORT

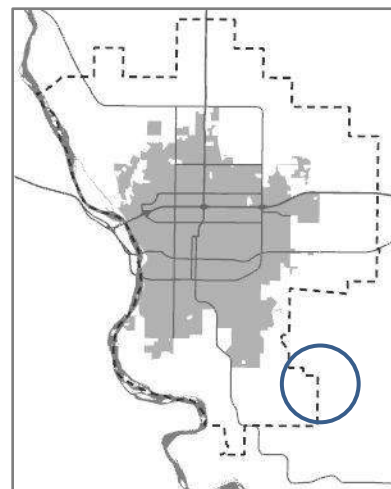
Application for: **Zoning Change
Preliminary Plat**

Agenda Item # 3
September 28, 2022

Project ID: **ZC2022-018
PPLT2022-012**

Project Summary

<i>Title:</i>	Brunskill Subdivision (Version 2)
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Owner(s):</i>	Daniel Brunskill
<i>Project Contact:</i>	Cole Neset, RLS, Neset Land Surveys Inc.
<i>Location:</i>	Southeast of Bismarck, in the northwest quadrant of the intersection of 66 th Street SE and 55 th Avenue SE (the SE¼ of the NE¼ Section 30, T138N-R80W/Apple Creek Township)
<i>Project Size:</i>	39.95 acres
<i>Request:</i>	Plat and zone property to allow for large lot rural residential development



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	1 parcel	<i>Number of Lots:</i>	4 lots in 1 block
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Single-family residential
<i>Future Land Use:</i>	Conventional Rural Residential	<i>Future Land Use:</i>	Conventional Rural Residential
<i>Zoning:</i>	A – Agricultural	<i>Zoning:</i>	RR5 – Residential
<i>Uses Allowed:</i>	A – Agriculture	<i>Uses Allowed:</i>	RR5 – RR – Large lot single-family residential and limited agriculture
<i>Max Density:</i>	A – 1 unit / 40 acres	<i>Max Density:</i>	RR5 – 1 unit / 5 acres

Property History

<i>Zoned:</i>	N/A	<i>Platted:</i>	N/A	<i>Annexed:</i>	N/A
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Staff Analysis

Daniel Brunskill is requesting approval of a zoning change from the A – Agricultural zoning district to the RR5 - Residential zoning district and a major subdivision preliminary plat for Brunskill Subdivision.

The Planning and Zoning Commission denied a final plat and zoning change for this property at their meeting of August 24, 2022. The proposed plat and zoning change have been revised to include four large rural residential lots ranging from 5 acres to 20 acres in size. To minimize access to 66th Street SE, the County Engineer has indicated that access between Lots 2 and 3 will be shared. Two access points to 55th Avenue SE, as shown on the proposed plat, would be acceptable to the County Engineer.

Adjacent uses include undeveloped agriculture land to the north, large lot rural residential to the east across 66th Street SE, to the south across 55th Avenue SE, and to the west.

The Future Land Use Plan of the 2014 Growth Management Plan; as amended, identifies the area included in the proposed plat as Rural Residential (RR).

Required Findings of Fact (relating to land use)

Zoning Change

1. The proposed zoning change generally conforms to 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 Apple Creek Township Board of Supervisors has not yet made a recommendation for the proposed zoning change;
5. 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;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Preliminary Plat

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 plat is not an urban subdivision;
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;

(continued)

5. A scoping sheet for a post-construction stormwater management permit (PCSMP) has been approved by the City Engineer;
6. The Apple Creek Township Board of Supervisors has not yet made a recommendation for the proposed preliminary plat;
7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is within two miles of the city limits and will require an agreement with the South Central Regional Water District prior to recordation of the plat.
10. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
11. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
12. The proposed subdivision would not adversely affect the public health, safety and general welfare.

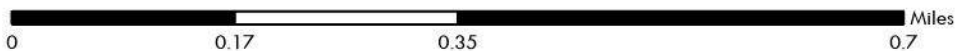
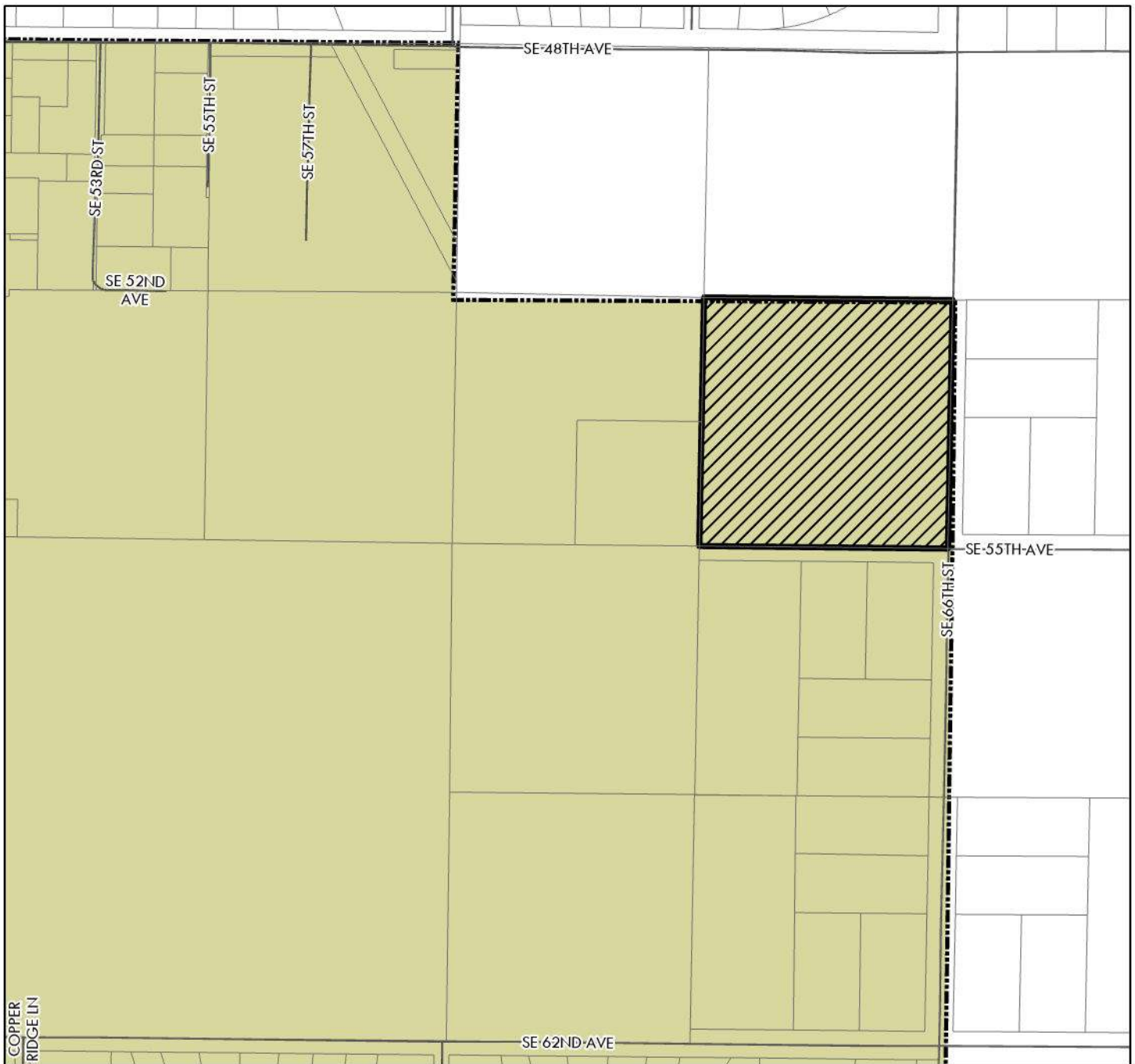
Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the A -Agricultural zoning district to the RR5 – Residential zoning district and tentative approval the preliminary plat for Brunskill Subdivision.

Attachments

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

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

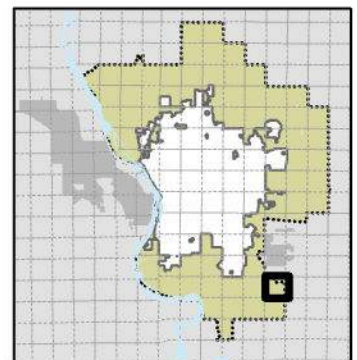


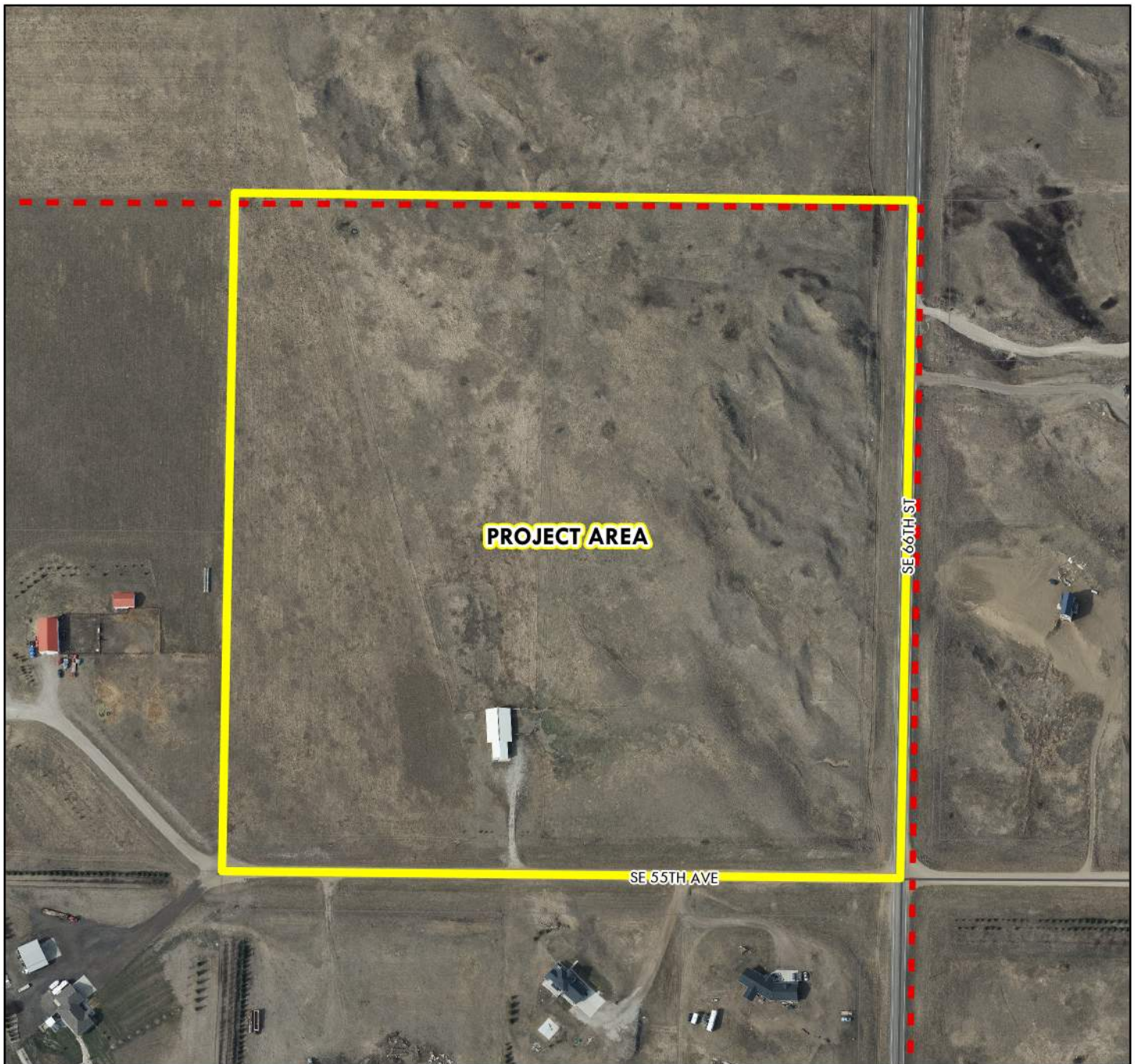
Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
September 1, 2022 (HLB)

*Section, township, and
range indicated in orange*

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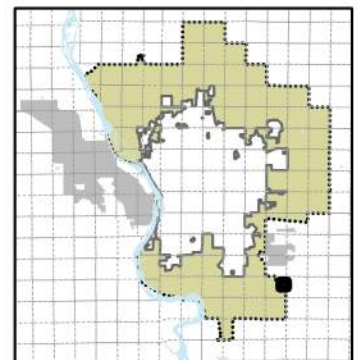


 Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck
Community Development Dept.
Planning Division
September 22, 2022

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Zoning and Plan Reference Map

BRUNSKILL SUBDIVISION (VERSION 2)

ZC2022-018
PPLT2022-011

Zoning Districts

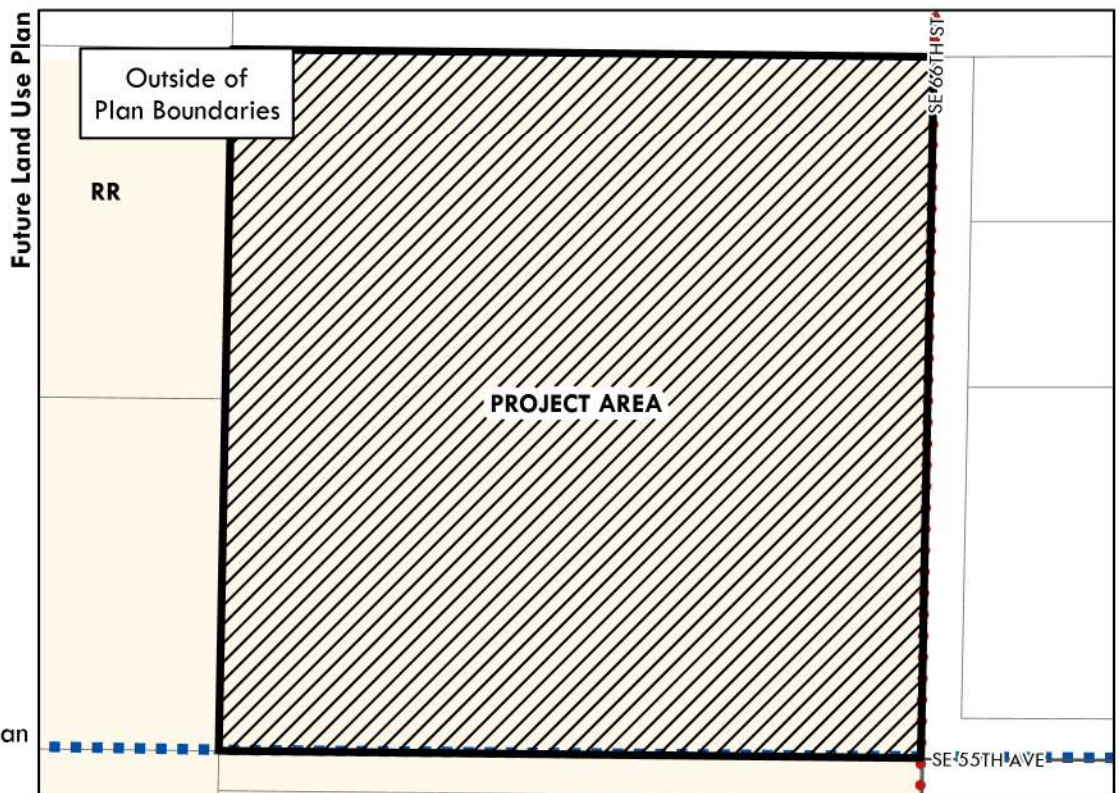
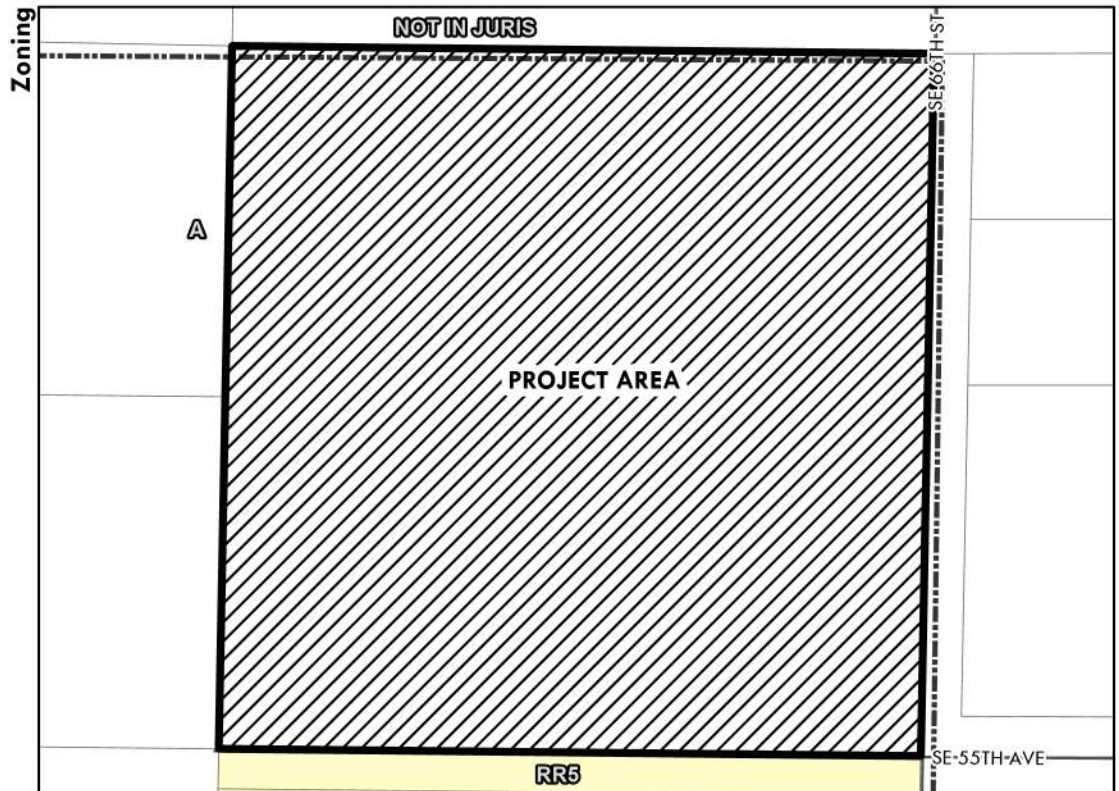
A	Agriculture
RR	Rural
	Residential
R5	Residential
RMH	Manufactured
	Home Residential
R10	Residential
RM	Multifamily
RT	Residential
	(Offices)
HM	Health and
	Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit
	Development
DC	Downtown Core
DF	Downtown Fringe

Future Land Use Plan

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

Fringe Area Road Master Plan

- • • Future Arterial Road
- ■ ■ Future Collector Road



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City of Bismarck
Community Development Dept.
Planning Division
September 22, 2022



Proposed Zoning Change

BRUNSKILL SUBDIVISION (VERSION 2)

Proposed New Zoning Map

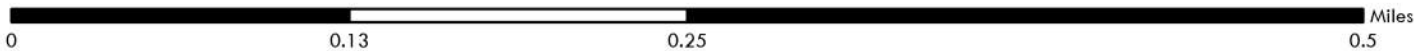
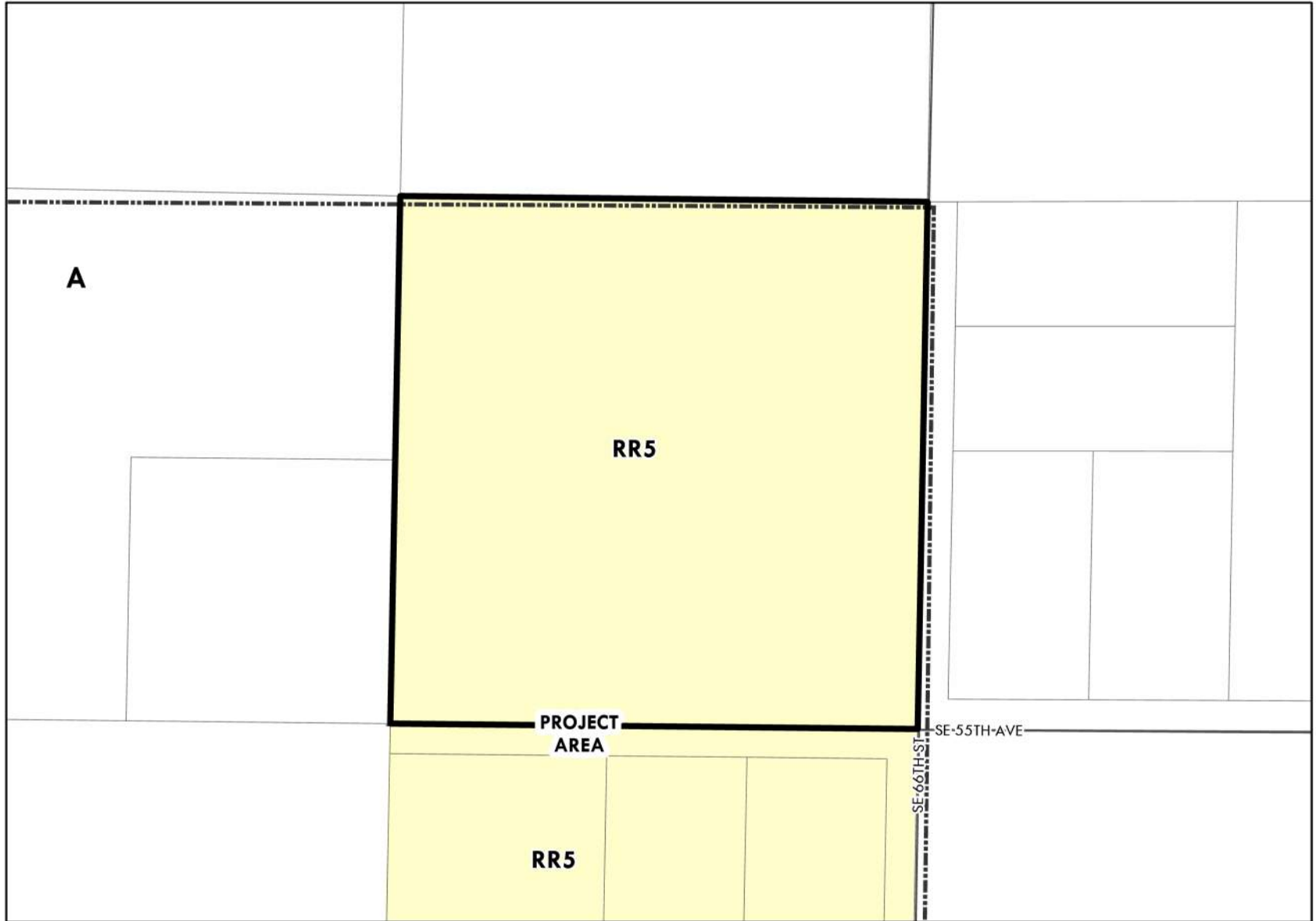
 Project Area
(zoning within
is proposed)

 City Limits

Zoning Districts

A	Agriculture
RR	Rural
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

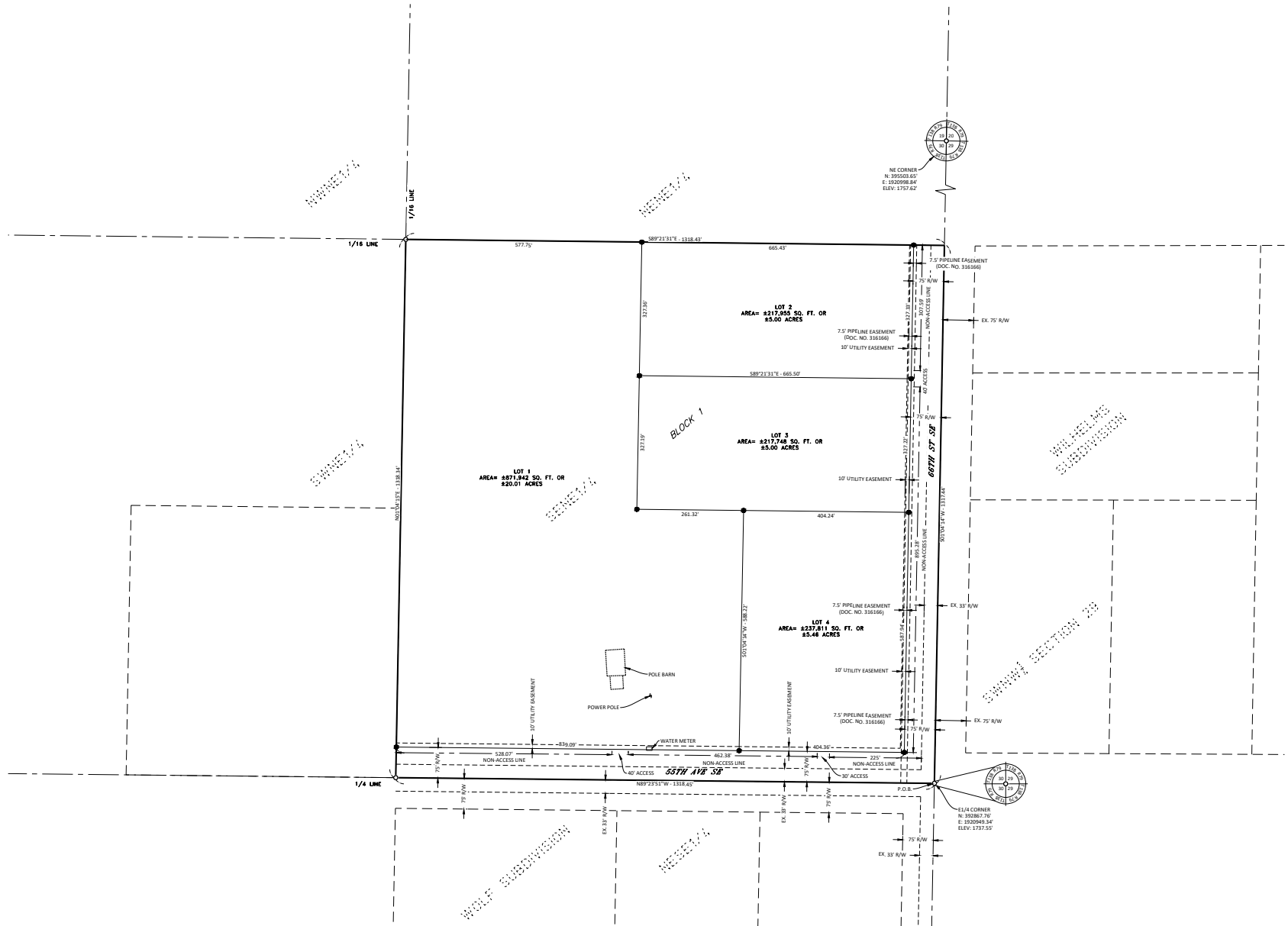
A "C-" prior to the district
indicates that special
conditions would apply
to the zoning district



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.



BRUNSKILL SUBDIVISION
ALL OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 30, T138N, R79W,
BURLEIGH COUNTY, NORTH DAKOTA



SURVEY INFORMATION

DATE OF SURVEY: 05/02/2022
BASIS OF BEARING: NAD83 - NORTH DAKOTA STATE PLANE SOUTH ZONE
INTERNATIONAL FEET
VERTICAL DATUM: NAVD83
HORIZONTAL DATUM: NAD83

CURRENT OWNER'S INFORMATION
DAN BRUNSKILL
12000 CREEKS EDGE ROAD, MENOMEN, ND 58558

NOTES

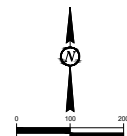
1. FEMA MAP #98025088B0 - SUBJECT PROPERTY IS LOCATED IN ZONE "X". DATUM USED IS NAVD83.

