# PLANNING AND ZONING COMMISSION

## MEETING AGENDA
## January 25, 2023

**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.

## TERMS and OATHS OF OFFICE

1. Introduction of New Commissioners.
2. Planning & Zoning Commission Terms and Oaths of Office.

## MINUTES

3. Consider approval of the minutes of the December 21, 2022 meeting of the Bismarck Planning & Zoning Commission.

# CONSENT AGENDA

## CONSIDERATION

The following items are requests for public hearings.

4. **Lots 1-8, Block 1, Hay Creek Park Addition** (DN)……..... 7

Zoning Change (P to R5) | ZC2022-026 | *Consideration*

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

5. **Tall Pines Subdivision** (DN)……..... 14

*Gibbs Township*

Zoning Change (A to RR5) | ZC2022-027 | *Consideration*

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

Major Subdivision Preliminary Plat | PPLT2022-017 | *Consideration*

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

# REGULAR AGENDA

## PUBLIC HEARINGS

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

6. **TNK Ranch Subdivision** (DN) ……..... 25

*Gibbs Township*

Zoning Change (A to RR) | ZC2022-019 | *Continued Public Hearing*

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

Major Subdivision Final Plat | FPLT2022-015 | *Continued Public Hearing*

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

7. **Silver Ranch Fourth Addition** (DN) ……..... 48

Annexation | ANNX2022-008 | *Final Consideration*

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

Zoning Change (A to R10, RM20, CA and P) | ZC2022-014 | *Public Hearing*

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

Major Subdivision Final Plat | FPLT2022-014 | *Public Hearing*

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

8. **Lots 9, 10 and the South 25.4 feet of 11, Block 7, Replat of Homan Acres** (JW)..... 74

Zoning Change (RT to R10) | ZC2022-021 | *Public Hearing*

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

9. **Lots 1 & 2, Block 1, Kilber North Addition First Replat** (DN)..... 82

Zoning Change (RT to Conditional CA) | ZC2022-023 | *Public Hearing*

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

10. **Pt NW1/4 of Section 21, T138N-R80W/Lincoln Twp (being platted as L1, B2, Paradise Valley Addition)** (Klee)..... 89

Zoning Change (RM15 to RM30) | ZC2022-024 | *Public Hearing*

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

11. **Lot 1, Block 3, Cottonwood Parkview Addition First Replat** (JW)..... 96

Zoning Change (RM15 to RM20) | ZC2022-025 | *Public Hearing*

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

12. **Lot 1, Block 1, Missouri Meadows Subdivision** (DN)..... 104

Special Use Permit | SUP2022-023 (Internal ADU) | *Public Hearing*

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

## OTHER BUSINESS

13. **Election of Officers**

Election of Chair
Election of Vice Chair

14. **Update on Together 2045**

## ADJOURNMENT

15. **Adjourn.** The next regular meeting date is scheduled for February 22, 2023.

Enclosures: Meeting Minutes of December 21, 2022
Building Permit Activity Month to Date Report for December 2022
Building Permit Activity Year to Date Report for December 2022



**Building Inspections Division** ● Phone: 701-355-1465 ● Fax: 701-222-6450 | **Planning Division** ● Phone: 701-355-1840 ● Fax: 701-222-6450
221 North 5th Street ● P.O. Box 5503 ● Bismarck, ND 58501 ● www.bismarcknd.gov ● TDD 711 ● An Equal Opportunity-Affirmative Action Employer

# BISMARCK PLANNING AND ZONING COMMISSION
# PUBLIC HEARING PROCEDURE AND PROTOCOL

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

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

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

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

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

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

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

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