AREA		
LOTS	1,245,283 SF	28.47 ACRES
RIGHT-OF-WAY	192,233 SF	4.41 ACRES
TOTAL	1,437,516 SF	32.88 ACRES

SURVEYORS INFORMATION
CODE A: NETS
REGISTERED LAND SURVEYOR
NO REG. NO. 7513
5306 51ST AVE S, SUITE A
FARGO, ND 58104

LEGEND

- MONUMENT SET
- MONUMENT FOUND
- EX. EASEMENT
- EX. PROPERTY LINE
- EX. SECTION LINE
- PROPERTY BOUNDARY LINE
- NEW ROW/PROPERTY LINE



SHEET 1 OF 2

PROJECT ID: 22004.36
DATE: 09-19-2022
DRAWN BY: GCB
CHECKED BY: CAN



5306 51ST AVENUE SOUTH, SUITE A
FARGO, ND 58104
PHONE: 701-235-0199 EX. 114
EMAIL: CMESY@NETSURVEYS.COM

STAFF REPORT

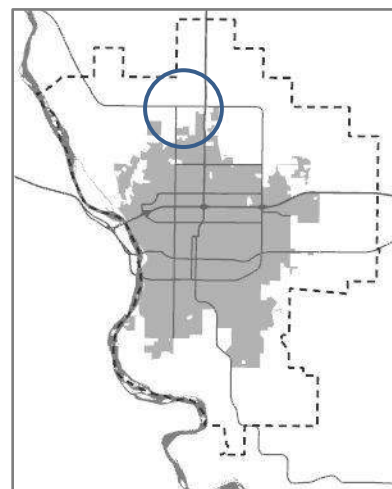
Agenda Item # 4
September 28, 2022

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

Project ID: **ANNX2022-002
ZC2022-003
FPLT2022-001**

Project Summary

<i>Title:</i>	Daybreak Second Addition
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	TPR, LLP Ronald and Ruth Knutson
<i>Project Contact:</i>	Landon Niemiller, Swenson Hagen & Co
<i>Location:</i>	In north the Bismarck, between 57th Avenue NE and 71st Avenue NE / ND Highway 1804, along the west side of US Highway 83 (part of Section 9, T139N-R80W/Hay Creek Township)
<i>Project Size:</i>	125 acres
<i>Request:</i>	Plat and zone land for future commercial and residential development



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	4 parcels	<i>Number of Lots:</i>	12 lots in 6 blocks
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Residential Commercial
<i>Future Land Use:</i>	Medium Density Residential Commercial Mixed Use Commercial	<i>Future Land Use:</i>	Medium Density Residential Commercial Mixed Use Commercial
<i>Zoning:</i>	A – Agricultural	<i>Zoning:</i>	RT – Residential CG – Commercial
<i>Uses Allowed:</i>	A – Agriculture	<i>Uses Allowed:</i>	RT – Offices and multi-family residential CG – General commercial, multi- family residential and offices
<i>Max Density:</i>	A – 1 unit / 40 acres	<i>Max Density:</i>	RT – 30 units / acre CG – 42 units / acre

Property History

<i>Zoned:</i>	N/A	<i>Platted:</i>	N/A	<i>Annexed:</i>	02/2015 (part)
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Staff Analysis

TPR, LLP and Ronald and Ruth Knutson are requesting approval of a zoning change from the A – Agricultural zoning district to the RT – Residential and CG – Commercial zoning districts and a major subdivision final plat for Daybreak Second Addition.

The Planning and Zoning Commission, at their meeting of February 23, 2022, called for a public hearing on the zoning change and tentatively approved the preliminary plat, with the understanding that prior to scheduling a public hearing on the proposed requests a traffic impact study would be submitted to the City Engineer and reviewed and accepted by both the City Engineer and the NDDOT. The traffic impact study was accepted by the NDDOT and the City Engineer on September 13, 2022.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on September 16th and September 23rd, and 42 letters were mailed to the owners of nearby properties on September 16, 2022.

Adjacent uses include undeveloped, agricultural-zoned land to the north and west, undeveloped agricultural land and an educational facility and automotive dealership to the south, and partially developed commercial and rural residential land to the east, across US Highway 83/State Street.

A portion of the area within the proposed plat was annexed in 2015, but never provided with city services or developed. The applicant intends to submit a request for annexation of the remainder of the property with the major subdivision final plat.

Conformance with Plans

The Future Land Use Plan (FLUP) in the 2014 Growth Management Plan, as amended, identifies the area included in the proposed plat as Medium Density Residential (MDR), Commercial Mixed Use (CMU), and Commercial (C). The proposed plat and zoning change would comply with the FLUP.

The 2014 Fringe Area Road Master Plan (FARMP), as amended, identifies Ridgeland Drive, Yukon Drive, and 64th Avenue NE as collector roadways for this area. The proposed plat would comply with the FARMP.

The Growth Phasing Plan in the 2014 Growth Management Plan, as amended, identifies the area included in the proposed plat as a Future Area within the Urban Service Area Boundary. The developer is responsible for extending municipal services to the proposed plat.

Transportation and Access

The proposed plat includes extensions of Ridgeland Drive, Yukon Drive, and 64th Avenue NE. 64th Avenue NE are proposed to connect directly to roadways controlled by the North Dakota Department of Transportation (NDDOT). Approval for access to this state-owned roadway must be granted by the NDDOT and conform to the accepted traffic impact study.

A Development Agreement outlining the roles and responsibilities for off-site improvements to US Highway 83 as identified in the Traffic Impact Study must be agreed to by the applicant prior to the City Commission taking final action on the final plat.

(continued)

Sensitive Lands

The proposed plat is not located within the Special Flood Hazard Area (SFHA) or 100-year floodplain but includes previously delineated wetlands. A development setback line adjacent to these areas was approved by the City Commission upon acceptance of recommendations of the US Highway 83/ ND Highway 1804 watershed stormwater master plan and is included in the proposed plat.

Utility Capital Charge

The creation of any new lots in the City of Bismarck is subject to utility capital charges for municipal utilities. City staff and the applicant have agreed that utility capital charges would be paid upon annexation of the remainder of the plat, as outlined in the draft annexation ordinance and prior to recordation of the final plat.

Parks and Open Space

The Neighborhood Parks and Open Space ordinance and policy requires a neighborhood park to be placed in any urban residential subdivision. Both the RT – Residential and CG – Commercial zoning districts allow for residential development.

The Bismarck Parks and Recreation Department at their meeting of February 17, 2022 waived this requirement as the owner has indicated that a future regional park or neighborhood park would be located in a future plat of the surrounding area.

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

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

2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck;
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Zoning Change

1. The proposed zoning change generally conforms to 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,

(continued)

policies and accepted planning practice;
and

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

Final Plat

1. All technical requirements for approval of a major 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 annexation; the zoning change from the A – Agricultural zoning district to the RT

– Residential and CG – Commercial zoning districts; and approval of the major subdivision final plat for Daybreak Second Addition with the understanding that:

1. A Development Agreement outlining the roles and responsibilities for off-site improvements to US Highway 83 as identified in the Traffic Impact Study must be agreed to by the applicant prior to the City Commission taking final action on the final plat.

Attachments

1. Draft Annexation Ordinance
2. Draft Zoning Ordinance
3. Location Map – Plat and Zoning
4. Location Map – Annexation
5. Aerial Map
6. Zoning and Plan Reference Map
7. Proposed Zoning Map
8. Final Plat
9. Preliminary Plat

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 _____

AN ORDINANCE ANNEXING PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, DECLARING THE TERRITORY ANNEXED; DECLARING THE SAME TO BE A PART OF THE CORPORATE LIMITS OF SAID CITY.

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

Section 1. Territory Annexed. The territory and land hereinafter described is hereby declared and found to be a part of the corporate limits of the City of Bismarck, Burleigh County, North Dakota, as follows:

All that Part of Section 9, Township 139 North, Range 80 West of the Fifth Principal Meridian, Burleigh County, North Dakota, described as follows:

Beginning at the Southwest corner of Auditor's Lot D of said Section 9; thence South 80 degrees 39 minutes 47 seconds West, a distance of 122.74 feet; thence South 62 degrees 22 minutes 51 seconds West, a distance of 700.72 feet; thence South 37 degrees 25 minutes 43 seconds West, a distance of 315.35 feet to the West line of the East 1/2 of said Section 9; thence South 33 degrees 14 minutes 25 seconds East, a distance of 852.35 feet; thence South 71 degrees 28 minutes 18 seconds West, a distance of 1214.62 feet; thence South 00 degrees 15 minutes 39 seconds West, a distance of 967.88 feet to the North line of Light of Christ Addition; thence South 89 degrees 44 minutes 01 second East, along said North line, a distance of 533.91 feet; thence North 33 degrees 12 minutes 49 seconds East, a distance of 266.09 feet; thence Northerly and to the left, on a 640.00 foot radius curve, an arc length of 286.85 feet; thence South 89 degrees 44 minutes 16 seconds East, a distance of 772.68 feet; thence South 52 degrees 03 minutes 33 seconds East, a distance of 69.28 feet; thence North 00 degrees 25 minutes 33 seconds East, a distance of 2221.31 feet to the point of beginning.

The above described tract contains 53.90 acres, more or less.

Section 2. Provisions Applicable. From and after the final passage and adoption of this ordinance and upon recording of this ordinance with the Burleigh

County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, North Dakota.

ORDINANCE NO. XXXX

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

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

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

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

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

Lot 1, Block 1 and Lot 1, Block 6, Daybreak Second Addition

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

Lots 2-3, Block 5; Lots 1-2, Block 2, Lots 1-3, Block 3, and Lots 1-3, Block 4, Daybreak Second Addition

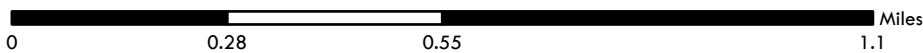
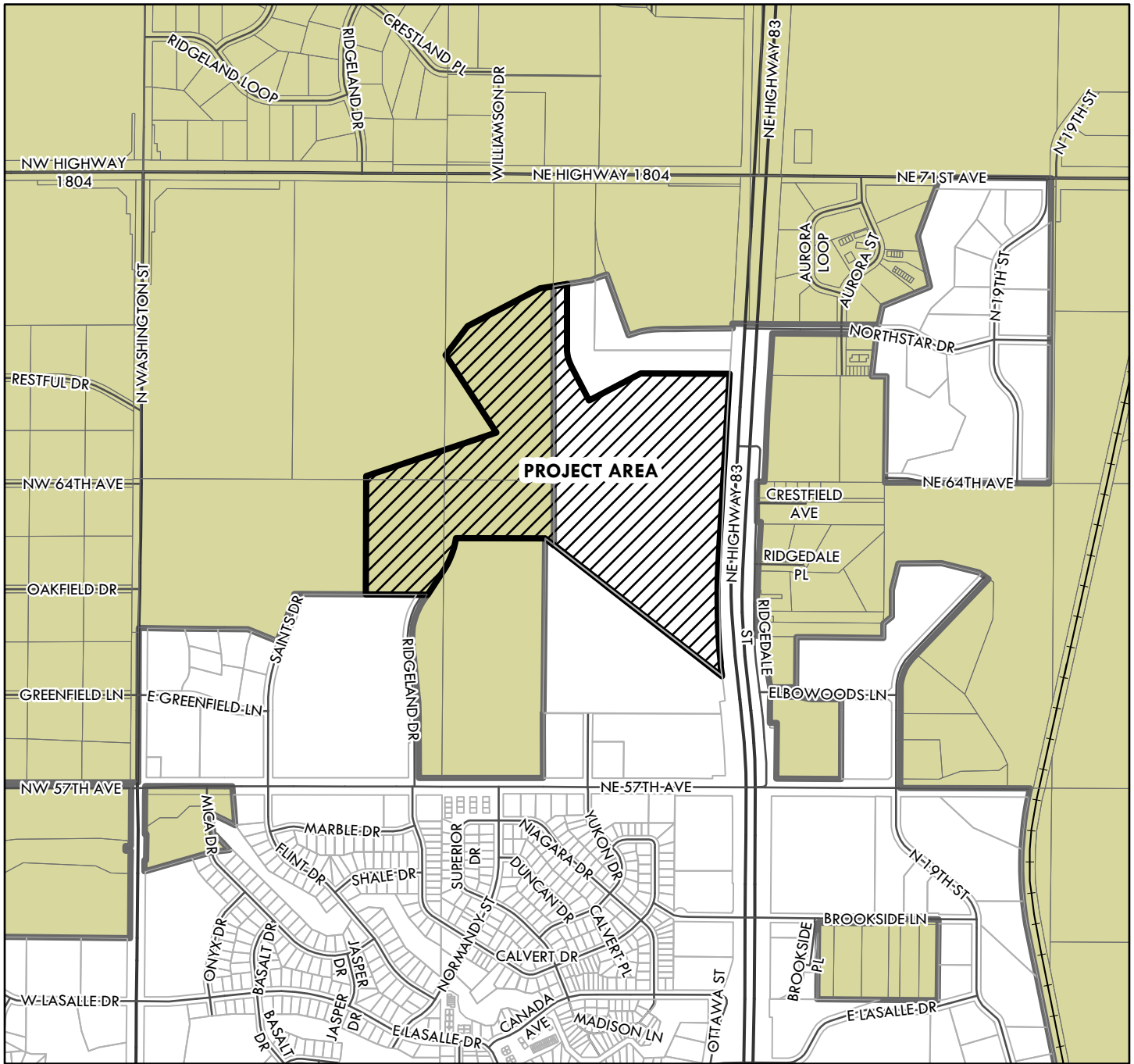
Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

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



Location Map
DAYBREAK SECOND ADDITION

PPLT2022-003
ZC2022-003



City Limits

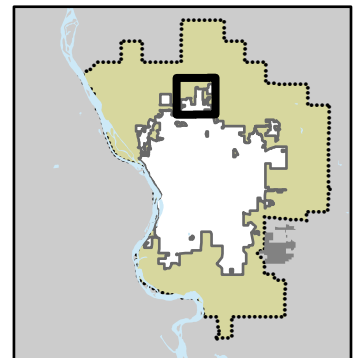


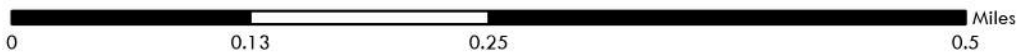
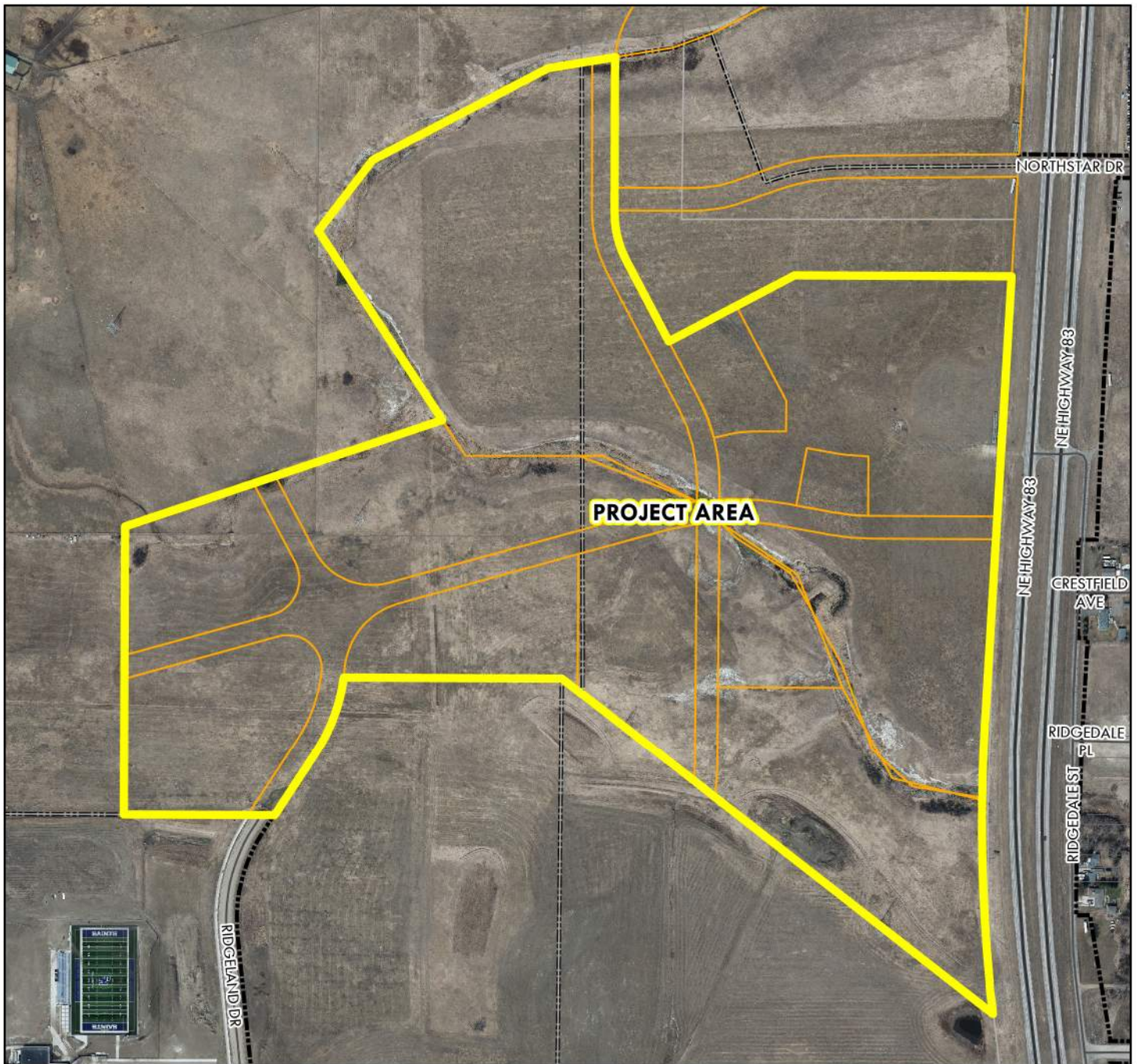
Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
January 25, 2022 (HLB)

*Section, township, and
range indicated in orange*

*This map is for representational use only and does not represent a survey.
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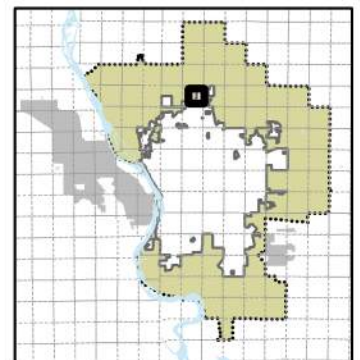


 City Limits  Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck
Finance Department
IT/GIS Division
February 15, 2022

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Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
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RM	Residential Multifamily
RT	Residential (Offices)
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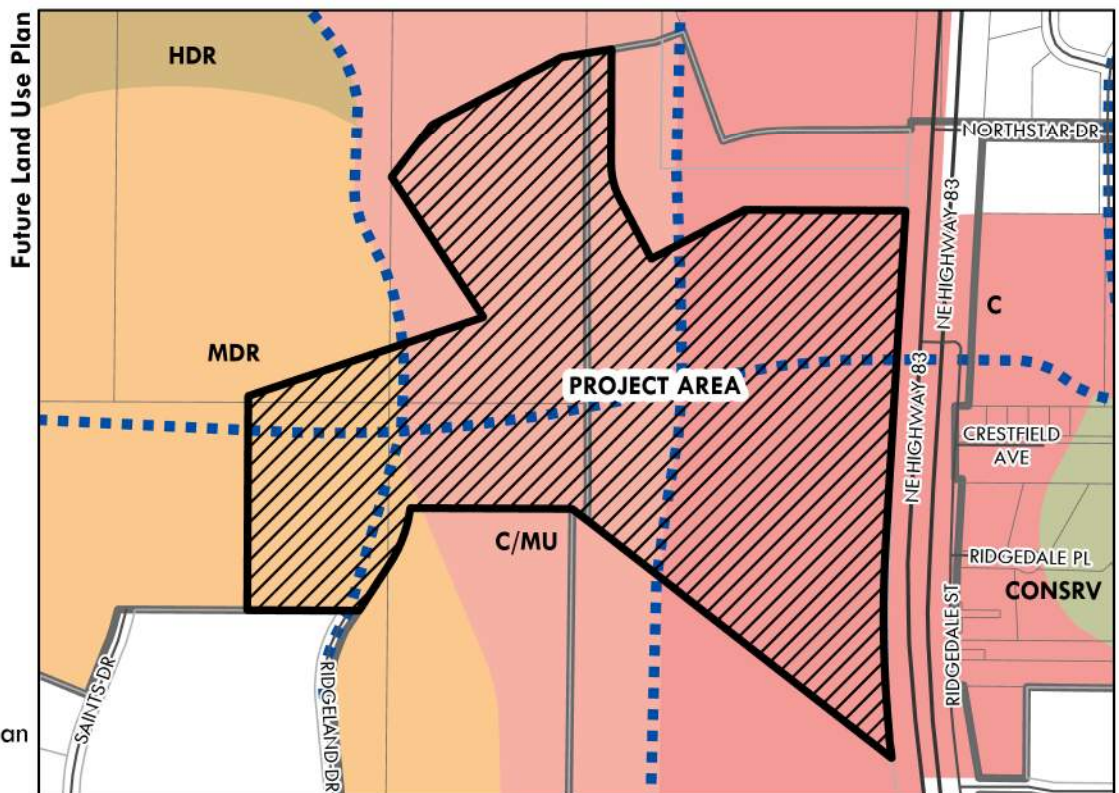
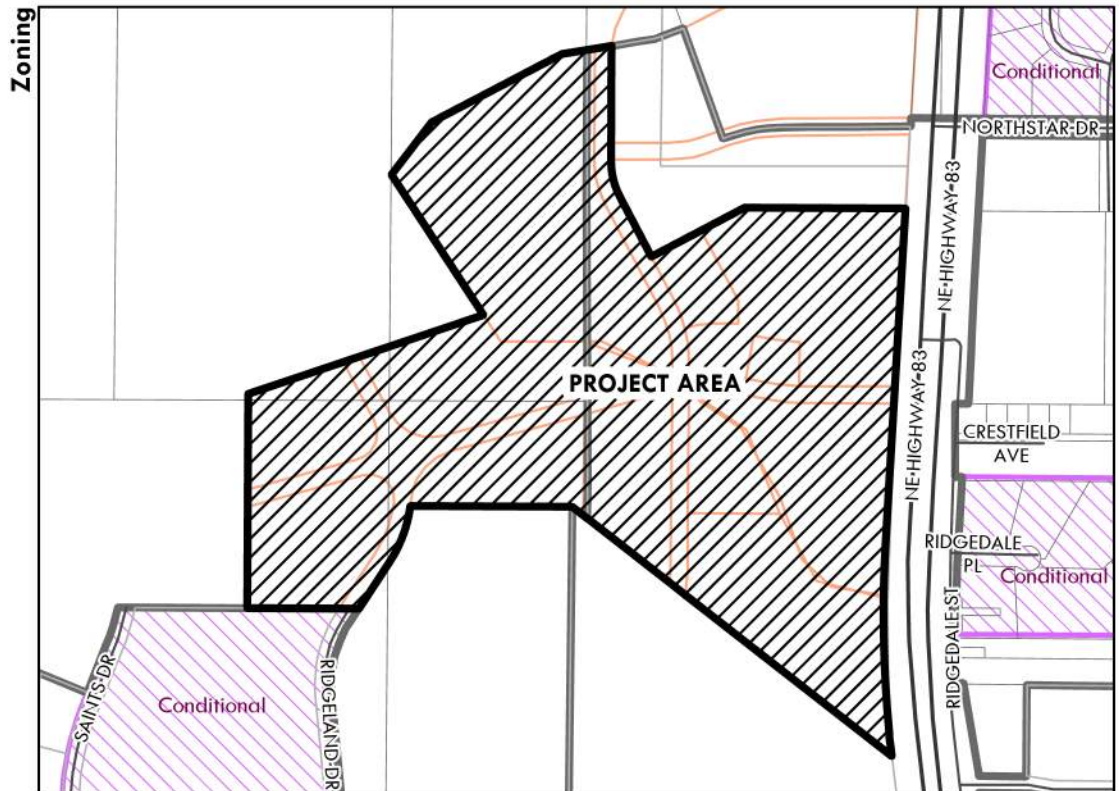
Future Land Use Plan

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

0 0.1 0.2 0.4 Miles



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City of Bismarck
Community Development Dept.
Planning Division
February 15, 2022

**Proposed New
Zoning Map**

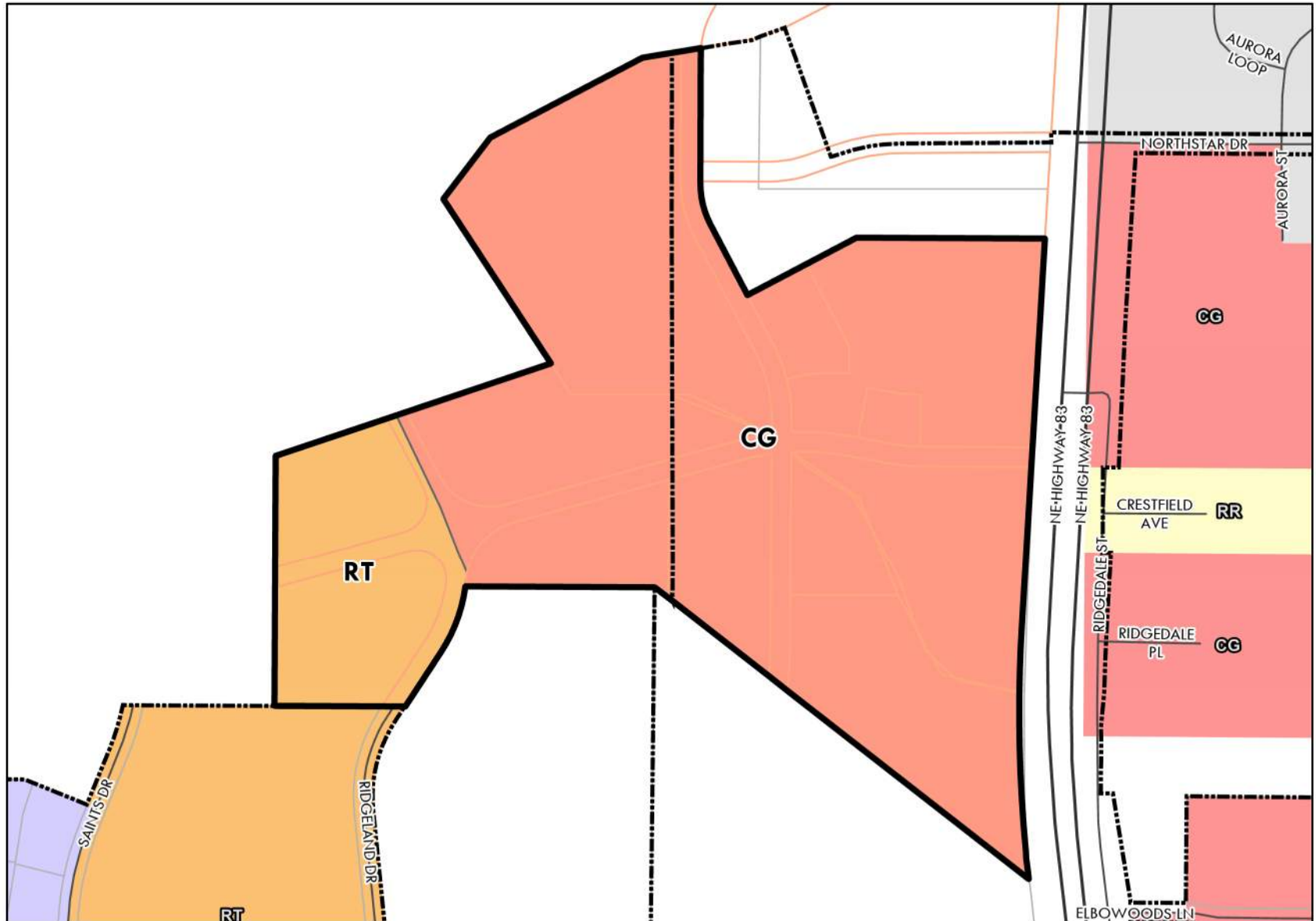
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 City Limits

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DF	Downtown Fringe

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



0 0.2 0.4 0.8 Miles



DAYBREAK SECOND ADDITION

PART OF SECTION 9, TOWNSHIP 139 NORTH, RANGE 80 WEST
OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIPTION

ALL THAT PART OF SECTION 9, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LIGHT OF CHRIST ADDITION; THENCE NORTH 89 DEGREES 44 MINUTES 01 SECOND WEST, ALONG THE NORTH LINE OF SAID LIGHT OF CHRIST ADDITION, A DISTANCE OF 533.91 FEET; THENCE NORTH 00 DEGREES 15 MINUTES 14 SECONDS EAST, A DISTANCE OF 867.88 FEET; THENCE NORTH 71 DEGREES 28 MINUTES 18 SECONDS EAST, A DISTANCE OF 1214.62 FEET; THENCE NORTH 33 DEGREES 14 MINUTES 25 SECOND WEST, A DISTANCE OF 852.35 FEET TO THE WEST LINE OF THE EAST HALF OF SAID SECTION 9; THENCE NORTH 37 DEGREES 25 MINUTES 43 SECONDS EAST, A DISTANCE OF 315.35 FEET; THENCE NORTH 62 DEGREES 22 MINUTES 51 SECONDS EAST, A DISTANCE OF 700.72 FEET; THENCE NORTH 80 DEGREES 39 MINUTES 47 SECONDS EAST, ALONG THE SOUTH LINE OF AUDITOR'S LOT D AND ITS SOUTHWESTERLY EXTENSION, A DISTANCE OF 241.45 FEET; THENCE SOUTHERLY AND TO THE LEFT, ON A 360.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 85 DEGREES 39 MINUTES 38 SECONDS EAST, AN ARC LENGTH OF 26.27 FEET; THENCE SOUTH 00 DEGREES 09 MINUTES 28 SECONDS WEST, A DISTANCE OF 523.71 FEET; THENCE SOUTHERLY AND TO THE LEFT, ON A 360.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 175.08 FEET; THENCE SOUTH 27 DEGREES 42 MINUTES 26 SECONDS EAST, A DISTANCE OF 324.34 FEET; THENCE NORTH 62 DEGREES 17 MINUTES 34 SECONDS EAST, A DISTANCE OF 402.59 FEET; THENCE SOUTH 89 DEGREES 44 MINUTES 21 SECONDS EAST, A DISTANCE OF 777.11 FEET TO THE WEST LINE OF US HIGHWAY 83 RIGHT-OF-WAY; THENCE SOUTH 03 DEGREES 24 MINUTES 43 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 1584.49 FEET; THENCE SOUTHERLY AND TO THE LEFT, CONTINUING ALONG SAID WEST LINE, ON A 3904.65 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 86 DEGREES 36 MINUTES 51 SECONDS EAST, AN ARC LENGTH OF 1018.03 FEET; THENCE SOUTH 06 DEGREES 29 MINUTES 33 SECONDS EAST, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 10.30 FEET TO THE NORTH LINE OF AUDITOR'S LOT B OF SECTION 8; THENCE NORTH 33 DEGREES 03 MINUTES 43 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 1934.43 FEET TO THE NORTHWEST CORNER OF SAID AUDITOR'S LOT B; THENCE NORTH 89 DEGREES 44 MINUTES 16 SECONDS WEST, A DISTANCE OF 772.68 FEET; THENCE SOUTHERLY AND TO THE RIGHT, ON A 640.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS NORTH 65 DEGREES 28 MINUTES 01 SECOND WEST, AN ARC LENGTH OF 286.85 FEET; THENCE SOUTH 33 DEGREES 12 MINUTES 49 SECONDS WEST, A DISTANCE OF 266.09 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 124.61 ACRES, MORE OR LESS.

CONTAINING 123.21 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, TERRY BALZER, 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 BALZER
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 _____, 2022, 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 _____, 2022.

ATTEST

KEITH J. HUNKE - CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

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

GABRIEL J. SCHELL
CITY ENGINEER

OWNERS' CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT RON KNUTSON, RUTH KNUTSON, & TPR, LLP, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "DAYBREAK SECOND ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY 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 THEREFOR FOR STORM WATER, STORM SEWER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORM WATER FLOW IN A MANNER THAT WILL PERMIT THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER, OVER AND/OR ACROSS THE EASEMENT AREA.

THEY FURTHERMORE DEDICATE UNTO THE CITY OF BISMARCK "SANITARY SEWER EASEMENTS", SAID EASEMENTS TO CONSTRUCT, OPERATE, MAINTAIN, AND REPAIR SANITARY SEWER FACILITIES UNDER OR UPON THE REAL PROPERTY HERENAFTER DESCRIBED. THEY ALSO DEDICATE ACCESS EASEMENT TO AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, ITS OFFICERS AND EMPLOYEES FOR UTILITIES AND ANY OTHER GOVERNMENTAL USE OR USES IT DEEMS NECESSARY OR ADVISABLE, PROVIDED THE CITY SHALL NOT BE RESPONSIBLE IN ANY WAY TO FURNISH ANY CITY SERVICES IF SUCH EASEMENTS ARE NOT PROPERLY MAINTAINED OR ARE OBSTRUCTED BY THE OWNERS OF PROPERTY IN THE SUBDIVISION.

STATE OF NORTH DAKOTA)

COUNTY OF BURLEIGH)

ON THIS _____ DAY OF _____, 2022, BEFORE ME PERSONALLY APPEARED _____ KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

STATE OF NORTH DAKOTA)

COUNTY OF BURLEIGH)

ON THIS _____ DAY OF _____, 2022, BEFORE ME PERSONALLY APPEARED _____ KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

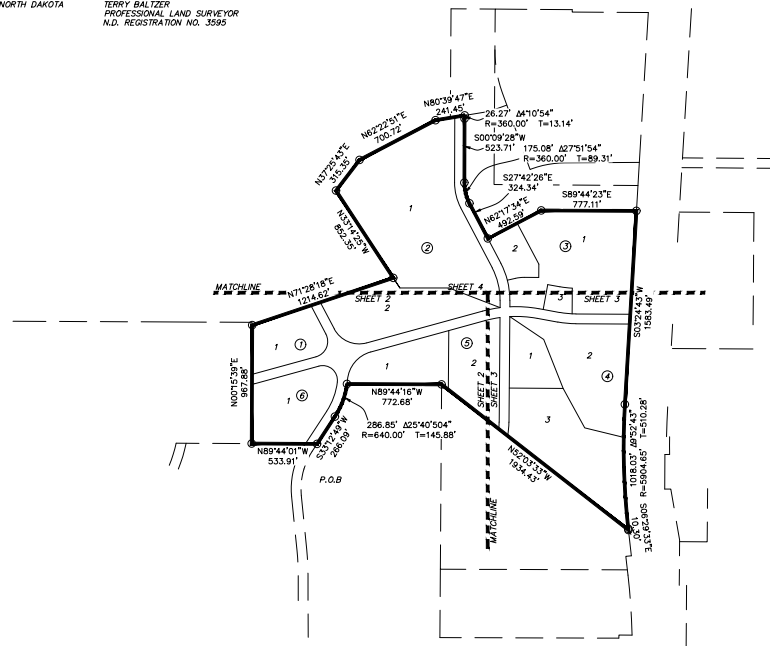
NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

STATE OF NORTH DAKOTA)

COUNTY OF BURLEIGH)

ON THIS _____ DAY OF _____, 2022, BEFORE ME PERSONALLY APPEARED _____ KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____



NOTES

BASIS OF BEARINGS:
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY
CITY ORDINANCE
COORDINATE DATUM:
NORTH DAKOTA STATE PLANE, COORDINATE
SYSTEM
ADJUSTMENT OF 1986
UNITS ARE INTERNATIONAL FEET

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

VERTICAL BENCHMARK:
TBD



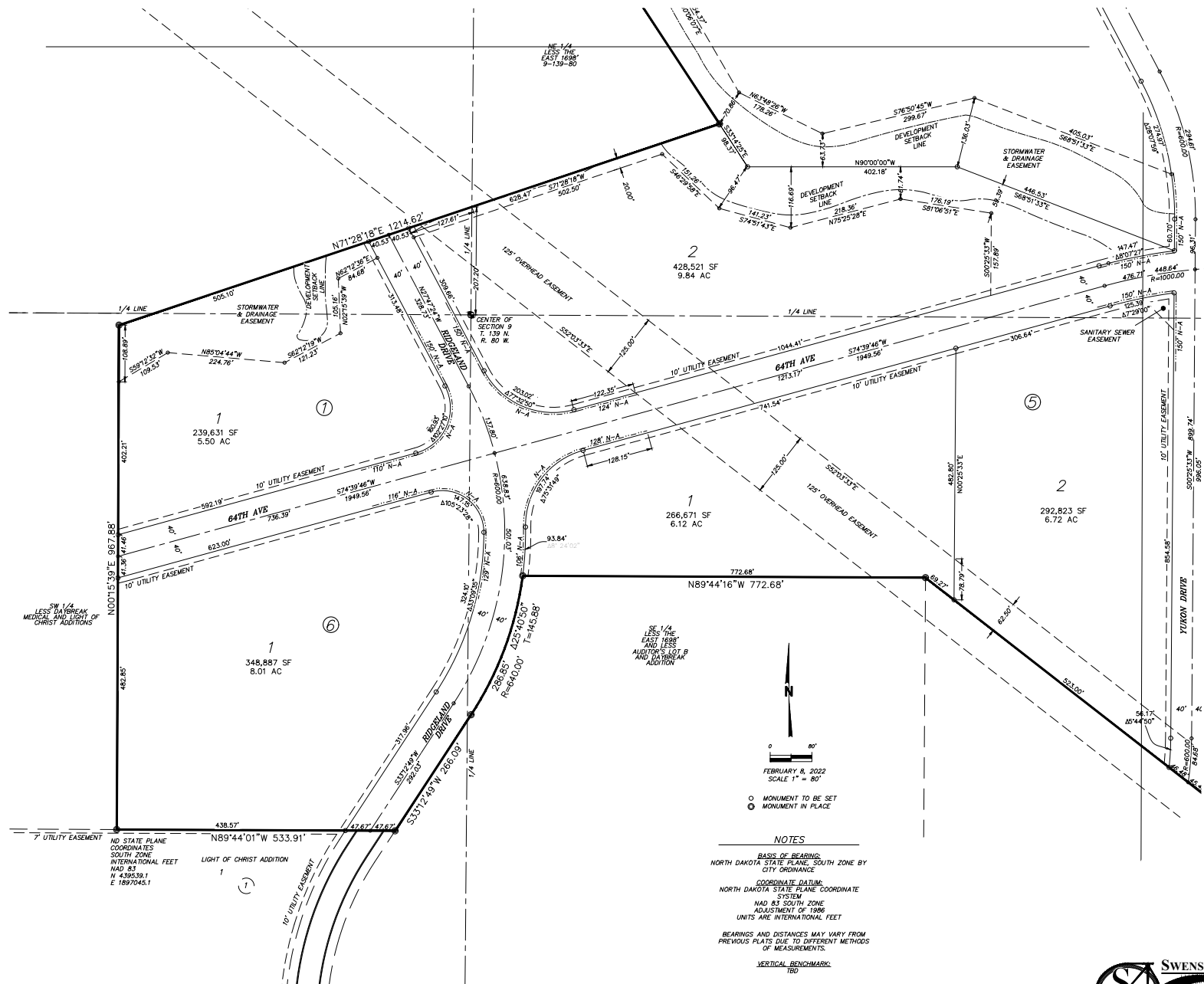
SWENSON, HAGEN & COMPANY P.C.

500 Basin Avenue
Bismarck, North Dakota 58504
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management
shc@swensonhagen.com
Phone (701) 221-2600
Fax (701) 221-2600

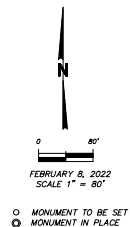
DAYBREAK SECOND ADDITION

PART OF SECTION 9, TOWNSHIP 139 NORTH, RANGE 80 WEST
OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



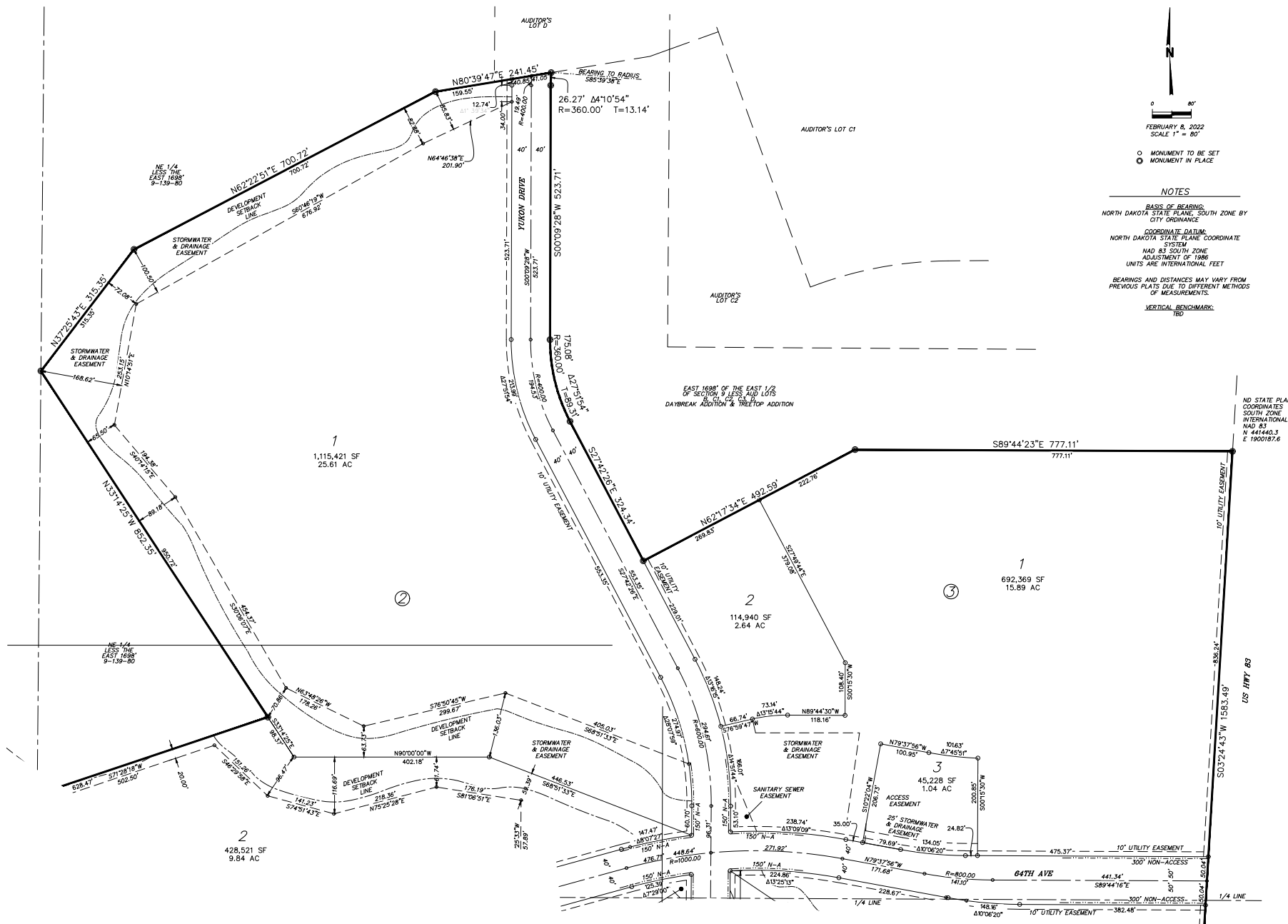
BEARINGS AND DISTANCES MAY VARY FROM
PREVIOUS PLATS DUE TO DIFFERENT METHODS
OF MEASUREMENTS.

VERTICAL BENCHMARK:
TRD

DAYBREAK SECOND ADDITION

PART OF SECTION 9, TOWNSHIP 139 NORTH, RANGE 80 WEST
OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



0 80'
FEBRUARY 8, 2022
SCALE 1" = 80'
○ MONUMENT TO BE SET
● MONUMENT IN PLACE

NOTES

BASE OF BEARING:
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY
CITY ORDINANCE
COORDINATE DATUM:
NORTH DAKOTA STATE PLANE COORDINATE
SYSTEM
NAD 83 SOUTH ZONE
ADJUSTMENT OF 1986
UNITS ARE INTERNATIONAL FEET
BEARINGS AND DISTANCES MAY VARY FROM
PREVIOUS PLATS DUE TO DIFFERENT METHODS
OF MEASUREMENTS
VERTICAL BENCHMARK:
TBD

NO STATE PLAT
COORDINATES
SOUTH ZONE
INTERNATIONAL
NAD 83
N 414440.3
E 1900187.6

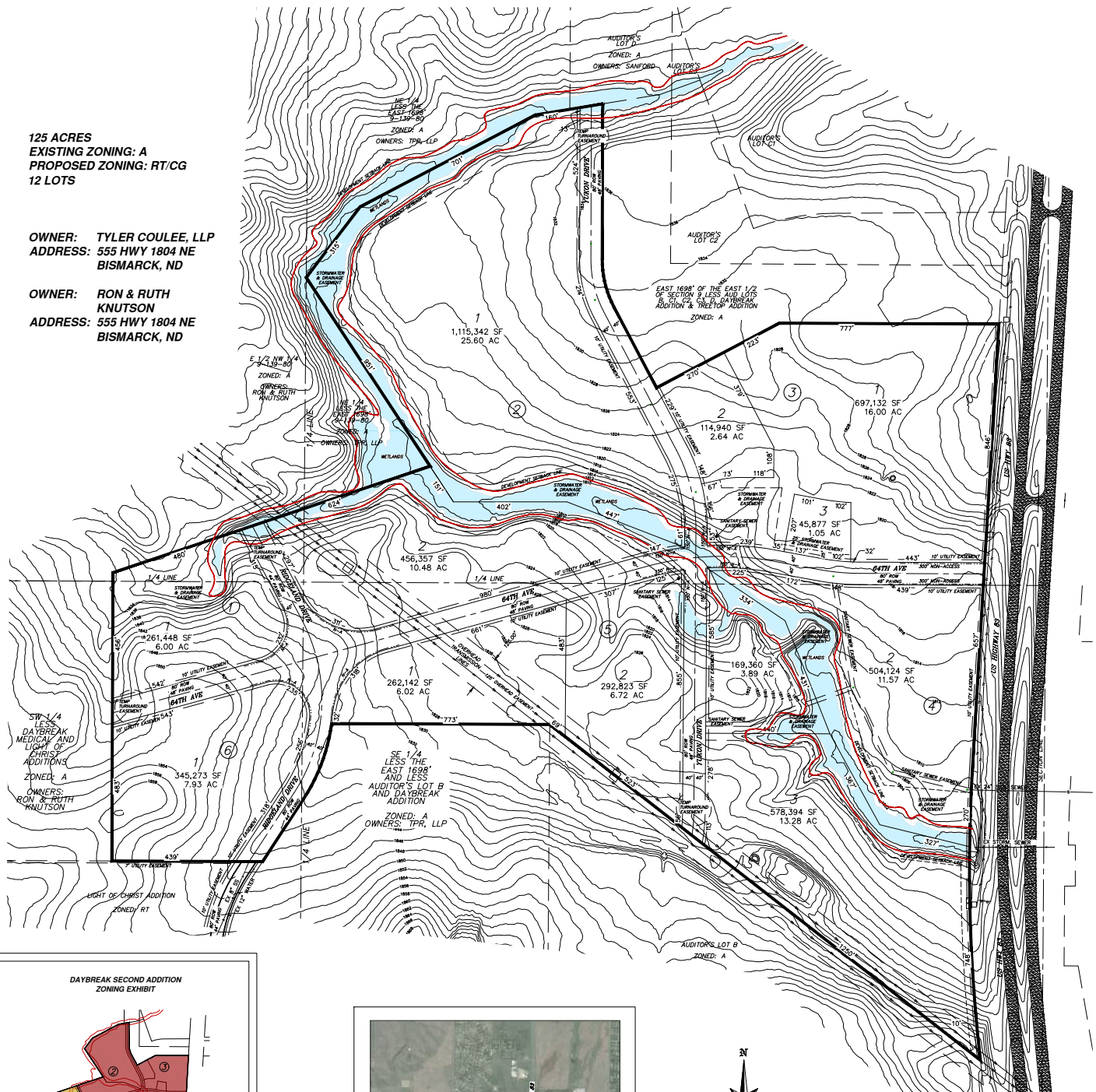
DAYBREAK SECOND ADDITION

PART OF SECTION 9 TOWNSHIP 139 NORTH, RANGE 80 WEST
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

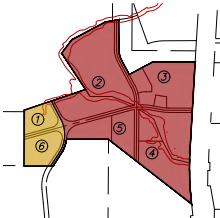
125 ACRES
EXISTING ZONING: A
PROPOSED ZONING: RT/CG
12 LOTS

OWNER: TYLER COULEE, LLP
ADDRESS: 555 HWY 1804 NE
BISMARCK, ND

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



DAYBREAK SECOND ADDITION
ZONING EXHIBIT



RT--BLOCKS 1 & 6
CG--BLOCKS 2-5



LOCATION MAP



SCALE: 1"=150'
JANUARY 5, 2022

STAFF REPORT

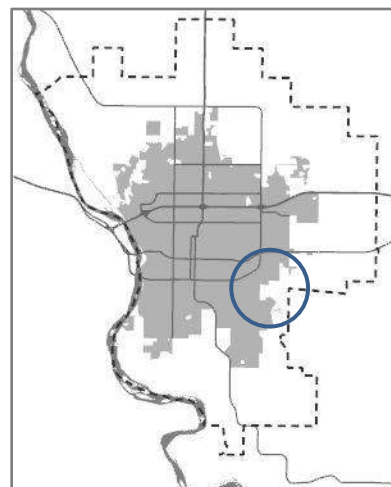
Agenda Item # 5
September 28, 2022

Application for: **Major Subdivision Final Plat**

Project ID: **FPLT2022-007**

Project Summary

<i>Title:</i>	Yegen Strip Addition
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Plains Leasing, LLC
<i>Project Contact:</i>	Todd Marschall, RLS, Houston Engineering, Inc.
<i>Location:</i>	East Bismarck, along the west side of Yegen Road between Apple Creek Road and Morrison Avenue (part of the NE¼ of Section 11, T138N-R80W/City Lands)
<i>Project Size:</i>	1.75 acres
<i>Request:</i>	Plat property to allow construction of a transloading facility at an existing railroad siding



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	1 parcel	<i>Number of Lots:</i>	1 lot in 1 block
<i>Land Use:</i>	Railroad siding	<i>Land Use:</i>	Transloading facility
<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	MA – Industrial	<i>Zoning:</i>	MA – Industrial
<i>Uses Allowed:</i>	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos	<i>Uses Allowed:</i>	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
<i>Max Density:</i>	MA – N/A	<i>Max Density:</i>	MA – N/A

Property History

<i>Zoned:</i>	Pre-1980	<i>Platted:</i>	N/A	<i>Annexed:</i>	Pre-1980
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Staff Analysis

Plains Leasing, LLC is requesting approval of a major subdivision final plat for Yegen Strip Addition.

Adjacent uses include railroad lines and light industrial uses to the north, south, east and west.

The Planning and Zoning Commission, at their meeting of July 27, 2022, tentatively approved the preliminary plat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on September 16th and September 23rd, and seven letters were mailed to owners of nearby properties on September 16, 2022.

The parcel was created in 2007 when the Canadian Pacific Railroad sold the property to a previous owner. A preliminary plat for the property was granted tentative approval by the Planning and Zoning Commission in November 2007, but the platting process was subsequently abandoned by the owner at the time. The property has been used as a railroad siding since it was created. The current owner would like to make improvements to the property to create a transloading facility for agricultural products with a truck parking area. In order to obtain building permits for those improvements, the property needs to be platted.

While the property is served with municipal water, it is not served by municipal sanitary sewer. There is no sanitary sewer readily available to this site without an easement from the Burlington Northern Santa Fe (BNSF) Railroad to the north or CP Rail to the south. The utility servicing plan submitted by the applicant indicated crossing BNSF property to serve with municipal sanitary sewer. The

applicant would be responsible to secure an easement and construct a facility at this location or through other locations if sewer service is desired.

Required Findings of Fact (relating to land use)

1. All technical requirements for approval of a major 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.

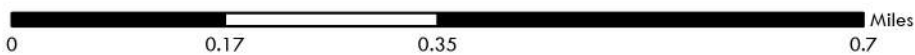
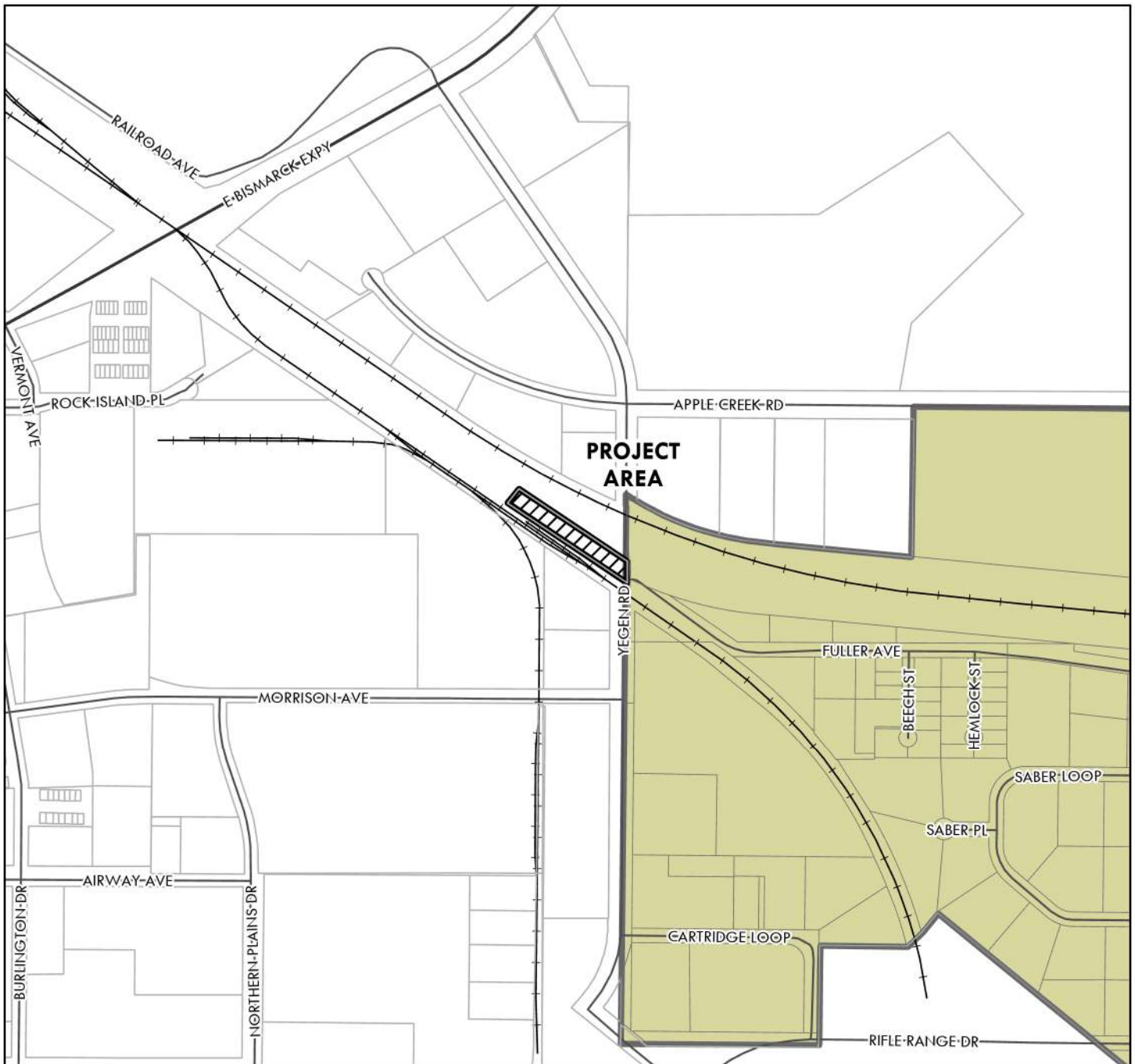
Staff Recommendation

Based on the above findings, staff recommends approval of the major subdivision final plat for Yegen Strip Addition.

Attachments

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

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



City Limits

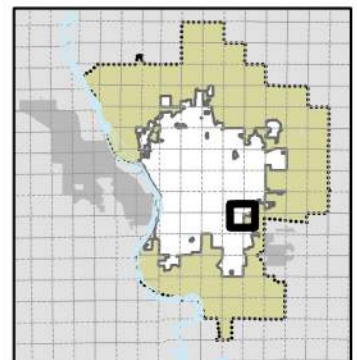


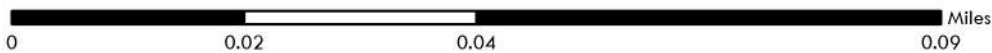
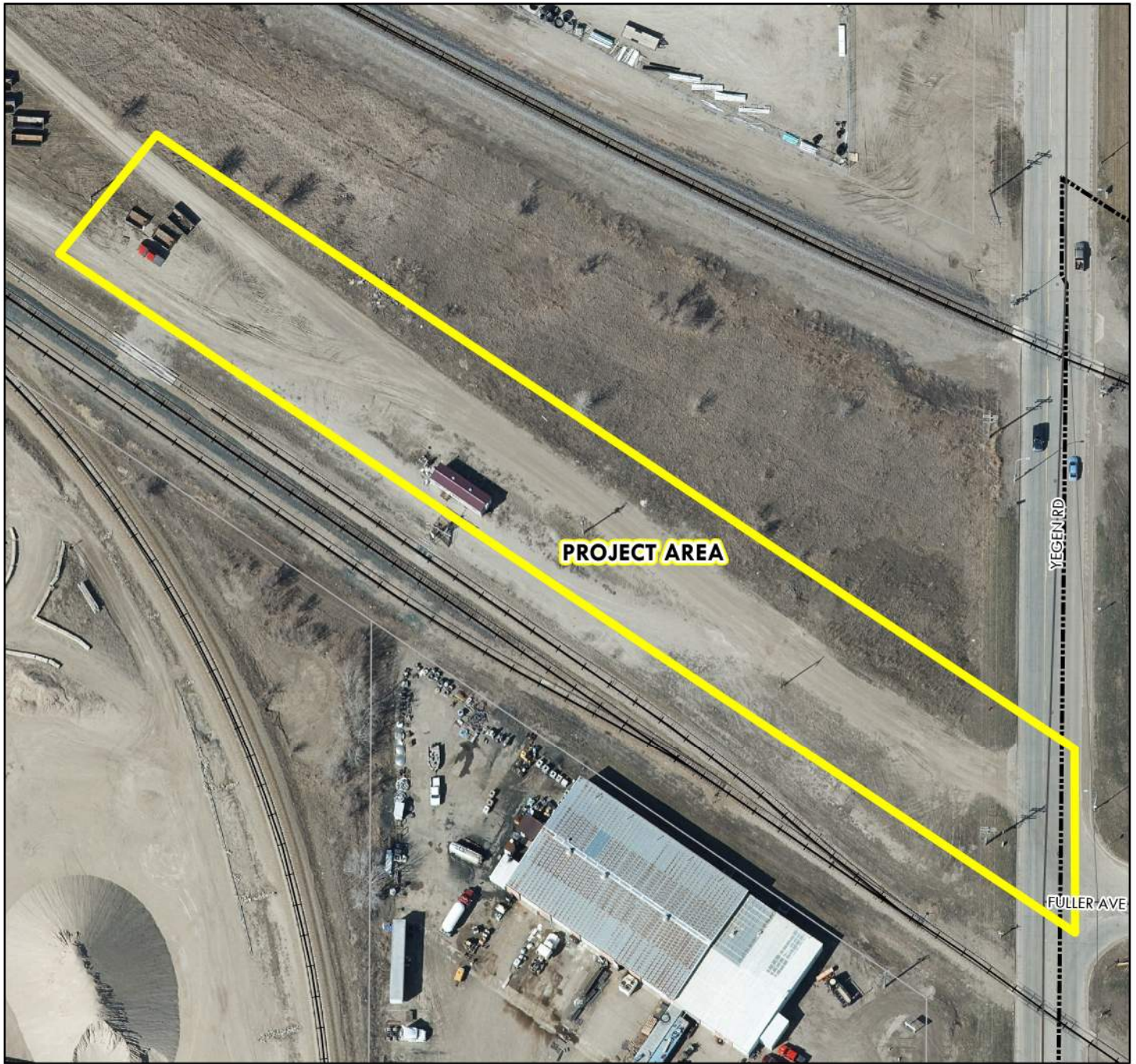
Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
June 30, 2022 (HLB)

*Section, township, and
range indicated in orange*

*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.*



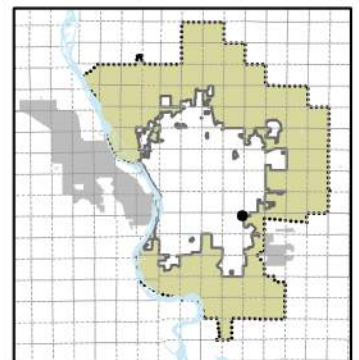


City Limits Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck
Community Development Dept.
Planning Division
July 21, 2022

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 Districts

A	Agriculture
RR	Rural
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

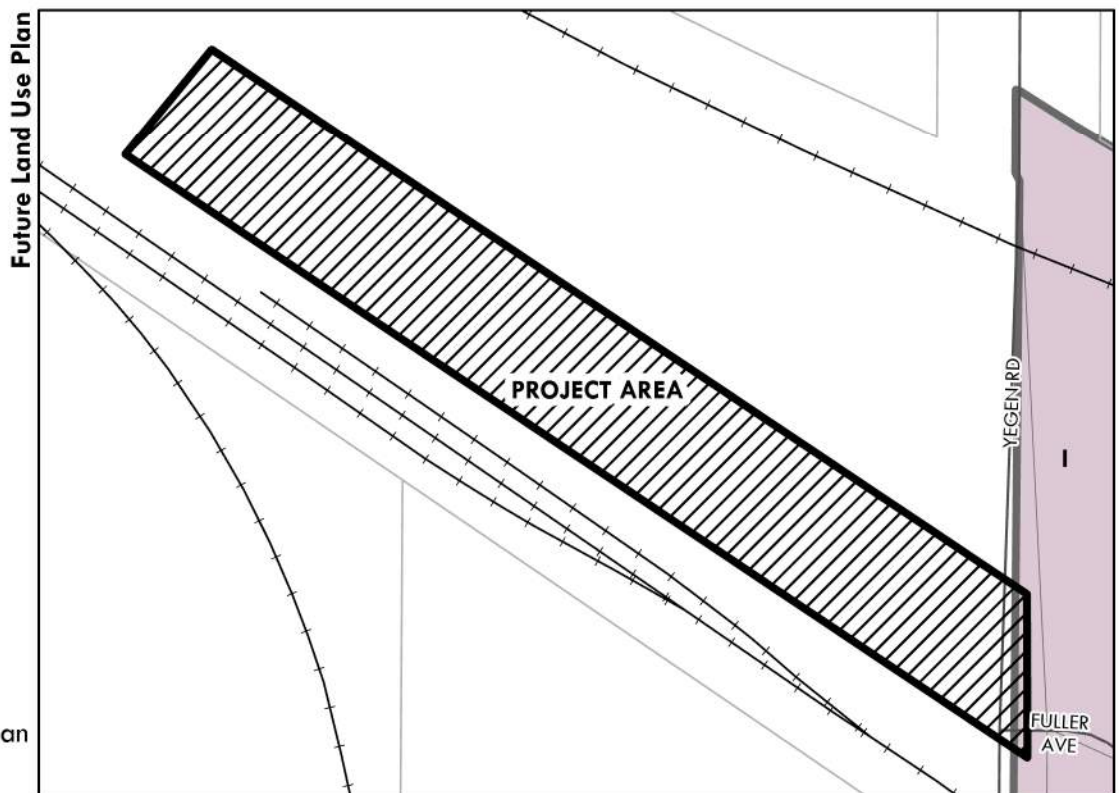
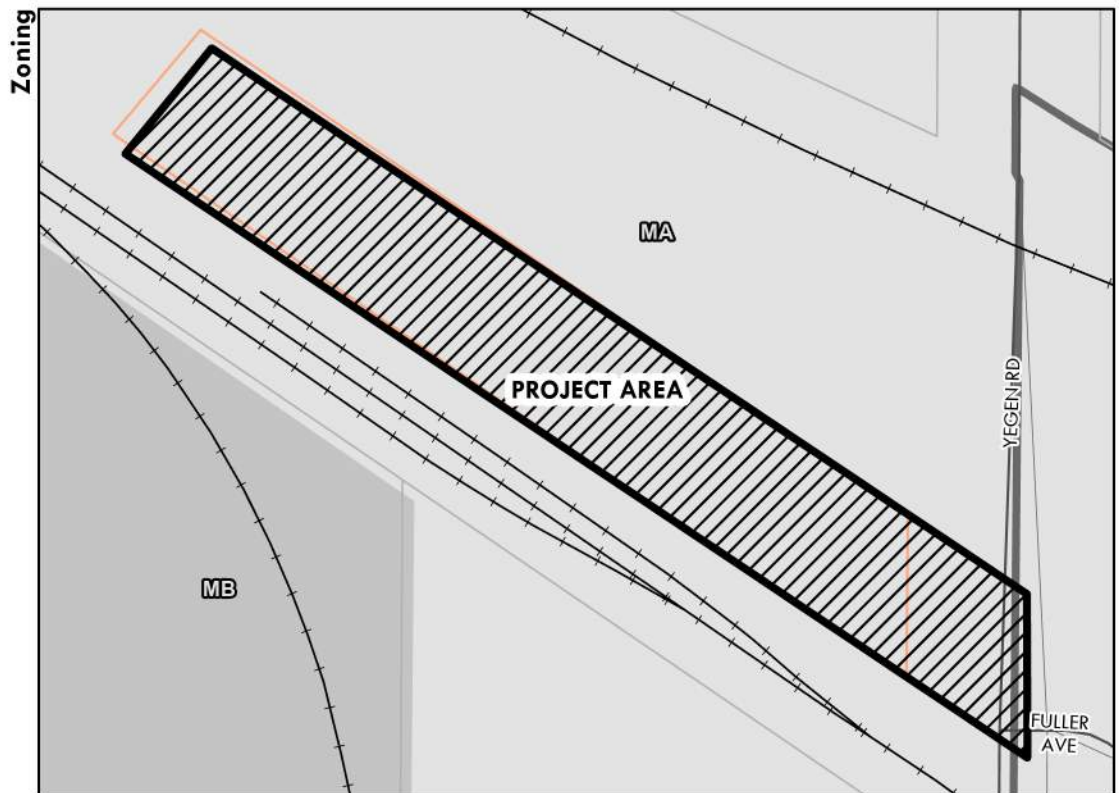
Future Land Use Plan

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

0 0.02 0.04 0.07 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
July 21, 2022

YEGEN STRIP ADDITION

PART OF THE NORTHEAST 1/4 OF SECTION 11
T. 138 N., R. 80 W., 5th P.M.

CITY OF BISMARCK
BURLEIGH COUNTY, NORTH DAKOTA

OWNER'S CERTIFICATE AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT PLAINS LEASING, LLC. BEING THE OWNER AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESIGNATED HEREON TO BE SURVEYED AND PLATTED AS "YEGEN STRIP ADDITION", TO THE CITY OF BISMARCK NORTH DAKOTA, AND DOES SO DEDICATE AND REDEDICATE TO THE CITY OF BISMARCK STREETS AS SHOWN HEREON INCLUDING ALL SANITARY SEWER, WATER, CULVERTS, STORMWATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HERE ON OR NOT TO THE PUBLIC USE FOREVER.

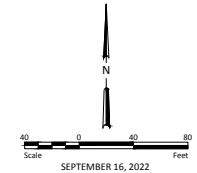
THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK AND TO THE PUBLIC UTILITY COMPANIES TO RUN WITH THE LAND FOR LANDSCAPE, GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS LANDSCAPE, WATERMAIN, AND/OR UTILITY EASEMENTS.

BRANDON SEHN, MANAGING MEMBER
PLAINS LEASING, LLC
1050 E. INTERSTATE AVE.
BISMARCK, ND 58503

STATE OF _____
COUNTY OF _____

ON THIS _____ DAY OF _____, 2022, BEFORE ME PERSONALLY APPEARED BRANDON SEHN, MANAGING MEMBER OF PLAINS LEASING LLC, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

COUNTY, _____ NOTARY PUBLIC



LEGEND

RAILROAD TRACKS
CHISELED X IN CONCRETE - FOUND
IRON MONUMENT FOUND
IRON MONUMENT SET
POINT OF COMMENCEMENT
POINT OF BEGINNING

NOTES

BASIS OF BEARING:
NORTH DAKOTA STATE PLAN, SOUTH ZONE BY
CITY ORDINANCE
COORDINATE DATUM:
NAD 83 SOUTH ZONE
ADJUSTMENT OF 2011
UNITS ARE INTERNATIONAL FEET
WITH MEASURED GROUND DISTANCE
COORDINATE CONVERSION FACTOR TO GRID: 0.9998515
VERTICAL BENCHMARK:
ELEV. 1662.21 (TRUED 88)
NW CORNER LOT 1 BLOCK 1
YEGEN STRIP ADDITION
AIRPORT HORIZONTAL SURFACE:
ELEVATION 1811.7' CONTOUR

AREA DATA

LOT ACREAGE: 1.54 ACRES
RIGHT OF WAY ACREAGE: 0.21 ACRES
TOTAL ACREAGE: 1.75 ACRES

DESCRIPTION:

PART OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 11, SAID POINT BEING A FOUND REBAR WITH PLASTIC CAP, THENCE SOUTH 07°34'19" WEST, ON AND ALONG THE EAST LINE OF SAID SECTION 11, A DISTANCE OF 870.30 FEET TO A FOUND CHISELED X IN CONCRETE, SAID POINT BEING ON THE NORTHERLY LINE OF THE 200 FOOT CANADIAN PACIFIC RAILROAD RIGHT OF WAY, SAID POINT BEING THE POINT OF BEGINNING OF THE PARCEL TO BE DESCRIBED; THENCE NORTH 55°29'22" WEST, ON AND ALONG SAID NORTH 200' FOOT RIGHT OF WAY, A DISTANCE OF 722.98 FEET TO A FOUND REBAR WITH PLASTIC CAP #3463; THENCE SOUTH 40°07'27" WEST, A DISTANCE OF 100.49 FEET TO A FOUND REBAR, THENCE SOUTH 55°29'22" EAST, A DISTANCE OF 800.12 FEET TO THE EAST LINE OF SAID SECTION 11, SAID POINT BEING A FOUND CHISELED X IN CONCRETE; THENCE NORTH 00°34'19" EAST, ON AND ALONG THE EAST LINE OF SAID SECTION 11, A DISTANCE OF 120.56 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 1.75 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, TODD MARSHALL, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THIS PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON THE 31ST DAY OF MAY, 2022, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. MONUMENTS TO BE SET PRIOR TO PLAT RECORDATION.

TODD MARSHALL, LAND SURVEYOR
LICENSE NO. 4431

HOUSTON ENGINEERING, INC
3712 LOCKPORT STREET
BISMARCK, NORTH DAKOTA, 58501

APPROVAL OF PLANNING AND ZONING COMMISSION:

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK ON THE _____ DAY OF _____, 2022, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND 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 SUBDIVISION OF LAND AS SHOWN ON THIS PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE APPROVED PLAT. THE FOREGOING ACTION OF THE BOARD OF COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS APPROVED THE _____ DAY OF _____, 2022.

ATTEST
KEITH J. HUNKE - CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

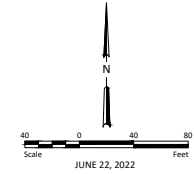
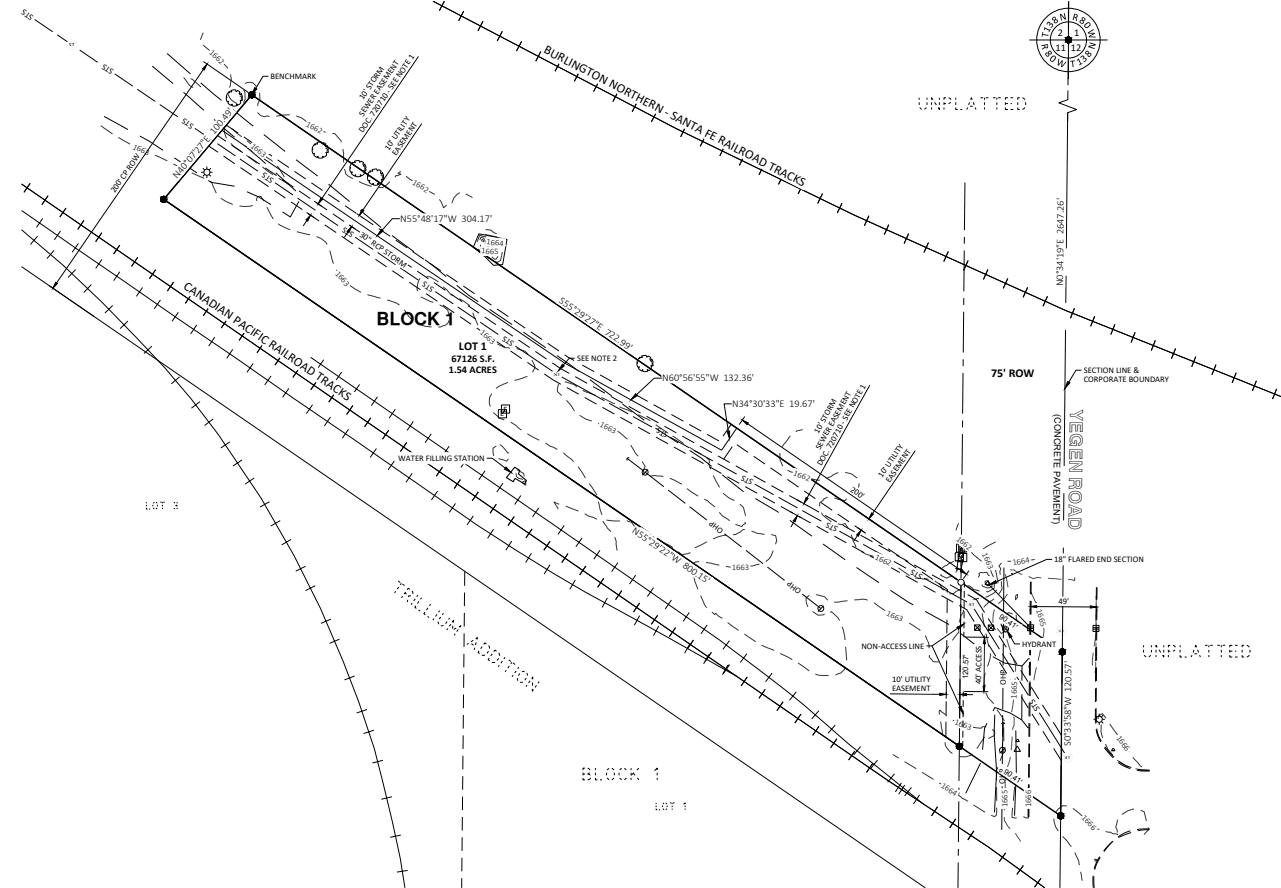
I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "YEGEN STRIP ADDITION", BISMARCK, NORTH DAKOTA AS SHOWN ON THIS PLAT.

GABRIEL J. SCHELL, CITY ENGINEER

PRELIMINARY PLAT YEGEN STRIP ADDITION

AN UNPLATTED PORTION OF THE NORTHEAST 1/4 OF SECTION 11
T. 138 N., R. 80 W., 5th P.M.

CITY OF BISMARCK
BURLEIGH COUNTY, NORTH DAKOTA



LEGEND

WATER MAIN	— W —
SANITARY SEWER MAIN	— SS —
SANITARY SEWER FORCE	— SSF —
STORM SEWER MAIN	— STS —
STORM INLET	⊠
SANITARY MANHOLE	⊠
STORM MANHOLE	⊠
UTILITY MANHOLE	⊠
FIRE HYDRANT	⊠
GATE VALVE	⊠
UTILITY POLE	⊠
W / GUY WIRE	⊠
LIGHT POLE	⊠
TELEPHONE RISER	⊠
ELECTRICAL BOX	⊠
ELECTRIC METER	⊠
SIGN	⊠
OVERHEAD POWER	⊠
RAILROAD TRACKS	⊠
STANDARD CURB & GUTTER	⊠
IRON MONUMENT FOUND	⊠
IRON MONUMENT SET	⊠

PLAT INFORMATION

EXISTING ZONING: MA
PROPOSED ZONING: MA

LOT ACREAGE: 1.541 ACRES
RIGHT OF WAY ACREAGE: 0.211 ACRES
TOTAL ACREAGE: 1.751 ACRES

BASIS OF BEARINGS: NO STATE PLANE SOUTH ZONE NAD83 (3302),
ADJUSTMENT 1986. UNIT OF MEASURE IS INTERNATIONAL FEET.

CONTOUR VERTICAL DATUM: NAVD 88

TOPOGRAPHIC CONTOURS ARE DERIVED FROM SURVEY

BENCH MARK

NW CORNER OF LOT 1 BLOCK 1

ELEV. 1162.21 NAVD 88

SURVEYOR'S NOTES

1. DOC. 720710 GIVES THE SPECIFIC LOCATION OF THE CENTERLINE OF THE STORM SEWER EASEMENT BUT DOES NOT GIVE A SPECIFIC WIDTH.
2. STORM SEWER MANHOLE WAS NOT FOUND DURING FIELDWORK BUT CALC'D AND PLACED OFF DOC. 720710.
3. PROPERTY LIES WITHIN THE AIRPORT HORIZONTAL SURFACE ELEVATION 1811.1' CONTOUR.

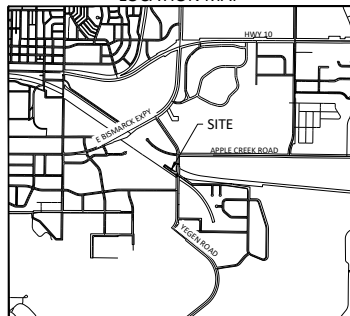
ENGINEER/SURVEYOR

HOUSTON ENGINEERING, INC.
8712 LOCKPORT STREET
BISMARCK, NORTH DAKOTA 58501
PHONE 701.323.0000

OWNER

PLAINS LEASING, LLC
1060 E. INTERSTATE AVE.
BISMARCK, ND 58503
PHONE 701.323.0087

LOCATION MAP



STAFF REPORT

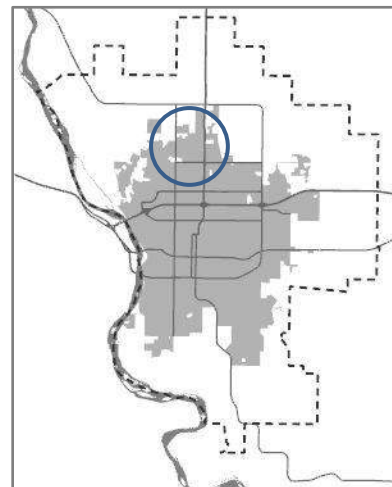
Application for: **Zoning Change**

Agenda Item # 6
September 28, 2022

Project ID: **ZC2022-015**

Project Summary

<i>Title:</i>	Lots 49 and 50, Block 2, Sonnet Heights Subdivision First Replat
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Land One Inc.
<i>Project Contact:</i>	Vance Vetter
<i>Location:</i>	In north Bismarck, west of US Highway 83 / State Street, along the north side of East Lasalle Drive
<i>Project Size:</i>	23,100 square feet
<i>Request:</i>	Rezone property for development of an office building



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	2 lots in 1 block	<i>Number of Lots:</i>	2 lots in 1 block
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Office
<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	R10 – Residential	<i>Zoning:</i>	RT – Residential
<i>Uses Allowed:</i>	R10 – Single and two-family residential	<i>Uses Allowed:</i>	RT – Offices and multi-family residential
<i>Max Density:</i>	R10 – 10 units / acre	<i>Max Density:</i>	RT – 30 units / acre

Property History

<i>Zoned:</i>	05/2007	<i>Platted:</i>	05/2007	<i>Annexed:</i>	Pre-1980
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Staff Analysis

Land One Inc. is requesting approval of a zoning change from the R10 – Residential zoning district to the RT – Residential zoning district for Lots 49

and 50, Block 2, Sonnet Heights Subdivision First Replat. If approved as proposed, the applicant

(continued)

intends to combine Lots 49 and 50 into one parcel and construct a single office building.

The Planning and Zoning Commission considered this request at their meeting of August 24, 2022 and called for a public hearing on the request.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on September 16th and September 23rd, and 87 letters were mailed to the owners of nearby properties on September 23, 2022.

Adjacent uses include single-family to the north, undeveloped CG – Commercial zoned property to the east, single and multifamily uses to the south across East Lasalle Drive and undeveloped R10 – Residential zoned property to the west.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;

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

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning change from the R10 – Residential zoning district to the RT – Residential zoning district for Lots 49 and 50, Block 2, Sonnet Heights Subdivision First Replat.

Attachments

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

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

ORDINANCE NO. XXXX

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

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 R10 - Residential zoning district and included in the RT - Residential zoning district:

Lots 49 and 50, Block 2, Sonnet Heights Subdivision First Replat

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

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



Location Map

ZC2022-015

SONNET HEIGHTS SUBDIVISION FIRST REPLAT, L49-50, B2



City Limits

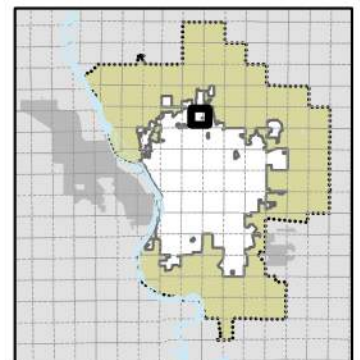


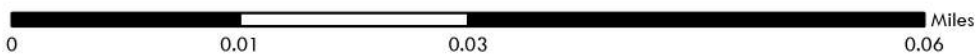
Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
July 25, 2022 (HLB)

*Section, township, and
range indicated in orange*

*This map is for representational use only and does not represent a survey.
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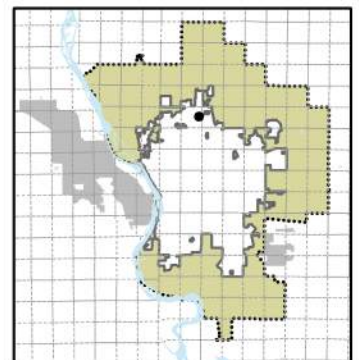


 City Limits  Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck
Community Development Dept.
Planning Division
August 23, 2022

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

ZC2022-015

SONNET HEIGHTS SUBDIVISION FIRST REPLAT, L49-50, B2

Zoning Districts

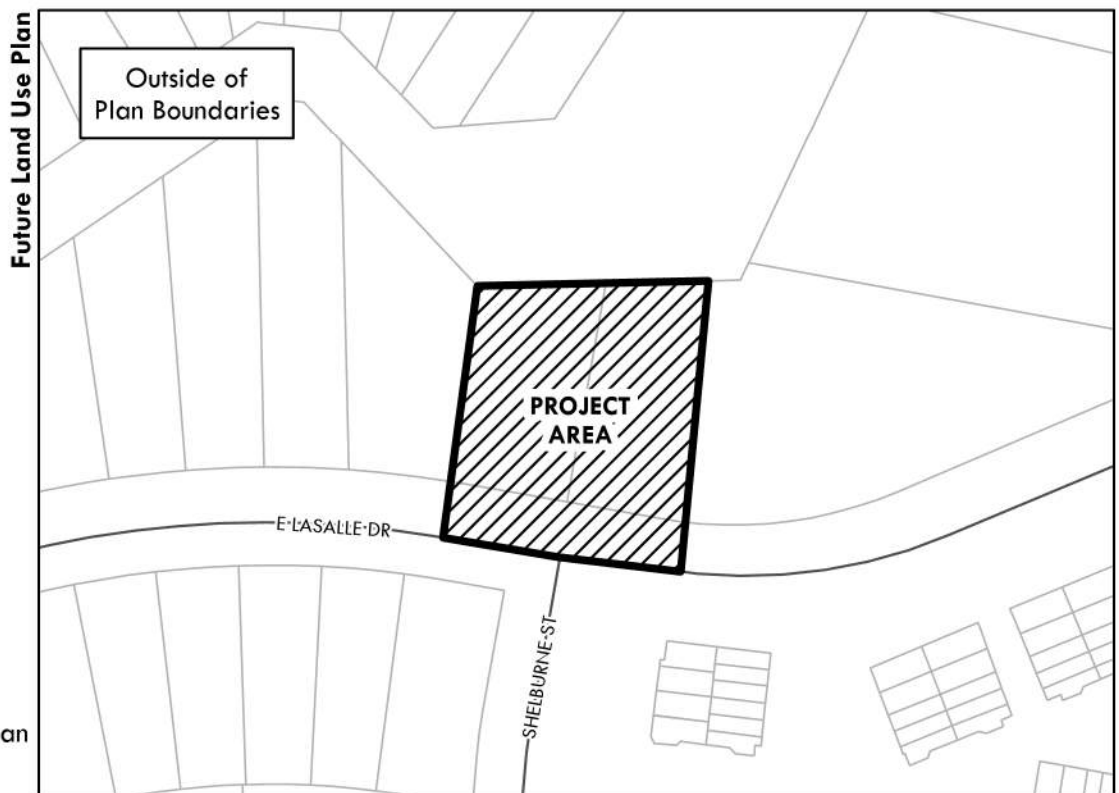
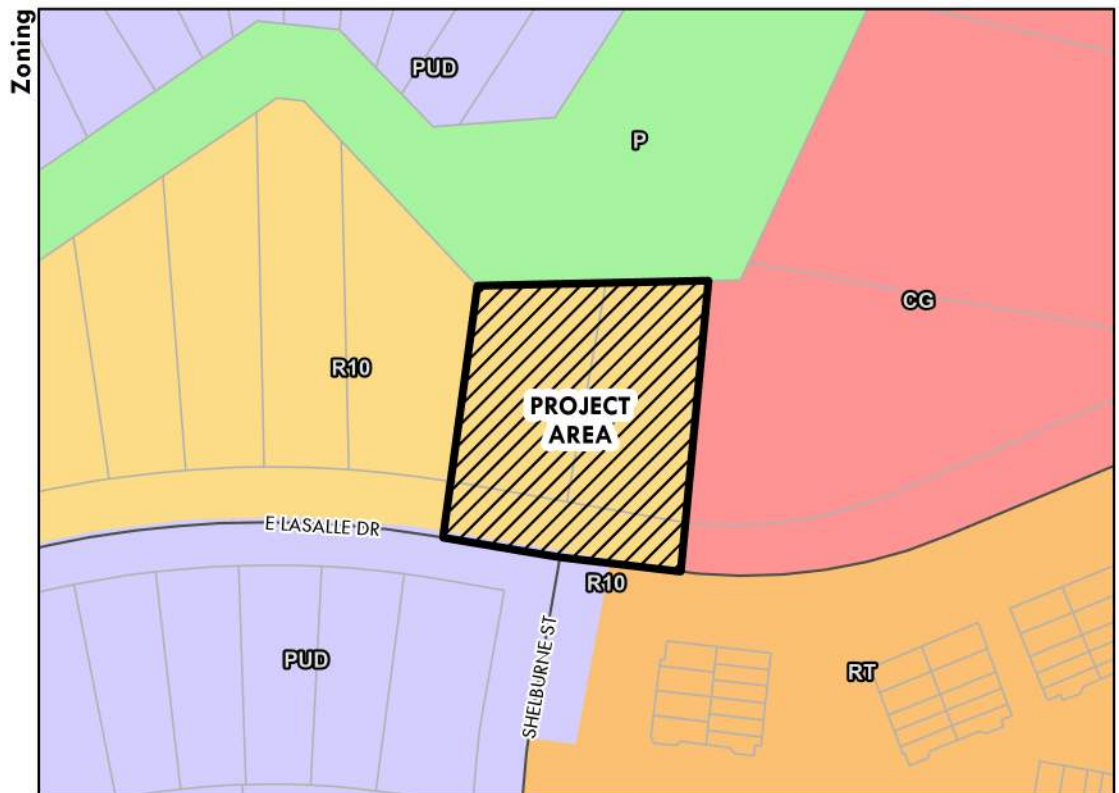
A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

Future Land Use Plan

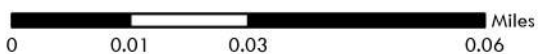
CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/ Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/ Mixed Use
O/MU	Office/ Mixed Use
RR-C	Clustered Rural Residential
RR	Standard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

Fringe Area Road Master Plan

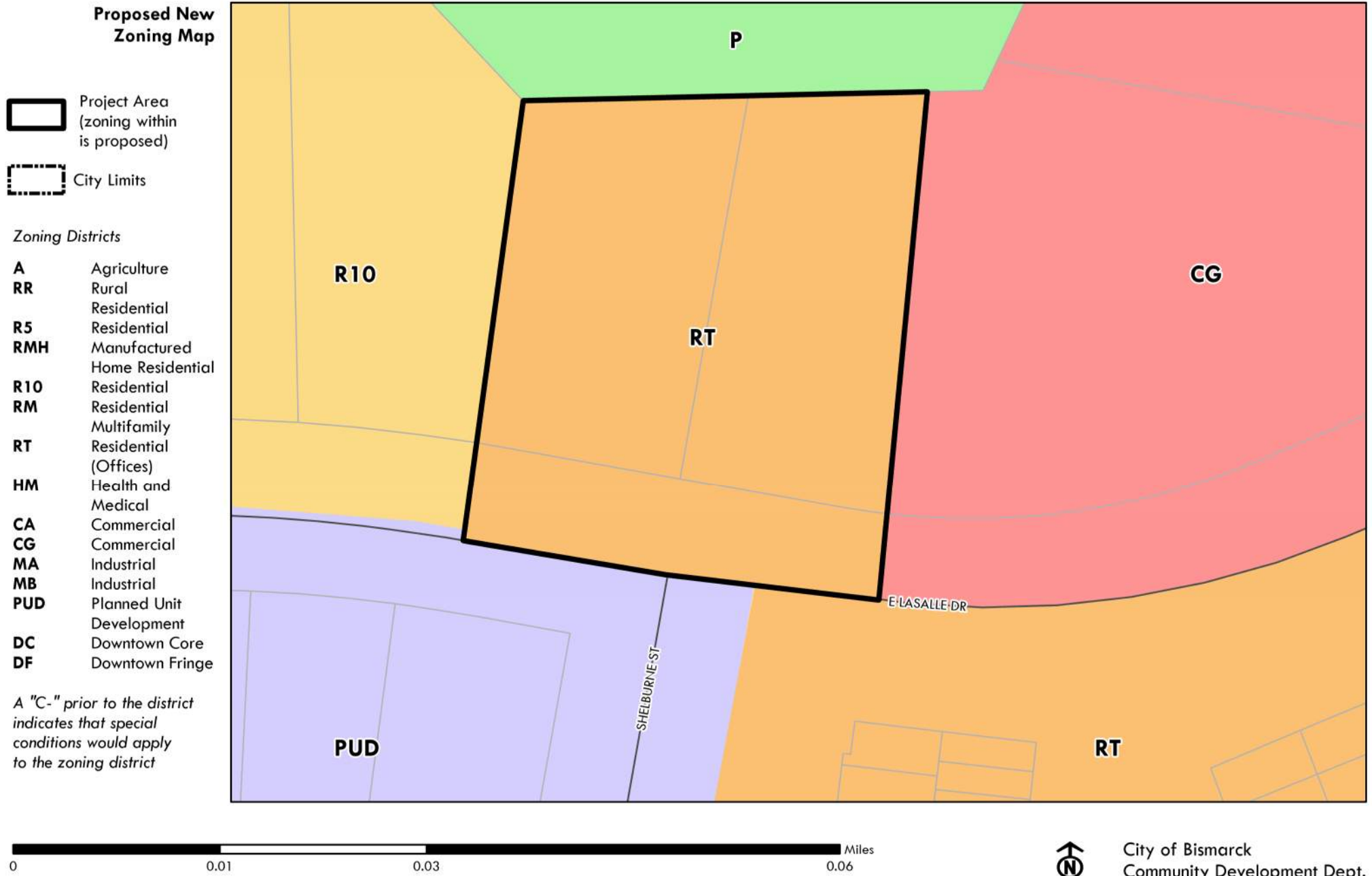
- ● ● Future Arterial Road
- ■ ■ Future Collector Road



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City of Bismarck
Community Development Dept.
Planning Division
August 16, 2022



STAFF REPORT

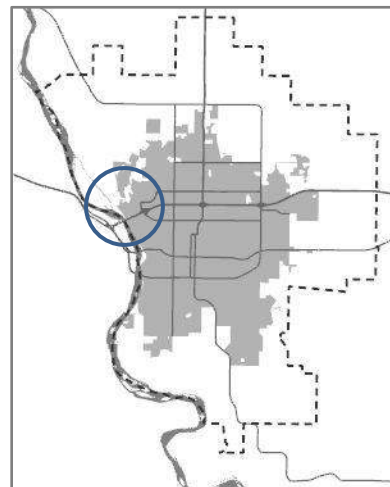
Application for: **Zoning Change**

Agenda Item # 7
September 28, 2022

Project ID: **ZC2022-016**

Project Summary

<i>Title:</i>	Lot 1 and Part of Lot 2, Block 1, Meadow Lark Hill Second Addition Replat
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	HISB Properties, LLC
<i>Project Contact:</i>	Landon Niemiller, Swenson Hagen & Co
<i>Location:</i>	In west-central Bismarck, west of West Divide Avenue and south of Interstate 94, along the west side of Schafer Street
<i>Project Size:</i>	2.06 acres
<i>Request:</i>	Rezone property for future commercial development



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	2 parcels in 1 block	<i>Number of Lots:</i>	2 parcels in 1 block
<i>Land Use:</i>	Office	<i>Land Use:</i>	Commercial
<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	RT – Residential CG – Commercial	<i>Zoning:</i>	CG – Commercial
<i>Uses Allowed:</i>	RT – Offices and multi-family residential CG – General commercial, multi-family residential, and offices	<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices
<i>Max Density:</i>	RT – 30 units / acre CG – 42 units / acre	<i>Max Density:</i>	CG – 42 units / acre

Property History

<i>Zoned:</i>	03/2005	<i>Platted:</i>	06/2011	<i>Annexed:</i>	Pre-1980
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Staff Analysis

HISB Properties, LLC is requesting approval of a zoning change from the RT – Residential and CG – Commercial zoning districts to the CG – Commercial zoning district for Lot 1 and part of Lot 2, Block 1, Meadow Lark Hill Second Addition Replat.

The Planning and Zoning Commission considered this request at their meeting of August 24, 2022 and called for a public hearing on the request.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on September 16th and September 23rd, and 6 letters were mailed to the owners of nearby properties on September 16, 2022

The proposed zoning change is in conjunction with a lot modification that would split Lot 2 into two parcels and combine the eastern portion of Lot 2 with Lot 1 to ensure adequate parking for both properties have will be met and for future sale of the property. A combination of the two properties cannot occur unless they are located within the same zoning district.

Adjacent uses include commercial uses to the north across Interstate 94, east across Schafer Street/West Divide Avenue, public uses (BSC Campus) and commercial uses to the south across Raven Drive, and office uses to the west.

Required Findings of Fact (relating to land use)

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

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

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning change from the RT – Residential and CG – Commercial zoning districts to the CG – Commercial zoning district for Lot 1 and part of Lot 2, Block 2, Meadow Lark Hill Second Addition Replat.

Attachments

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

(continued)

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

ORDINANCE NO. XXXX

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

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

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

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

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

All that part of Lot 2, Block 1, Meadow Lark Hill Second Addition replat of the SE 1/4 of Section 30, Township 139 North, Range 80 West of the fifth principal meridian, Bismarck, Burleigh County, North Dakota described as follows:

Beginning at a point on the Northeast boundary of said Lot 2 that is South 44 degrees 35 minutes 27 seconds East, a distance of 59.13 feet from the Northmost corner of said Lot 2; thence South 45 degrees 24 minutes 33 seconds West, a distance of 48.50 feet; thence South 44 degrees 35 minutes 27 seconds West, a distance of 294.39 feet; thence North 45 degrees 26 minutes 41 seconds East, a distance of 14.34 feet to the boundary of said Lot 2; thence North 44 degrees 32 minutes 28 seconds West, along said boundary, a distance of 116.97 feet; thence North 45 degrees 17 minutes 50 seconds East, continuing along said boundary, a distance of 34.06 feet; thence North 44 degrees 35 minutes 27 seconds West, continuing along said boundary, a distance of 117.36 feet to the point of beginning.

The above described parcel contains 10,287 square feet, more or less.

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

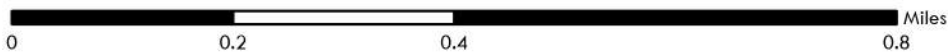
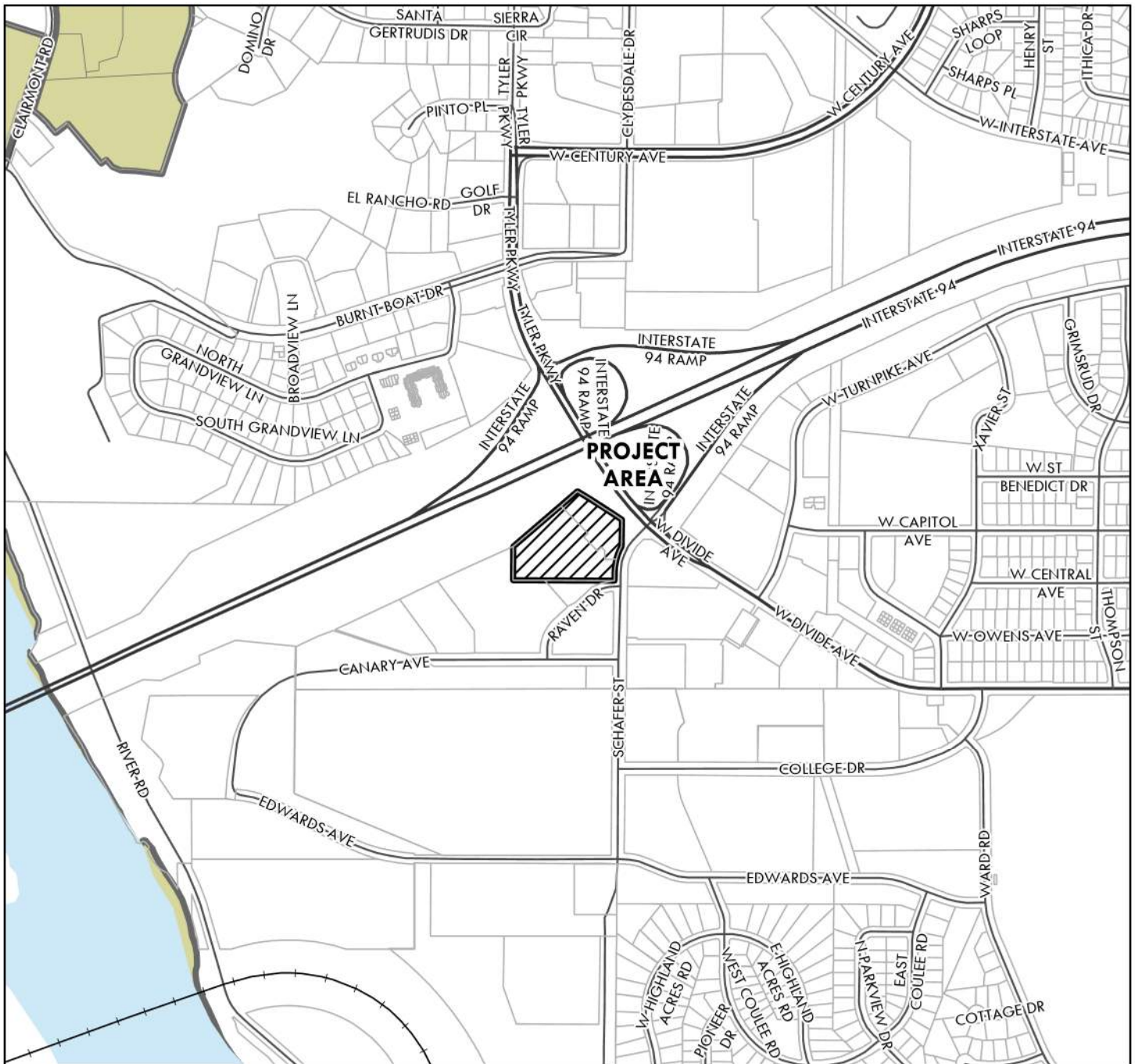
Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.



Location Map

ZC2022-016

MEADOW LARK HILL SECOND ADDITION REPLAT, L1-2, B1



City Limits

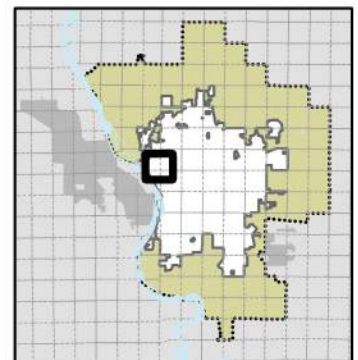


Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
July 25, 2022 (HLB)

*Section, township, and
range indicated in orange*

*This map is for representational use only and does not represent a survey.
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Aerial Map

MEADOW LARK HILL SECOND ADDITION REPLAT, Pt OF L2, B1

ZC2022-016

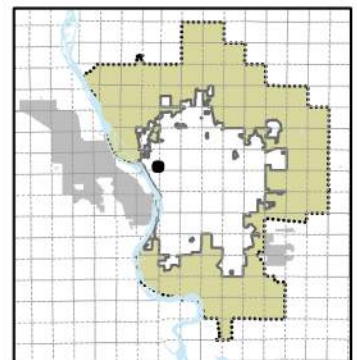


 City Limits  Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck
Community Development Dept.
Planning Division
August 15, 2022

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Zoning and Plan Reference Map

ZC2022-016

MEADOW LARK HILL SECOND ADDITION REPLAT, Pt OF L2, B1

Zoning Districts

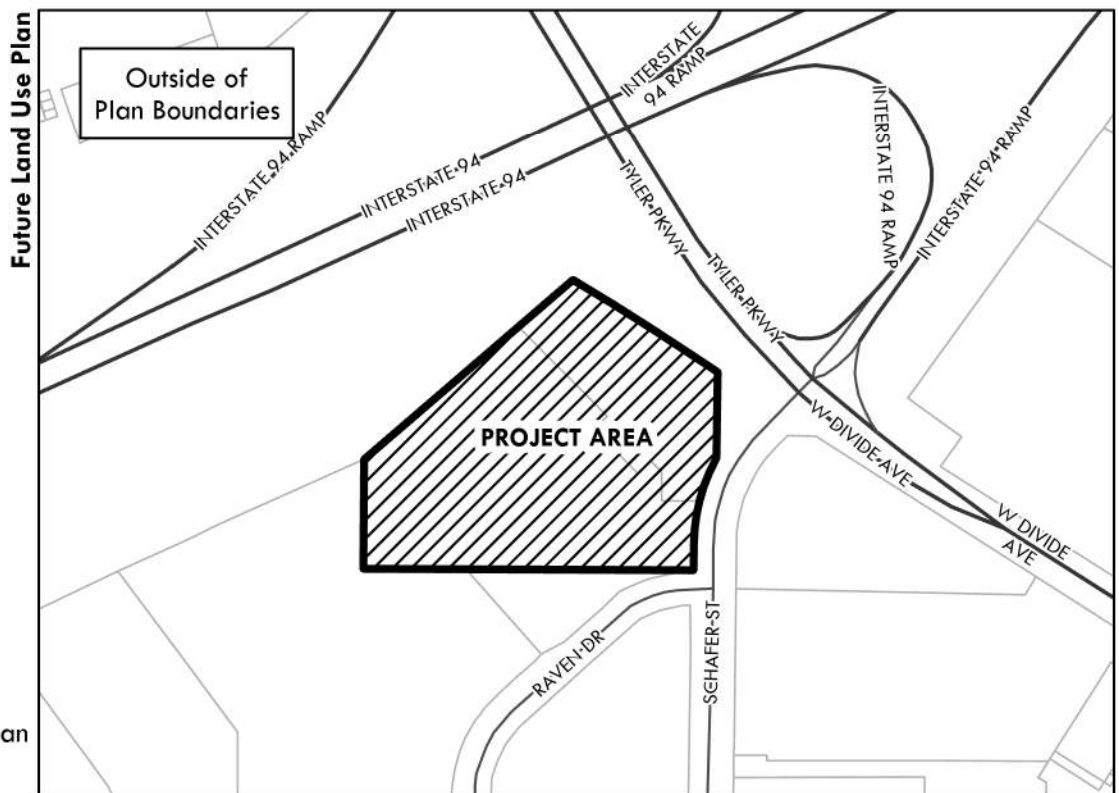
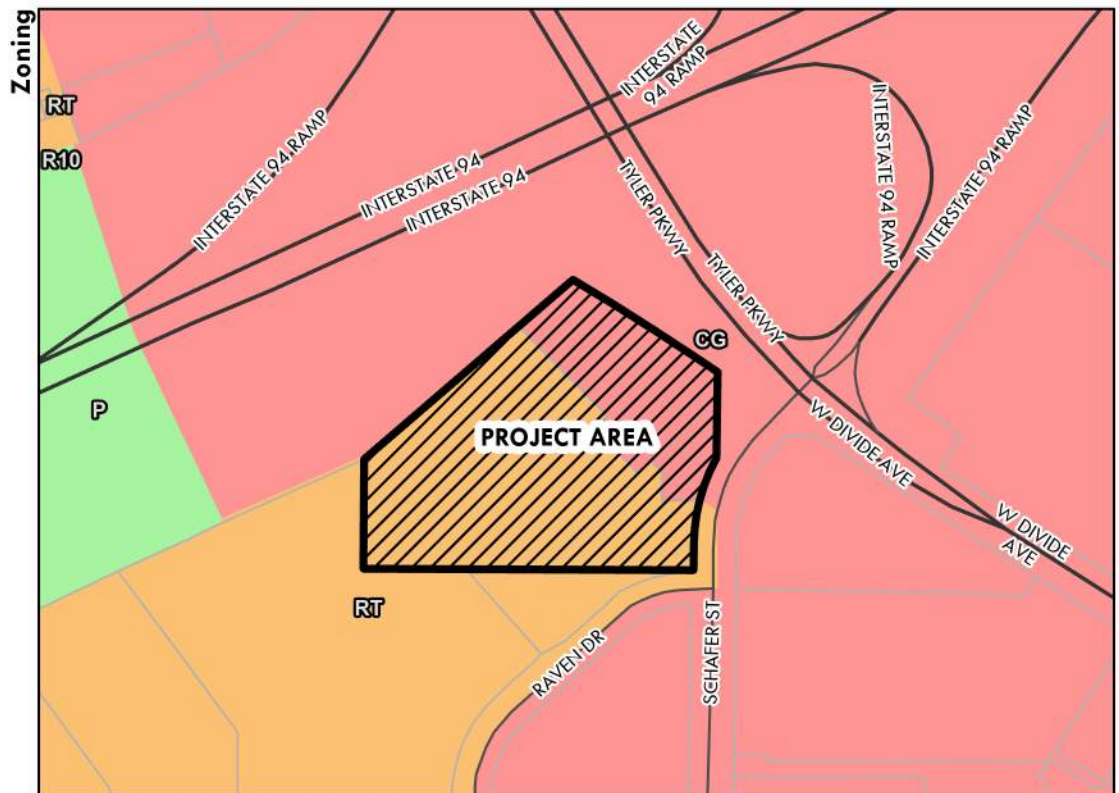
A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

Future Land Use Plan

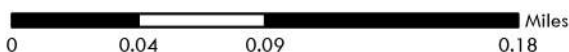
CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/ Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/ Mixed Use
O/MU	Office/ Mixed Use
RR-C	Clustered Rural Residential
RR	Standard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

Fringe Area Road Master Plan

- ● ● Future Arterial Road
- ■ ■ Future Collector Road



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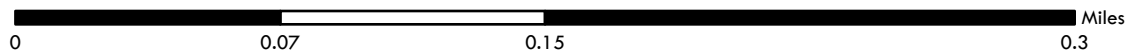
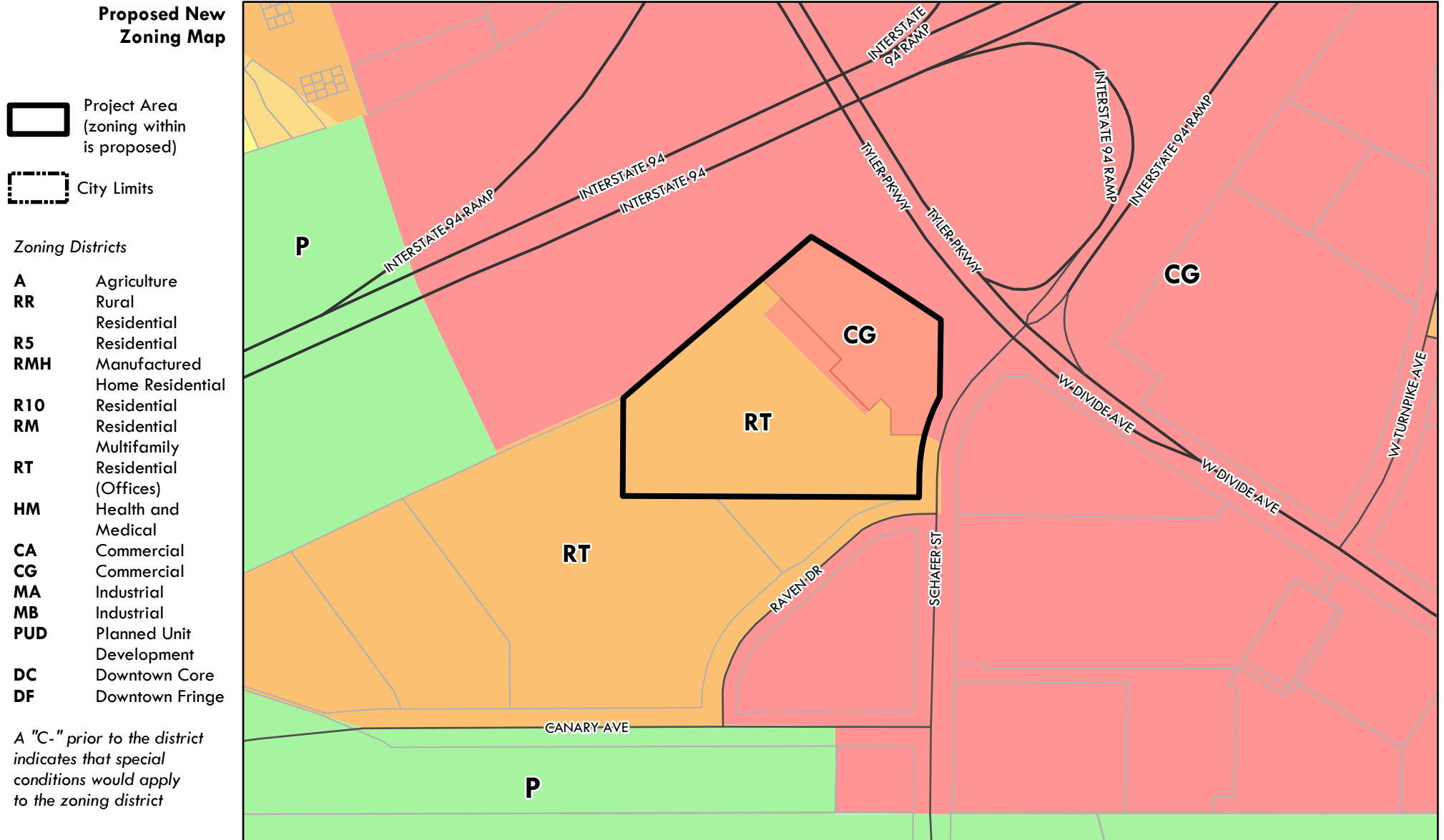
City of Bismarck
Community Development Dept.
Planning Division
August 18, 2022



Proposed Zoning Change

MEADOW LARK HILL SECOND ADDITION REPLAT, Pt OF L2, B1

ZC2022-016



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No liability is assumed as to the accuracy of the data delineated hereon.



STAFF REPORT

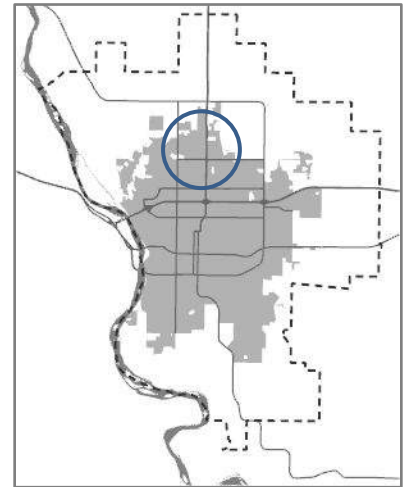
Application for: **Special Use Permit**

Agenda Item # 8
September 28, 2022

Project ID: **SUP2022-015**

Project Summary

<i>Title:</i>	Lots 1 & 2, Block 1, Sonnet Heights Subdivision 5th Replat
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Gossett Enterprises, LLC
<i>Project Contact:</i>	Darrel & Colleen Borgen – Believe and Blossom Preschool, LLC
<i>Location:</i>	In north Bismarck, north of 43rd Avenue NE along the west side of Ottawa Street (4700 Ottawa Street)
<i>Project Size:</i>	1.56 acres
<i>Request:</i>	Approval of a special use permit to operate a child care center



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	1 parcel	<i>Number of Lots:</i>	1 parcel
<i>Land Use:</i>	Multi-tenant commercial	<i>Land Use:</i>	Multi-tenant commercial with child care center
<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	CG – Commercial	<i>Zoning:</i>	CG – Commercial
<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices	<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices
<i>Max Density:</i>	CG – 42 units / acre	<i>Max Density:</i>	CG – 42 units / acre

Property History

<i>Zoned:</i>	05/2007	<i>Platted:</i>	06/2011	<i>Annexed:</i>	03/2007
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Staff Analysis

Believe and Blossom Preschool, LLC and Gosset Enterprises, LLC are requesting approval of a special use permit to allow a child care center on Lots 1 & 2, Block 1, Sonnet Heights Subdivision 5th Replat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on September 16th and September 23rd, and 29 letters were mailed to the owners of nearby properties on September 16, 2022.

Adjacent uses include office uses and vacant CG – Commercial zoned property to the north across Bremner Avenue; commercial, vacant and residential uses zoned CG – Commercial to the east across Ottawa Street; undeveloped property zoned A – Agricultural to the south; and vacant property zoned RT – Residential to the west.

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

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

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

The proposed child care center would be located within Units A, B and C of an existing multi-tenant commercial building. The interior recreation area measure 2,684 which would allow up to 76 children. The applicant has indicated that they are planning to provide child care for 45 children initially.

- 2) *“Each lot shall provide an outdoor recreation area of not less than seventy-five (75) square*

feet per child. The recreation area shall be fenced, have a minimum width of twenty (20) feet, a minimum depth of twenty (20) feet, be located on the same lot or parcel of land as the facility it is intended to serve, and must be located behind the building setback lines.”

The outdoor recreation area would be located in the southwest corner of the property and measures 5,207 square feet, which would allow up to 69 children to use the space at any given time. It would be accessed via a crosswalk with portable pedestrian crossing signage through the rear parking lot access lane would be fenced with a minimum 3-foot-tall chain link fence. The applicant has indicated that they will utilize an outdoor recreation time schedule and will not exceed the total allowable children for the proposed recreation area.

An additional outdoor recreation area is proposed in a portion of the parking lot adjacent to the child care center and outdoor recreation area. This will be used on a temporary and occasional basis for events featuring inflatables and gross motor play. Since this area will not be permanent its size was not included toward meeting size requirements.

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

According to the site plan provided with the application, this requirement will be met.

- 4) *“Child Care centers shall conform to all applicable requirements of the International Building Code and The International Fire Code as adopted by the City of Bismarck (Title 4 of the City Code of Ordinances – Building Regulations), and all requirements of*

(continued)

the North Dakota Department of Human Services.”

The applicant has confirmed that these requirements will be met prior to and during operation.

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

The applicant has confirmed that these requirements will be met prior to and during operation.

Required Findings of Fact (relating to land use)

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special use is compatible with adjacent land uses and zoning;
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area;
4. Adequate public facilities and services are in place or would be provided at the time of development;
5. The proposed special use would not cause a negative cumulative effect, when

considered in conjunction with other uses in the immediate vicinity;

6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic;
7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit to allow an child care center on Lots 1 & 2, Block 1, Sonnet Heights Subdivision 5th Replat with the following conditions:

1. The required outdoor recreation area fence must be installed prior to occupation;
2. Development of the site and operations of the child care center must generally conform to the material provided with the application.

Attachments

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

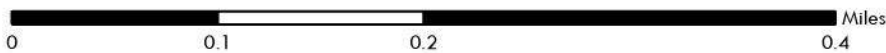
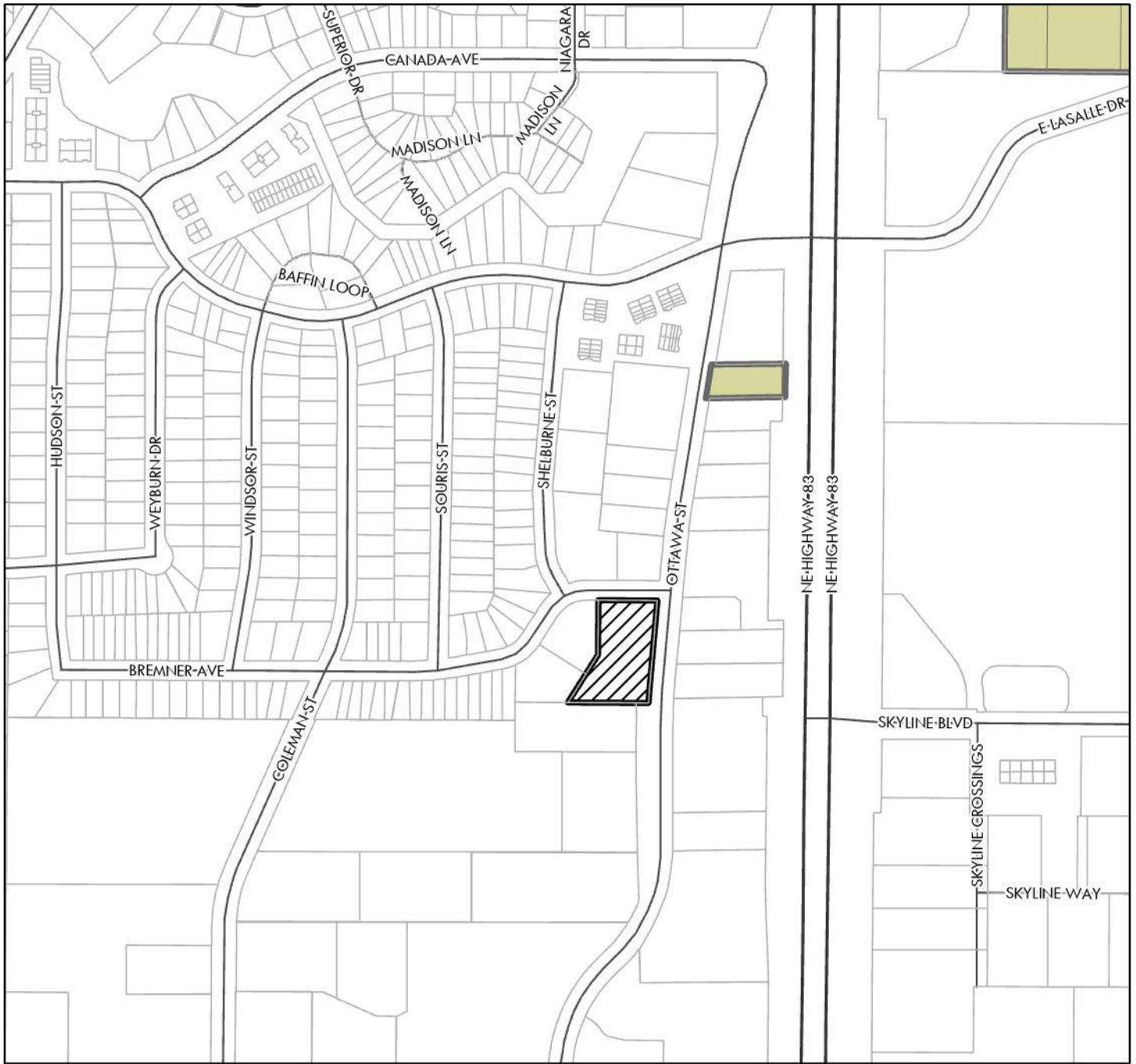
Staff report prepared by: Will Hutchings, AICP, Senior Planner
701-355-1850 | whutchings@bismarcknd.gov



Location Map

SUP2022-015

SONNET HEIGHTS SUBDIVISION FIFTH REPLAT, L 1-2, B 1



City Limits

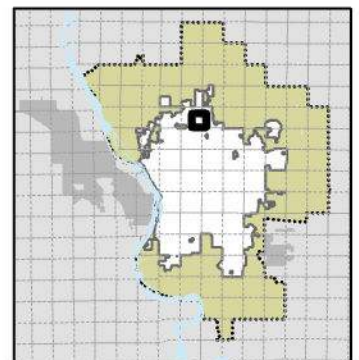


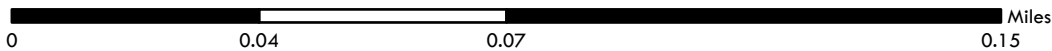
Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
August 29, 2022 (HLB)

Section, township, and
range indicated in orange

This map is for representational use only and does not represent a survey.
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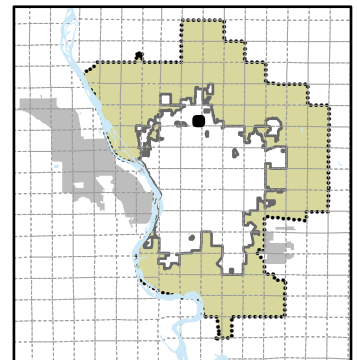


 City Limits  Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck
Community Development Dept.
Planning Division
September 22, 2022

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

SUP2022-015

SONNET HEIGHTS SUBDIVISION FIFTH REPLAT, L 1-2, B 1

Zoning Districts

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

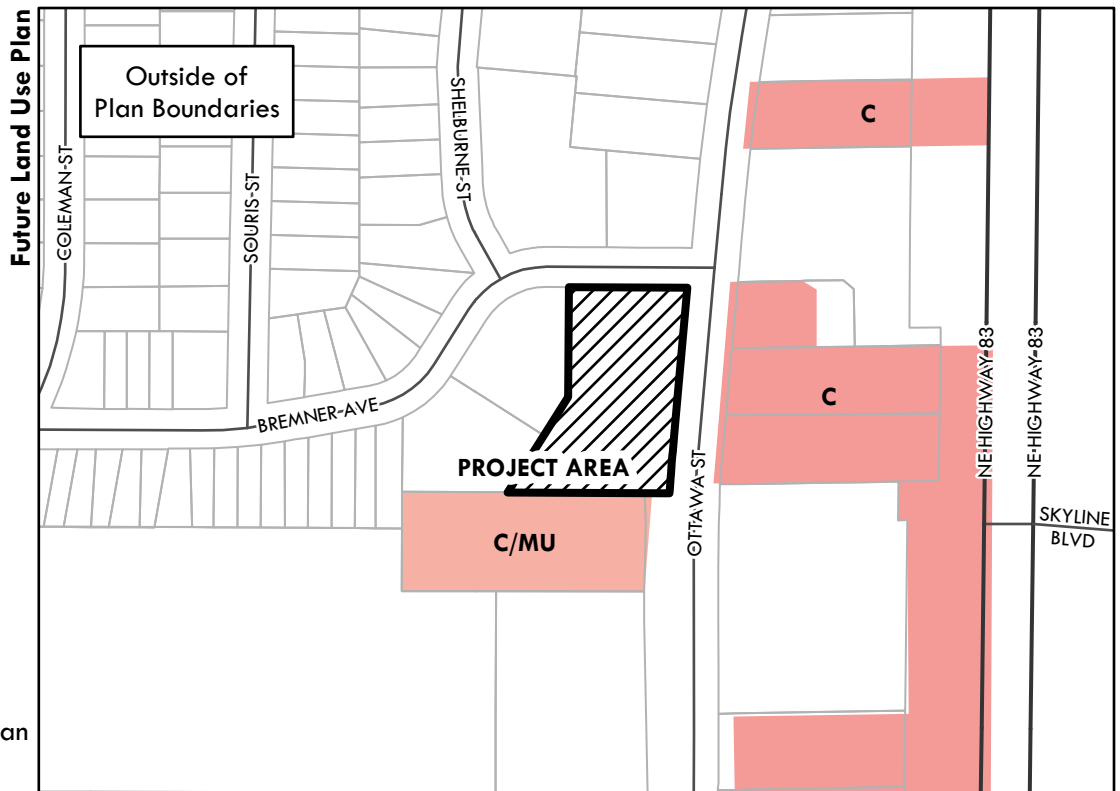
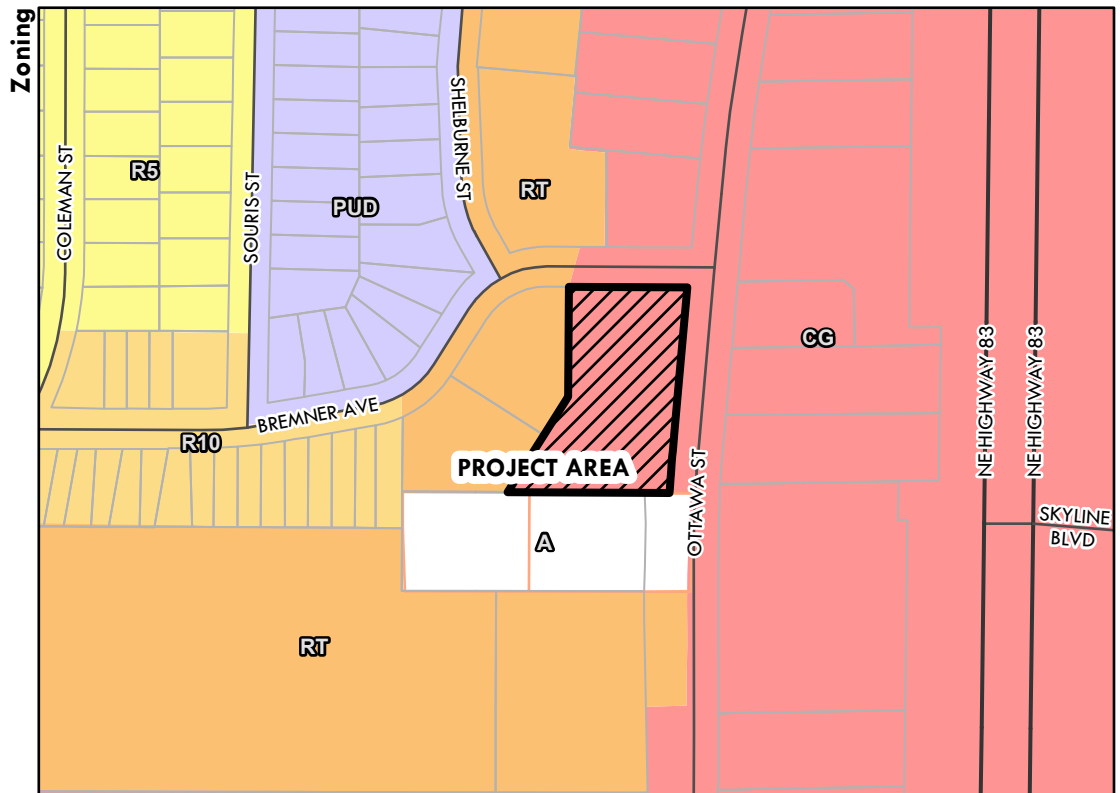
Future Land Use Plan

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

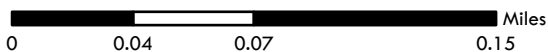
Fringe Area Road Master Plan

● ● ● Future Arterial Road

■ ■ ■ Future Collector Road

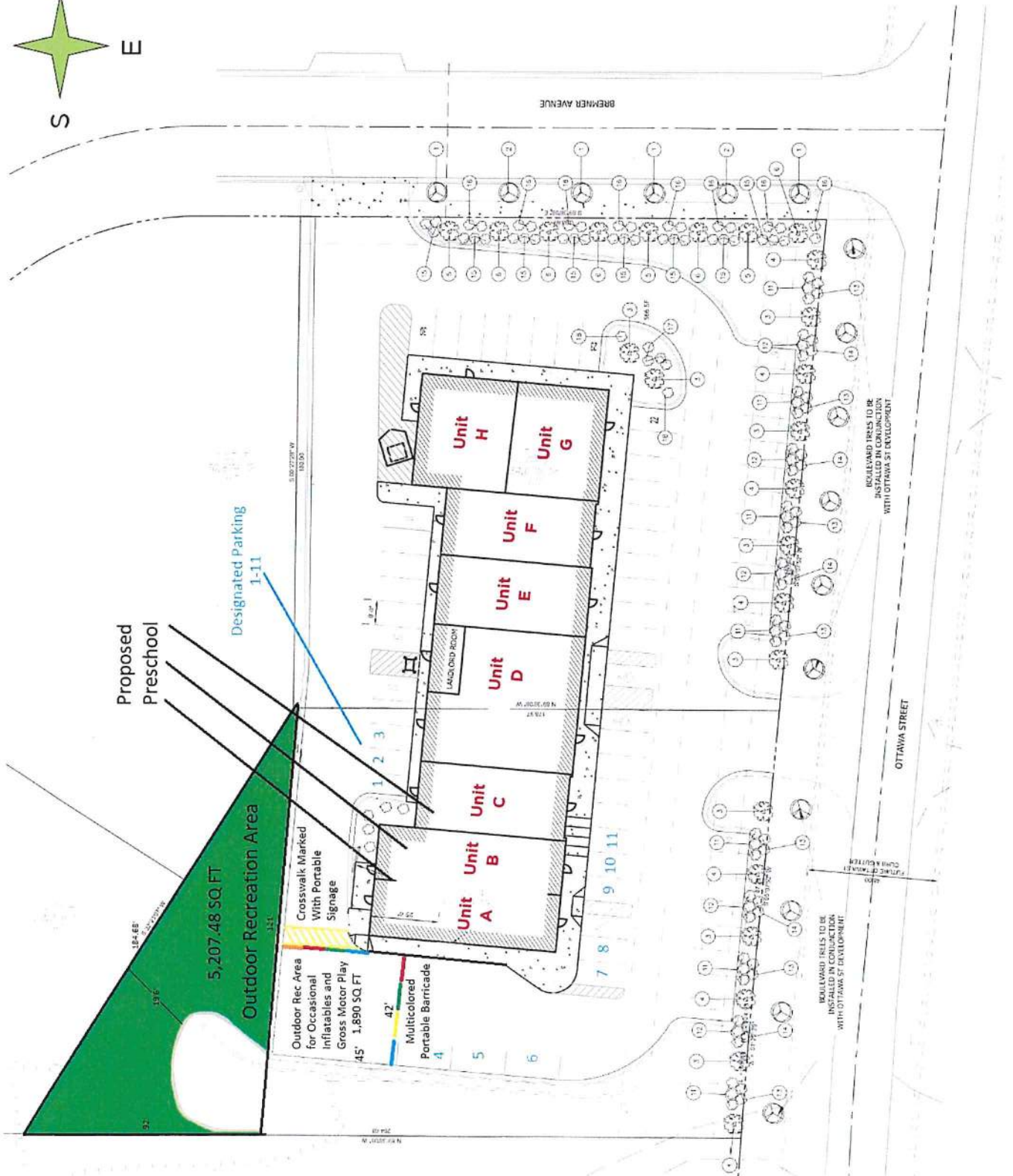


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City of Bismarck
Community Development Dept.
Planning Division
September 22, 2022

RECEIVED
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STAFF REPORT

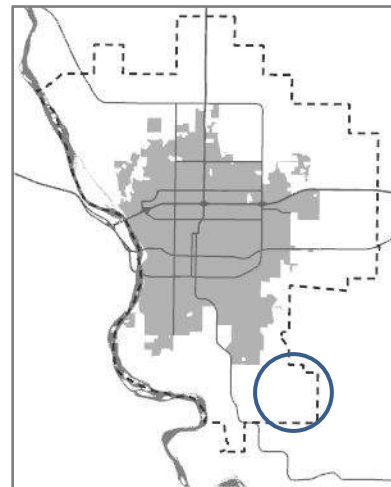
Application for: **Special Use Permit**

Agenda Item # 9
September 28, 2022

Project ID: **SUP2022-016**

Project Summary

<i>Title:</i>	Lot 2, Block 1, Wolf Subdivision
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Daniel and Nicole Lyons
<i>Project Contact:</i>	Daniel and Lyons
<i>Location:</i>	Southeast of Bismarck, south of 55 th Avenue SE and west of 66 th Street SE (6415 55 th Avenue SE)
<i>Project Size:</i>	5 acres
<i>Request:</i>	Increase the total allowable square footage of accessory buildings on the property to 3,200 square feet by constructing an accessory building



Site Information

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

Property History

<i>Zoned:</i>	5/2006	<i>Platted:</i>	8/2006	<i>Annexed:</i>	N/A
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Staff Analysis

Daniel and Nicole Lyons are requesting approval of a special use permit to increase the total allowable square footage of accessory buildings

on the property to 3,200 square feet by constructing an accessory building Lot 2, Block 1, Wolf Subdivision.

(continued)

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on September 16th and 23rd, and 22 letters were mailed to the owners of nearby properties on September 16, 2022.

Adjacent uses include residential and agricultural uses to the north, and rural residential uses to the east, south, and west.

Section 14-03-06(1)(b)(5) of the City Code of Ordinances (Accessory Uses and Buildings) states, “the allowable accessory buildings for a single-family rural residence on a lot in a rural residential zoning district (RR & RR5) with more than 65,000 square feet in area may be increased to a maximum of thirty-two hundred (3,200) square feet provided a special use permit is approved by the Planning Commission in accordance with the provisions of Section 14-03-08 of the City Code of Ordinances (Special Uses).”

The parcel size for the proposed special use is 5.0 acres, which meets the criteria for a maximum allowable size of 3,200 square feet for all accessory buildings located on the property.

According to the site plan submitted by the applicant, the proposed accessory buildings would meet setback requirements for an accessory building located within the RR – Residential zoning district.

According to building elevations provided with the application, the accessory structure would not exceed allowable building and sidewall height requirements for an accessory structure in the RR – Rural Residential zoning district.

The accessory structure would be accessed from an existing shared approach and existing driveway on the property.

Required Findings of Fact (relating to land use)

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special use is compatible with adjacent land uses and zoning;
3. Apple Creek Township Board of Supervisors has not yet 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; 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 to increase the area of accessory buildings to 3,200 square feet

(continued)

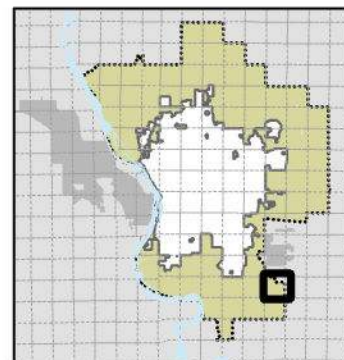
by constructing an accessory building Lot 2,
Block 1, Wolf Subdivision.

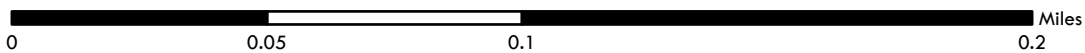
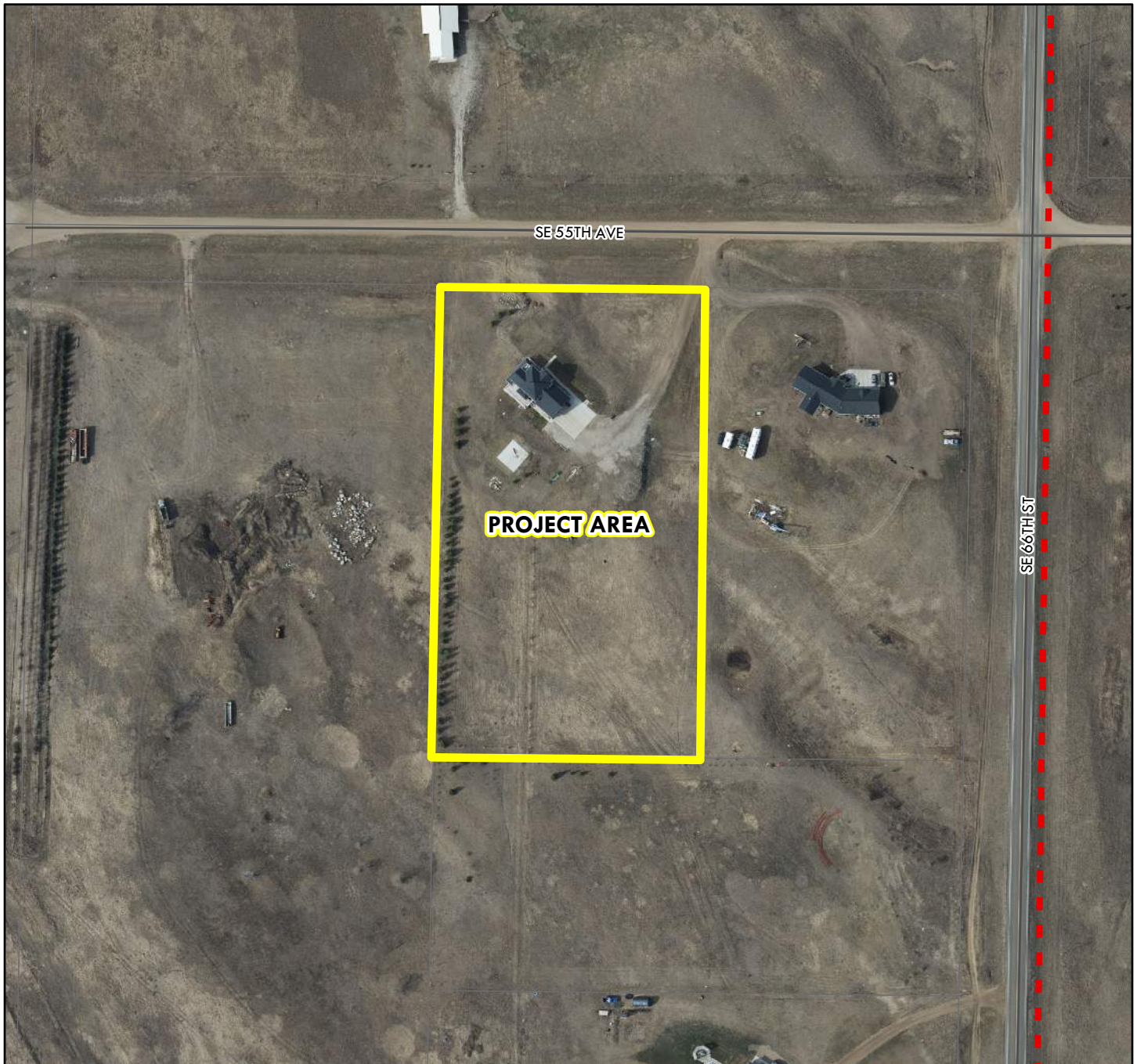
Attachments

1. Location Map

2. Aerial Map
3. Zoning and Plan Reference Map
4. Site Plan Exhibit
5. Building Elevations

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



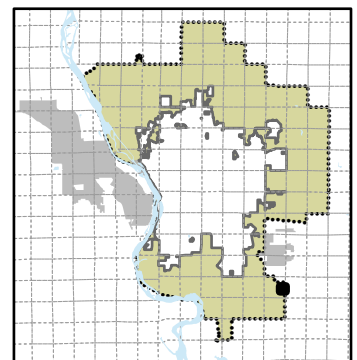


 Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

City of Bismarck
Community Development Dept.
Planning Division
September 22, 2022

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Zoning and Plan Reference Map

SUP2022-016

WOLF SUBDIVISION, LOT 2, BLOCK 1

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

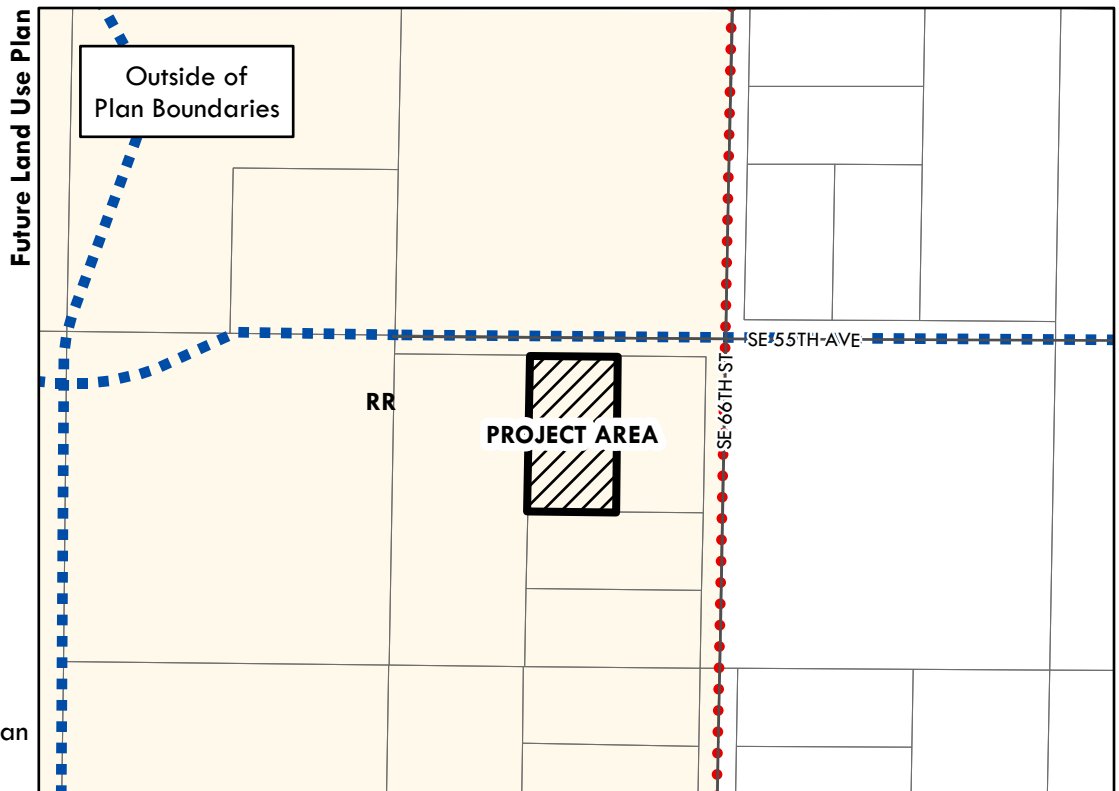
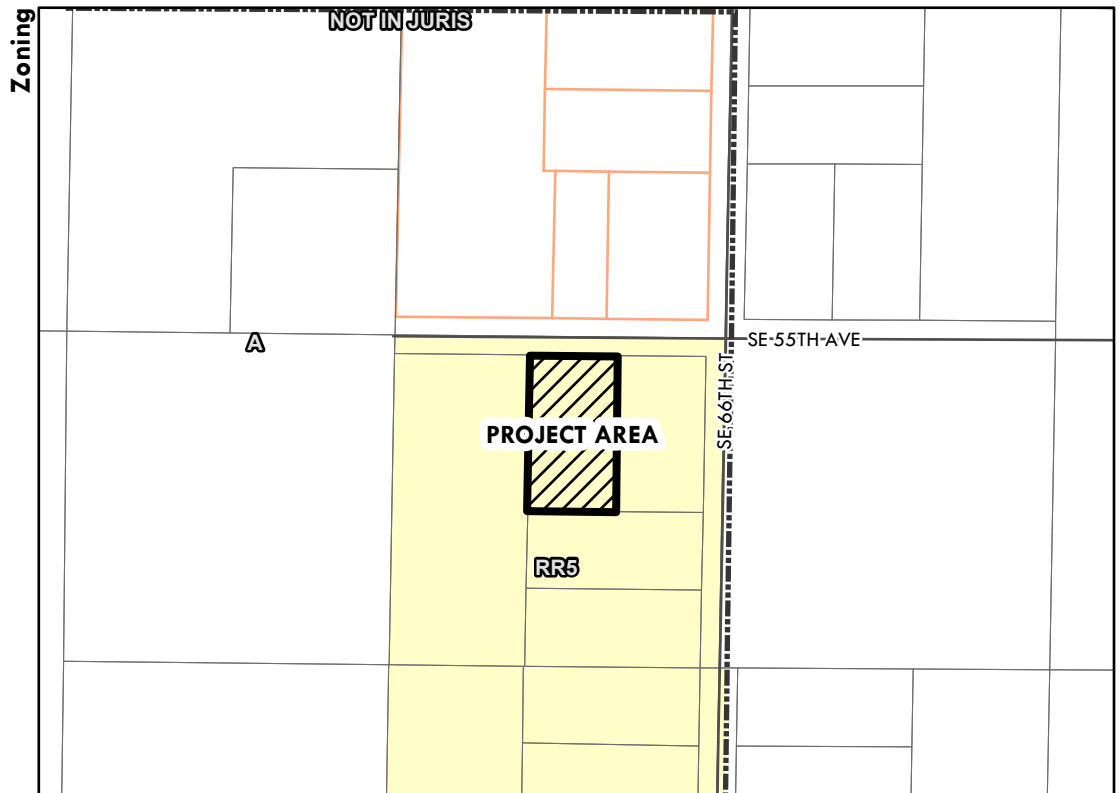
Future Land Use Plan

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

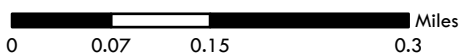
Fringe Area Road Master Plan

• • • Future Arterial Road

■ ■ ■ Future Collector Road

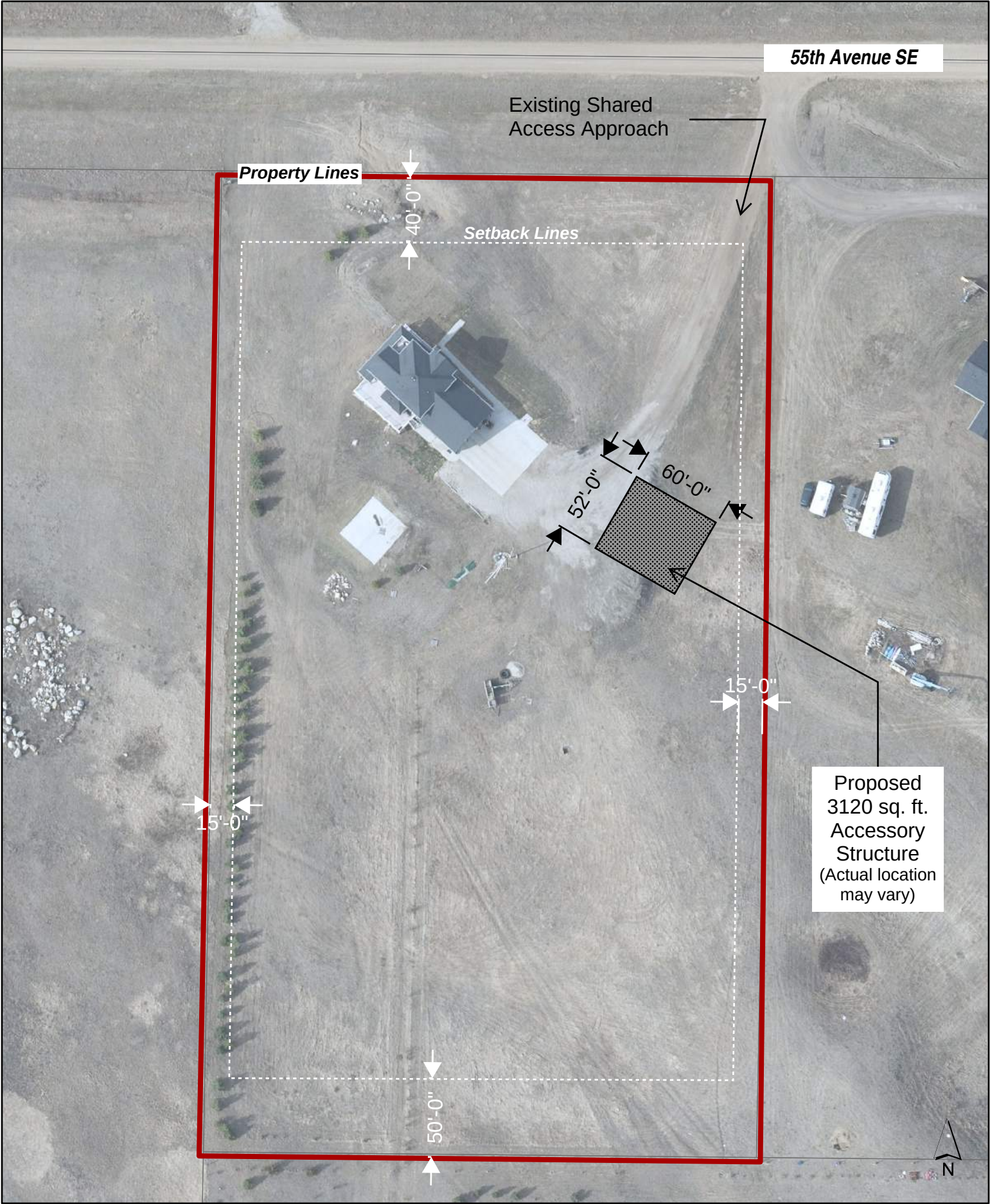


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City of Bismarck
Community Development Dept.
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September 22, 2022

Site Plan Exhibit



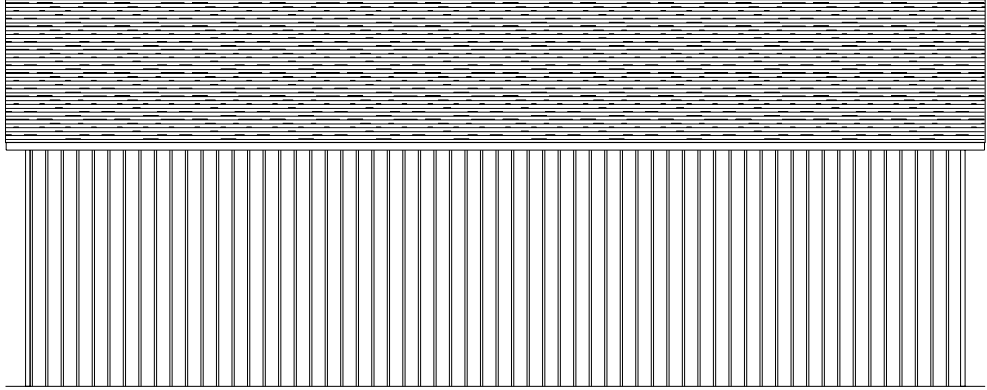
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NORTH ELEVATION

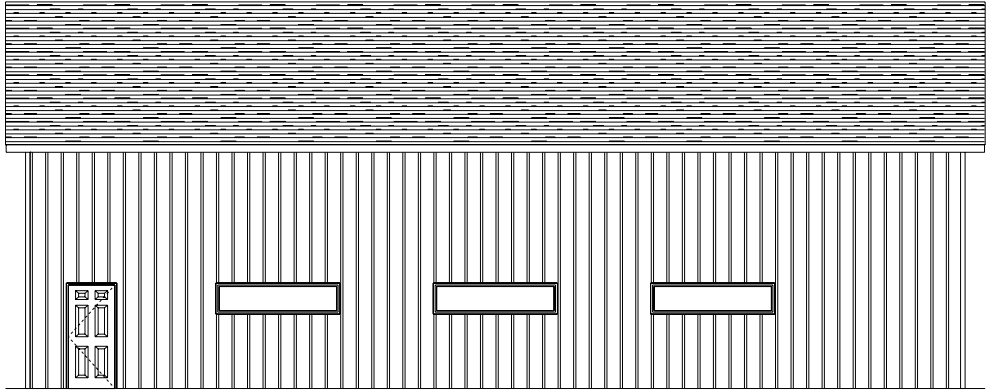


SOUTH ELEVATION

24ft 9 inches

[illegible]

EAST ELEVATION



WEST ELEVATION

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
August 24, 2022**

The Bismarck Planning & Zoning Commission met on August 24, 2022, 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. Vice Chair Lanning presided and was present in the Tom Baker Meeting Room.

Commissioners present were Brian Bitner, Cole Johnson, Vern Lanning, Paul Levchak, Gabe Schell, Mike Schmitz, Wendy Van Duyne, Trent Wangen and Paul Zent.

Commissioners Kevin Martin and Mike Schwartz were absent.

Staff members present were 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.

Vice Chair Lanning called the meeting to order and Community Development Director Ben Ehreth took roll call.

MINUTES

Vice Chair Lanning called for consideration of the minutes of the July 27, 2022 meeting.

MOTION: Commissioner Schmitz made a motion to approve the minutes of the July 27, 2022 meeting, as presented. Commissioner Zent seconded the motion, and it was unanimously approved with a voice vote.

CONSIDERATION

- 2. BOULDER RIDGE FIRST ADDITION FIRST REPLAT – MAJOR SUBDIVISION PRELIMINARY PLAT**
- 3. SILVER RANCH FOURTH ADDITION – ZONING CHANGE AND MAJOR SUBDIVISION PRELIMINARY PLAT**
- 4. LOTS 49 & 50, BLOCK 2, SONNET HEIGHT SUBDIVISION**
- 5. LOT 1 AND PART OF LOT 2, BLOCK 1, MEADOW LARK HILL SECOND ADDITION REPLAT**

MOTION: Based on the findings contained in the staff reports, Commissioner Wangen made a motion to approve consent agenda items 2 through 5, granting tentative approval or calling for a public hearing on the items as recommended by staff. Commissioner Zent seconded the motion and it was unanimously approved with Commissioners Bitner, Johnson, Lanning, Levchak, Schell, Schmitz, Van Duyne, Wangen and Zent voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE AND MAJOR SUBDIVISION FINAL PLAT
BRUNSKILL SUBDIVISION**

Vice Chair Lanning called for the public hearing on the zoning change and major subdivision final plat for Brunskill Subdivision. The proposed plat is five lots in one block on 39.95 acres

and is located southeast of Bismarck, in the northwest quadrant of the intersection of 66th Street SE and 55th Avenue SE (The SE¼ of the NE¼ Section 30, T138N-R80W/Apple Creek Township).

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

1. The proposed zoning change generally conforms to 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 Apple Creek Township Board of Supervisors has not yet made a recommendation for the proposed zoning change;
5. 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;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

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

1. All technical requirements for consideration of a final 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 plat is not an urban subdivision;
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 conditionally approved by the City Engineer and the Burleigh County Engineer;
6. The Apple Creek Township Board of Supervisors has not yet made a recommendation for the proposed final plat;
7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is within two miles of the city limits and will require an agreement with the South Central Regional Water District prior to recordation of the plat.
10. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
11. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
12. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on these findings, staff approval the zoning change from the A – Agricultural zoning district to the RR – Residential and RR5 – Residential zoning districts and a major subdivision final plat for Brunskill Subdivision, with the understanding that future subdivision of Lot 5 that would create lots less than 5 acres will not be permitted. A similar waiver would need to be granted by Burleigh County in conjunction with their acceptance of right-of-way dedicated in this plat on behalf of Apple Creek Township.

Commissioner Levchak asked about the zoning for Lots 4 and 5. Ms. Wollmuth responded that Lots 4 and 5 would both be zoned RR – Residential in order to not have just Lot 4 be zoned RR – Residential, but with a condition that Lot 5 could not be further subdivided in the future.

Commissioner Johnson asked what the minimum lot size was for the RR – Residential zoning district. Ms. Wollmuth replied that the minimum lot size would be 65,000 square feet, but nothing smaller. She noted that any proposal to split that lot further would come before the Planning and Zoning Commission for a public hearing as a rural residential lot split.

Commissioner Zent asked if this property was located in the extraterritorial area and was under the City of Bismarck's jurisdiction rather than Apple Creek Township's jurisdiction. Ms. Wollmuth replied that the City had jurisdiction up to 66th Street SE in this area. Commissioner Levchak stated that one of the letters with what appeared to be a petition was confusing. Ms. Wollmuth noted, based on her discussions with property owners on that

document, that staff was assuming those on the document were opposed to the request, but agreed that it was unclear based on what was submitted.

Commissioner Schell suggested the applicant move the lot line to include the existing building on Lot 4 rather than Lot 1.

Commissioner Zent asked if Apple Creek Township had submitted a resolution regarding the proposed actions. Ms. Wollmuth noted that nothing had been received by the Planning office.

Vice Chair Lanning opened the public hearing.

Monte Seibel, an Apple Creek Township Supervisor, stated that the township was okay with five (5) acre lots, but were opposed to one and a half (1½) acre lots. He added that if the Planning and Zoning Commission is intending to approve the request, he could get a petition to oppose the request.

Nikki Lyons appeared in opposition to a minimum lot size of 65,000 square feet, noting that they moved to this area because of the requirement for five acre lots.

Daniel Brunskill, the applicant, stated the lot line between Lots 1 and 4 could not move further to the west because of the setback requirements. In addition, the lot line between Lots 4 and 5 could not move further to the east because of the terrain and required setbacks. He indicated that he can't make Lot 4 any bigger, adding that he has no intention of further subdividing the lots to create smaller lots, as he would then need to construct interior roadways.

Commissioner Schell asked why the land including the existing accessory building couldn't be added to Lot 4. Mr. Brunskill replied that he would prefer to keep the accessory building with the larger lot, adding that there was a natural aquifer in that area and a low spot that goes through between the proposed Lots 1 and 4.

Commissioner Zent asked why the property was being subdivided. Mr. Brunskill replied that it was his intention to sell Lot 4 to his sister and brother-in-law and keep horses on Lot 1.

Commissioner Zent then explained Apple Creek Township's rationale for a five (5) acre minimum, noting that it preserved the agricultural feel of the area and would provide additional area for a septic system. He added that he was involved in writing the current regulations as an Apple Creek Township Supervisor.

Vice Chair Lanning asked Mr. Brunskill if he had given any consideration to combining Lots 4 and 5 as one lot. Mr. Brunskill replied that he was told he had to have a combined approach for Lots 1 and 4, and the approach for Lot 5 is further to the west on a hill.

Vice Chair Lanning then asked Mr. Brunskill what the plans for Lots 2 and 3 were. Mr. Brunskill replied that he had no immediate plans for Lots 2 and 3.

Commissioner Schell asked Mr. Brunskill what his intentions were for the pole barn on Lot 1. Mr. Brunskill replied that he would use it as a horse barn.

Commissioner Schell noted that it sounds like Lot 1 would remain larger and function more as an agricultural use and asked why all of the Lots could not be five (5) acres in size. Mr.

Brunskill stated that he is creating five lots out of 40 acres just like the 40 acre to the south and that he has not intention to subdivide the parcels further and would be ok with a requirement that none of the lots be further subdivided.

Commissioner Bitner asked for clarification on Mr. Brunskill's mention of the County's comment on driveway locations. Mr. Brunskill replied that shared access would be required for the Lots 1 and 4 and for Lots 2 and 3, and if the lots were to be further subdivided he would be required to construct interior roadways to provide access to those lots.

Commissioner Zent noted that changing the lot line between Lots 1 and 4 would resolve the issue and address Apple Creek Township's concerns.

Written comments related to this request are attached as Exhibits A and B.

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

MOTION: Commissioner Levchak made a motion to reject the proposal and deny the application for a zoning change and major subdivision final plat for Brunskill Subdivision. Commissioner Zent seconded the motion. The motion was approved on an 7-2 vote with Commissioners Bitner, Johnson, Lanning, Levchak, Schmitz, Van Duyne and Zent voting in favor of the motion and Commissioners Schell and Wangen voting against the motion.

**FINAL CONSIDERATION – ANNEXATION
PUBLIC HEARING – MAJOR SUBDIVISION FINAL PLAT
COUNTRY WEST XXXI ADDITION**

Vice Chair Lanning called for final consideration of the annexation and for the public hearing on the major subdivision final plat for Country West XXXI Addition. The proposed plat is nine lots in one block, northwest of the intersection of Valley Drive and Tyler Parkway (Part of the SE¼ of Section 19, T139N-R80W/Hay Creek Township).

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

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission;
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP);
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts with any potential for additional residences,

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

Mr. Nairn then provided the following findings related to land use for the annexation:

1. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed;
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck;
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on these findings, staff recommends approval of the annexation and final plat for Country West XXXI Addition, with the following condition:

1. All lots within Country West XXXI Addition are combined such that no lots remain without legal access to a public right-of-way in conjunction with recordation of the final plat.

Commissioner Schell asked about the condition, questioning if all of the lots had to be combined with the adjacent lot or just be combined with any lot. Mr. Nairn replied that they had to be combined with any lot as long as access to a public right-of-way is provided.

Vice Chair Lanning asked if all nine owners are in agreement with the proposed layout. Mr. Nairn replied that the property is currently owned by three of the adjacent land owners and that they are working with the other owners.

Commissioner Levchak asked if the lots needed to be combined within a specific time frame. Mr. Nairn said they would have to record the plat within six months. Ms. Lee added that staff would expect the lots to be combined in conjunction with recording of the plat.

Commission Schmitz asked about the possibility of orphan lots. Mr. Nairn said that would not be allowed; all lots would need to be combined with a lot along Valley Drive.

Commissioner Zent asked who would own the triangle-shaped lot on the eastern edge of the proposed plat. Mr. Nairn said that currently the three applicants own that parcel in common and final disposition has not yet been determined, but it will be combined with an adjacent lot.

Vice Chair Lanning opened the public hearing.

There being no comments, Vice Chair Lanning closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Johnson made a motion to recommend approval of the annexation and the major subdivision final plat for Country West XXXI Addition with the following condition: 1. All lots within Country West XXXI Addition are combined such that no lots remain without legal access to a public right-of-way in conjunction with recordation of the final plat. Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Lanning, Levchak, Schell, Schmitz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMITS LOT 8, BLOCK 8, SHAMROCK ACRES THIRD ADDITION

Vice Chair Lanning called for the public hearing on the special use permit for an accessory dwelling unit and oversized accessory building on Lot 8, Block 8, Shamrock Acres Third Addition. The property is located north of Bismarck, east of US Highway 83 and north of 84th Avenue NE on the east side of 26th Street NE at the intersection with Clover Lane (2620 Clover Lane).

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

1. The proposed special uses comply 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 uses are compatible with adjacent land uses and zoning;
3. The proposed special uses 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 uses 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 uses are consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed special uses would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on the above findings, staff recommends approval of the special use permit for an accessory dwelling unit and to increase the total allowable square footage of accessory structures on a lot to 3,200 Square feet for Lot 8, Block 8, Shamrock Acres Third Addition, with the following conditions:

1. The location of the site substantially conforms to the site plan or an alternative location on the lot complies with all setback and other requirements.
2. At least water and electrical utilities are provided for the accessory dwelling unit.
3. An adequately sized septic system compliant with all applicable requirements is installed.
4. All applicable floodplain development regulations are followed at the time of building permit submittal.

Commissioner Levchak asked if the applicant would be constructing the new building at least one foot above the base flood elevation. Mr. Nairn noted that the City requirement in the floodplain would be two feet above the base flood elevation and the applicant is aware of that requirement.

Vice Chair Lanning asked if the existing home on the property would be located within the special flood hazard area with the proposed preliminary FIRM map. Commissioner Schell replied that it would.

Vice Chair Lanning opened the public hearing.

Brian Cassidy, the applicant, indicated that the building would be elevated on fill to comply with the new floodplain map.

Commissioner Levchak noted that he lived in the neighborhood, welcomed them to the neighborhood and noted that the adjacent road has historically overtopped in rain and snowmelt events.

Judy Barth, an adjacent owner, noted that the covenants for the subdivision indicate that there cannot be a secondary residence. She expressed concerns that a septic system that close to the coulee would contaminate the area and noted that it was a not a good area with the flooding that occurs. She went on to state that if one person does this, what is to prohibit others from doing it. She added that none of the neighbors would not want rentals in that area.

Vice Chair Lanning asked for clarification as to whether or not the owner needs to live on the property. Mr. Ehreth responded that the ADU ordinance requires the property owner to live in one of the units.

Written comment related to this request is attached as Exhibit C.

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

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to approve the special use permits to construct an accessory dwelling unit and increase the total allowable square footage of accessory structures on a lot to 3,200 Square feet for Lot 8, Block 8, Shamrock Acres Third Addition, with the following conditions: 1) The location of the site substantially conforms to the site plan or an alternative location on the lot complies with all setback and other requirements; 2) At least water and electrical utilities are provided for the accessory dwelling unit; 3) An adequately sized septic system compliant with all applicable requirements is installed; and 4) All applicable floodplain development regulations are followed at the time of building permit submittal. Commissioner Schwartz seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Lanning, Levchak, Schell, Schmitz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT LOT 8, BLOCK 15, REPLAT OF PART OF TIBESAR FIRST SUBDIVISION

Vice Chair Lanning called for the public hearing on the special use permit for an accessory dwelling unit on Lot 15, Block 8, Replat of Part of Tibesar First Addition. The property is located in central Bismarck, south of Interstate 94 and west of US Highway 83/State Street on the south side of East Capitol Avenue (1013 East Capitol Avenue).

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

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special use is compatible with adjacent land uses and zoning;
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area;

4. Adequate public facilities and services are in place or would be provided at the time of development;
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity;
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic;
7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on these findings, staff recommends approval of the special use permit for an internal accessory dwelling unit on Lot 8, Block 15, Replat of Part of Tibesar First Subdivision.

Vice Chair Lanning opened the public hearing.

Alex Shevchenko, the applicant, stated that the unit would be occupied by his grandmother so she can be close to them and they can take care of her, as she does not speak English.

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

MOTION: Based on the findings contained in the staff report, Commissioner Johnson made a motion to approve the special use permit for an internal accessory dwelling unit on Lot 8, Block 15, Replat of Part of Tibesar First Subdivision. Commissioner Van Duyne seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Martin, Schmitz, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT LOT 1, BLOCK 2, CRESCENT RIDGE SECOND SUBDIVISION

Vice Chair Lanning called for the public hearing on the special use permit for an oversized accessory building on Lot 1, Block 2, Crescent Ridge Second Subdivision. The property is located north of Bismarck, east of 41st Street NE in the southwest quadrant of the intersection of 84th Avenue NE and 44th Street NE (8324 44th Street NE).

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 recommended approval of the proposed special use;
4. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area;
5. Adequate public facilities and services are in place or would be provided at the time of development;
6. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity;
7. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic;
8. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
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 for an oversized accessory building on Lot 1, Block 2, Crescent Ridge Second Subdivision.

Vice Chair Lanning opened the public hearing.

There being no comments, Vice Chair Lanning closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to approve the special use permit for an oversized accessory building on Lot 1, Block 2, Crescent Ridge Second Subdivision. Commissioner Levchak seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Martin, Schmitz, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT LOT 2, BLOCK 1, WASHINGTON SQUARE ADDITION

Vice Chair Lanning called for the public hearing on the special use permit for an electronic message center on Lot 2, Block 1, Washington Square Addition. The property is located in north Bismarck, south of Ash Coulee Drive and west of North Washington Street on the north side of Colt Avenue (4100 North Washington Street).

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

1. The proposed special use would comply with all applicable provisions of the zoning ordinance and be consistent with the general intent and purpose of the zoning ordinance if recommended conditions are met;

2. The proposed special use would be compatible with adjacent land uses and zoning if recommended conditions are met;
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 if recommended conditions are met;
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 if recommended conditions are met;
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 if recommended conditions are met; and
8. The proposed special use would not adversely affect the public health, safety and general welfare if recommended conditions are met.

Mr. Nairn said, based on these findings, staff recommends approval of the special use permit to allow an electronic message center sign on Lot 2, Block 1, Washington Square Addition, with the following condition:

1. All operational requirements of the ordinance shall be met.

Vice Chair Lanning opened the public hearing.

Nate Wolf, the applicant, noted that the sign would be in the northeast corner of the property rather than the southeast corner of the property. He then stated that the restriction on motion makes the sign useless, adding that they need to be able to use the sign past 9:00pm for their business.

Mr. Ehreth stated that the operations requirements, including the prohibition on live action video and the hold time after 9:00 p.m., are ordinance requirements that cannot be varied by the Planning and Zoning Commission. He added that they could request a variance based on a hardship or challenge staff's interpretation of the requirements.

Commissioner Schell asked for clarification on the use of animation and the use of the sign after 9:00 p.m. Mr. Nairn replied that the prohibition on the use of animation is city-wide and applies to all EMCs in all zoning districts. He added that the hold time requirement after 9:00 p.m. is because of the proximity of this sign to residential zoning districts.

Vice Chair Lanning asked for clarification on the requirements and the location of the sign. Mr. Nairn replied that the location in the northeast corner rather than the southeast corner of the property does not change the requirement since the adjacent parcel to the east is within a residential zoning district.

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

MOTION: Based on the findings contained in the staff report, Commissioner Zent made a motion to approve the special use permit for an electronic message center on Lot 2, Block 1, Washington Square Addition. Commissioner Bitner seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Martin, Schmitz, Schwartz, Van Duyne, Wangen and Zent voting in favor of the motion.

OTHER BUSINESS

Mr. Ehreth indicated that there had been some questions regarding covenants after the last Planning and Zoning Commission meeting. He noted that because the City isn't a party to covenants, they are enforced sporadically by the associations, and the Community Development Department doesn't have the staff time to enforce them, the City does not enforce covenants. Staff can suggest that applicants check with their association regarding proposed actions, but we cannot enforce the covenants of the association.

Commissioner Bitner noted that enforcement of covenants is a civil action that would need to be taken by the association or members of the association. Commissioner Levchak stated that covenants become void if they are not enforced. Ms. Combs added that enforcement is a civil action, but that covenants don't automatically become void if they are not enforced. They can be voided by a court or by a sunset clause in the covenants themselves.

Mr. Ehreth then noted that Hilary Balzum had accepted another position in the City's Public Works Department and that the Community Development Department is interviewing candidates for that position.

Mr. Ehreth then noted that there will be Planning Commissioner training on Tuesday, September 13th in conjunction with the Western Planner Conference. If any of the Commissioners are interested in attending, he asked that they let him know.

ADJOURNMENT

There being no further business, Vice Chair Lanning declared the Bismarck Planning & Zoning Commission adjourned at 6:30 p.m. to meet again on August 24, 2022.

Respectfully submitted,

Kim L. Lee, AICP
Recording Secretary

Vern Lanning
Vice Chair

Kim Lee

Subject: FW: Brunskill Subdivision

From: Grady [REDACTED]
Sent: Monday, August 22, 2022 10:11 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Brunskill Subdivision

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

Dear Planning and Zoning Commission,

I am writing in opposition to the lot in the Brunskill Subdivision planned to be zoned RR with a minimum lot size of 65,000 sf. This is poor planning mixing lots of a minimum of five acres with one, or a few of a smaller size. The Apple Creek Township where the lot resides does not allow anything smaller than a five acre lot which is consistent with the current surrounding development. Allowing one will just lead to the next one, and the next one, which is again poor planning. Approval of plats that allow for lots sized as low as 65,000 sf should be reserved to acreages of 160 acres or more in a rural setting, and should include pavement to and throughout the development and appropriately planned access for emergency situations. Thanks for your consideration of not approving this development as currently planned.

Grady Wolf
7040 55 Ave SE
Bismarck, ND 58504
[REDACTED]

Kim Lee

Subject: FW: Brunskill Subdivision Proposal
Attachments: scan.pdf

-----Original Message-----

From: Jodi Schmidt [REDACTED]
Sent: Tuesday, August 23, 2022 10:07 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Brunskill Subdivision Proposal

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

Please see the attached document in regards to the meeting tomorrow discussing the Brunskill Subdivision.

Please confirm receipt of this email.

Thank you
Jodi Schmidt



August 12, 2022

Dear Property Owner:

Please be advised that the Bismarck Planning & Zoning Commission will be conducting a public hearing on Wednesday, August 24, 2022, at 5:00 p.m. in the Tom Baker Meeting Room, City-County Building, 221 North 5th Street, Bismarck, North Dakota, which may be of interest to you.

Daniel Brunskill is requesting approval of a major subdivision final plat for Brunskill Subdivision, a five-lot subdivision on 39.95 acres. The property is located southeast of Bismarck, in the northwest quadrant of the intersection of 66th Street SE and 55th Avenue SE (the SE1/4 of the NE1/4 of Section 30, T138N-R80W/Apple Creek Township).

Daniel Brunskill is also requesting approval of a zoning change from the A – Agricultural zoning district to the RR – Residential and RR5 – Residential zoning districts for Brunskill Subdivision.

The existing zoning allows the following major uses: A-Agricultural – general agricultural uses.

The proposed zoning change would allow the following major uses: RR – Residential – rural residential and related uses with a minimum lot size of 65,000 square feet; and RR5 – Residential – rural residential and related uses with a minimum lot size of 5 acres.

A map showing the location involved in the requests and a reduction of the proposed plat are enclosed for your information.

At the hearing, the Bismarck Planning & Zoning Commission will provide an opportunity for all interested parties to be heard with respect to this item. Interested parties may submit written or email comments regarding this request no later than 8:00 AM the day of the meeting to the Community Development Department, PO Box 5503, Bismarck, North Dakota 58506-5503, fax: 701-222-6450, or email - planning@bismarcknd.gov. Written comments received will be sent to the Planning and Zoning Commissioners prior to the meeting and included in the minutes of the meeting. Written comments received after 8:00 AM on Wednesday, August 24, 2022, and those submitted anonymously will not be forwarded to the Planning & Zoning Commissioners or included in the minutes of the meeting. Interested persons may also call 701-355-1840 with questions, for additional information, or to facilitate alternate means to appear at the public hearing without having to appear in person.

The agenda packet for the meeting, which will include a staff report for this request, will be posted online at www.bismarcknd.gov, under Agendas and Minutes/City Planning and Zoning Commission, by the end of the day on Friday, August 12th. The meeting will also be aired live on Government Access – Cable Channel 2 and can be viewed on-line at freetv.org under Government Access/Bismarck Planning and Zoning Commission.



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

Bismarck Community Development Department ~ Planning Division

JW/klee

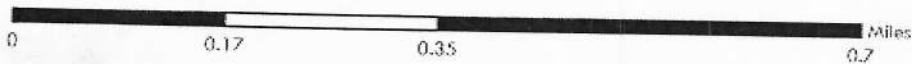
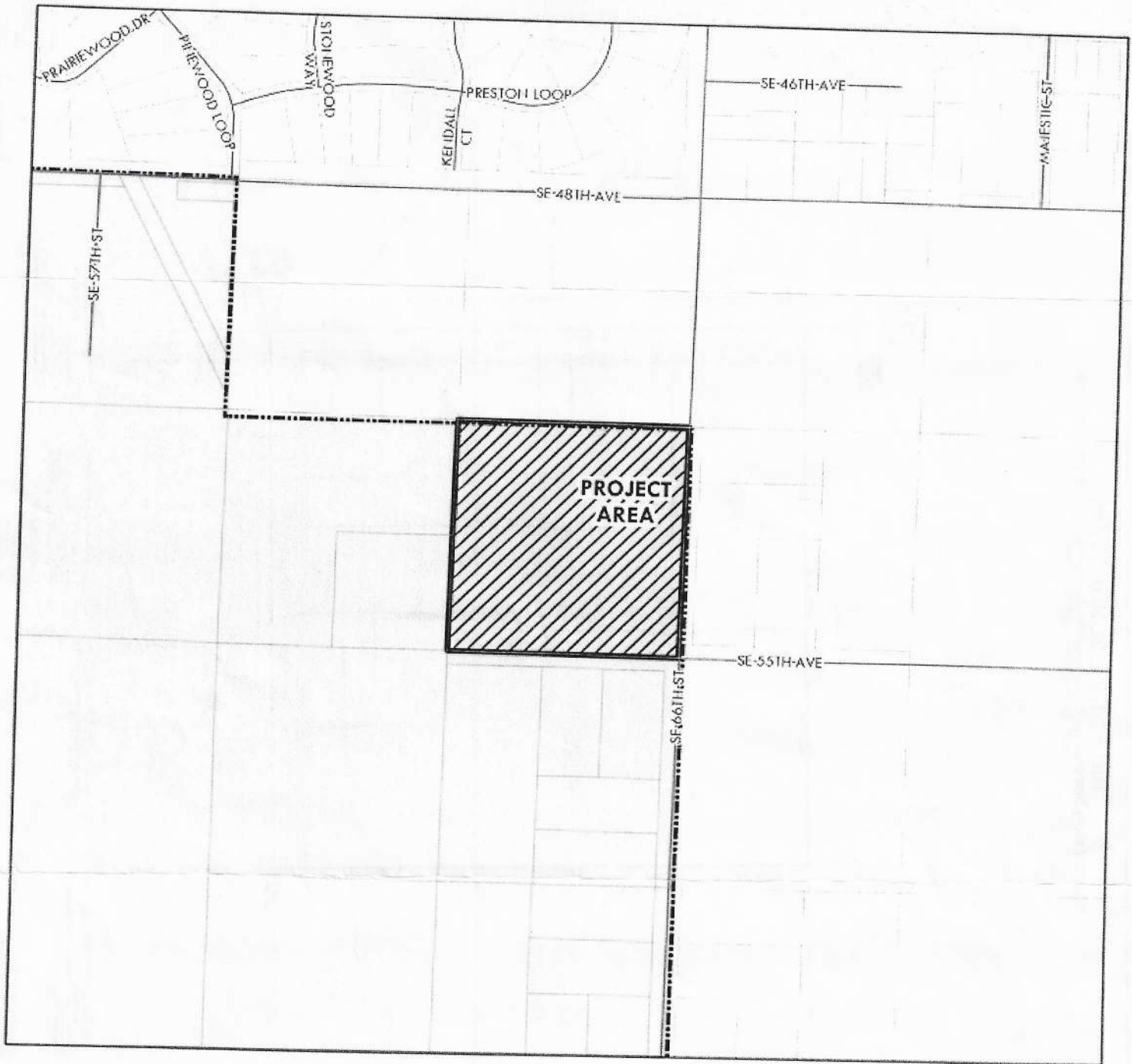
Enc: Location Map
Plat Reduction





Location Map
BRUNSKILL SUBDIVISION

PPLT2022-005
ZC2022-012

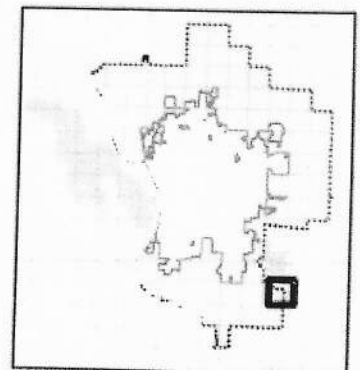


Bismarck ETA Jurisdiction

City of Bismarck
Community Development Department
Planning Division
May 23, 2022 (HLB)

*Section, township, and
range indicated in orange*

*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.*



BRUNSKILL SUBDIVISION
ST. QUARTER OF THE NORTHEAST CORNER

CONSNILL SUBDIVISION
ARTER OF THE NORTHEAST QUARTER
BURLEIGH COUNTY, NORTH DAKOTA



AREA	
LOTS	15.67 ACRES
RIGHT OF-WAY	6.41 ACRES
TOTAL	22.08 ACRES

SURVEYORS INFORMATION
GLENN
REGISTERED LAND SURVEYOR
NO. 7513

NOTES

SURVEY INFORMATION

DATE OF SURVEY: 05/07/2012
BASIS OF CLASSIFICATION: NORTH DAKOTA STATE POLICE
INTERVIEW METHOD: FET
VEHICLE TYPE: VEHICLE
HORIZONTAL DATUM: NAD83

CURRENT OWNERS INFORMATION

JOHN BURKHILL
13000 CITIES EDGE ROAD, MINNEAPOLIS, MN 55418

CURRENT OWNERS INFORMATION
DAN BAUMGART
 12000 CREEKS EDGE ROAD, MEYHORN, MO 64558

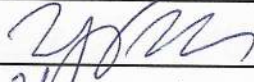
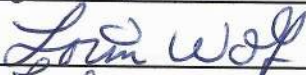
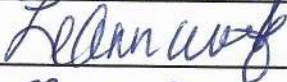
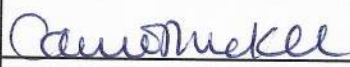
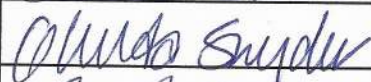
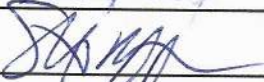
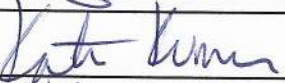
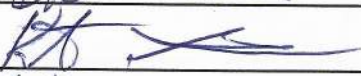
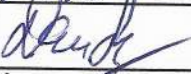
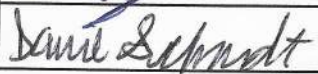
KEY MAP

The key map is an aerial photograph showing a road network. Highway 90 runs vertically on the left side. Highway 87 runs horizontally across the middle. Highway 67 runs diagonally from the bottom right towards the center. A small rectangular area is highlighted near the intersection of Highway 90 and Highway 87, labeled "SITE LOCATION". Other labels include "HIGHWAY 90", "HIGHWAY 87", and "HIGHWAY 67".

LEGEND

●	MORPHANT SITE
○	MOVEMENT FOUND
---	EL. TASMANT
---	EL. PROPERTY LINE
---	EL. SECTION LINE
---	PROPERTY BOUNDARY LINE
---	NEW B/D (2000/2001)

PROJECT ID:	22004.10
DATE:	09-10-2021
DRAWN BY:	GC3
CHECKED BY:	CAN

Name	Address	Phone	Signature	Date
Yasemee Nelson	6600 55 th Ave, SE, Bismack, ND ⁵⁸⁵⁰⁴	701-214-3092		Aug. 22, 22
Christ Gerger	6240 55 th Ave SE Bismack, ND	701-226-2257		8-22-22
Lorin Wolf	6245 55th Ave SE Bis	701-220-2662		8-22-22
LeAnn Wolf	6245 55th Ave SE BIS	701-220-5965		8-22-22
Brent Mentele	6702 55th Ave SE Bis	701-426-4098		8-22-22
Carmie Muecke	6702 55th Ave SE Bis	701-220-8553		8/22/22
Glenda Snyder	13 Stanley Dr Lincoln	701 391 1016		8-22-22
Scott Snyder	13 Stanley Dr Lincoln	701 391 6322		8-22-22
Grody Wolf	7040 55 Ave SE Bismack	701-595-2981		8-22-22
Scott Becker	7047 55 th Ave SE Bismack	701 220 8711		8/22/22
Zach Paetz	5800 66 th St. SE	(701) 226-877		8/22/22
Angie Gross	5900 66 th St. SE	701 8701801		8/22/22
James Gross	5900 66 th St SE Bismack	701-527-2019		8/22/22
Kate Kummer	5924 66 th St SE Bismack	701-426-0226		8/22/22
Kurt Steinke	5925 66 th St SE Bismack	701-426-9519		8/22/22
Nikki Lyons	6415 55 th Ave SE Bismack	701-361-1075		8/22/22
Don Gross	6415 55 th Ave SE Bismack	701-426-7392		8/22/22
Donnie Schmidt	6515 55 th Ave SE Bismack	701-391-1557		8/22/22

Kim Lee

Subject: FW: Accessory DU Etc at 2620 Clover Lane

From: Scott Harmstead [REDACTED]
Sent: Wednesday, August 24, 2022 7:34 AM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Accessory DU Etc at 2620 Clover Lane

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

Hello,

Sorry for the lateness of this email. I received notice of the proposed dwelling unit and accessory building increase at 2620 Clover Lane. My wife and I live a block to the southeast on Keith Dr (2840). I walk on Clover Lane often and there seems to be space for this proposal even with the swale running through the property. I would support this proposal.

Thank you

Scott Harmstead
2840 Keith Dr, Bismarck, ND 58503

PERMIT ACTIVITY FEE REPORT - MTD
DATE SELECTION 8/2022

*****City*****

*****ETA*****

	8/2022		8/2021		8/2022		8/2021	
Census Code	Permits	Fees	Permits	Fees	Permits	Fees	Permits	Fees
SINGLE FAMILY DETACHED	23	\$29,207.55	17	\$20,193.45	4	\$6,493.40	1	\$1,164.05
ROWHOUSE (2) 1-HR FIRE SEPARATION	6	\$6,906.10	21	\$21,312.40	0	\$0.00	2	\$2,110.50
MANUFACTURED HOMES	3	\$450.00	12	\$1,800.00	0	\$0.00	0	\$0.00
RESIDENTIAL ADDITION	1	\$101.02	3	\$2,336.85	2	\$2,790.50	2	\$1,385.40
DETACHED GARAGE	4	\$511.75	7	\$1,243.95	7	\$2,470.65	6	\$1,943.10
DECK\PORCHES & COVERED PORCHES	7	\$444.40	16	\$2,582.05	3	\$362.85	1	\$101.35
SWIMMING POOLS	4	\$2,229.20	3	\$1,479.75	3	\$1,757.35	1	\$623.45
RESIDENTIAL ALTERATION/OTHER	1	\$202.15	4	\$1,108.05	2	\$771.00	1	\$389.05
STORAGE SHED	1	\$76.15	0	\$0.00	0	\$0.00	0	\$0.00
BASEMENT FINISH	2	\$362.30	7	\$1,379.05	1	\$279.25	1	\$309.75
RESIDENTIAL	1	\$75.00	2	\$150.00	0	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	1	\$50.00	2	\$100.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	2	\$151.45	17	\$3,750.40	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	9	\$54,233.22	7	\$22,986.30	3	\$3,570.42	1	\$963.45
COMMERCIAL ADDITION	1	\$2,155.74	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL ALTERATION	2	\$5,370.96	6	\$13,744.56	0	\$0.00	0	\$0.00
Total	68	\$102,526.99	124	\$94,166.81	25	\$18,495.42	16	\$8,990.10

PERMIT ACTIVITY FEE REPORT - MTD
DATE SELECTION 8/2022

*****City*****

*****ETA*****

	8/2022		8/2021		8/2022		8/2021	
Trade Permit Type	Permits	Fees	Permits	Fees	Permits	Fees	Permits	Fees
BUILDING PLUMBING	44	\$3,057.60	37	\$3,457.15	7	\$519.25	7	\$465.35
BUILDING SEPTIC	0	\$0.00	0	\$0.00	6	\$450.00	1	\$75.00
Total	44	\$3,057.60	37	\$3,457.15	13	\$969.25	8	\$540.35

PERMIT ACTIVITY FEE REPORT - YTD
DATE SELECTION 8/2022

*****City*****

*****ETA*****

	8/2022		8/2021		8/2022		8/2021	
Census Code	Permits	Fees	Permits	Fees	Permits	Fees	Permits	Fees
SINGLE FAMILY DETACHED	116	\$153,747.30	131	\$160,241.20	24	\$36,148.30	42	\$63,237.40
ROWHOUSE (2) 1-HR FIRE SEPARATION	54	\$54,362.10	105	\$105,870.00	0	\$0.00	2	\$2,110.50
MANUFACTURED HOMES	5	\$750.00	19	\$2,850.00	0	\$0.00	0	\$0.00
RESIDENTIAL ADDITION	7	\$1,549.67	17	\$6,874.75	6	\$3,909.50	7	\$3,915.85
DETACHED GARAGE	27	\$5,407.25	24	\$3,969.50	31	\$10,896.75	46	\$15,793.90
DECKS\PORCHES & COVERED PORCHES	55	\$4,303.00	85	\$9,443.00	7	\$1,655.55	10	\$937.35
SWIMMING POOLS	9	\$5,071.05	10	\$5,554.50	7	\$4,372.15	6	\$3,341.70
RESIDENTIAL ALTERATION/OTHER	33	\$7,475.70	47	\$12,184.80	9	\$3,360.00	2	\$729.30
HOME OCCUPATION	2	\$50.00	2	\$50.00	0	\$0.00	1	\$25.00
STORAGE SHED	10	\$814.75	15	\$1,217.85	0	\$0.00	1	\$76.15
BASEMENT FINISH	38	\$10,299.55	68	\$16,160.05	9	\$2,250.45	9	\$2,134.55
RESIDENTIAL	2	\$150.00	6	\$450.00	0	\$0.00	0	\$0.00
COMMERCIAL	1	\$75.00	0	\$0.00	0	\$0.00	0	\$0.00
FIREWORKS SALES	0	\$0.00	0	\$0.00	8	\$400.00	7	\$350.00
NURSERY STOCK SALES	4	\$200.00	5	\$250.00	0	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	3	\$150.00	4	\$200.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	54	\$6,380.00	80	\$13,864.05	2	\$458.40	0	\$0.00
SIGN ALTERATION	1	\$321.95	14	\$2,724.00	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	50	\$242,203.04	65	\$226,130.09	20	\$31,606.80	2	\$3,139.59
COMMERCIAL ADDITION	6	\$37,217.88	5	\$17,537.10	1	\$9,206.46	0	\$0.00
COMMERCIAL ALTERATION	52	\$71,530.72	65	\$107,325.36	2	\$11,921.88	0	\$0.00
Total	529	\$602,058.96	767	\$692,896.25	126	\$116,186.24	135	\$95,791.29

PERMIT ACTIVITY FEE REPORT - YTD
DATE SELECTION 8/2022

*****City*****

*****ETA*****

	8/2022		8/2021		8/2022		8/2021	
Trade Permit Type	Permits	Fees	Permits	Fees	Permits	Fees	Permits	Fees
BUILDING PLUMBING	308	\$22,318.45	298	\$22,487.85	37	\$2,151.55	74	\$4,676.90
BUILDING SEPTIC	0	\$0.00	0	\$0.00	13	\$975.00	18	\$1,350.00
Total	308	\$22,318.45	298	\$22,487.85	50	\$3,126.55	92	\$6,026.90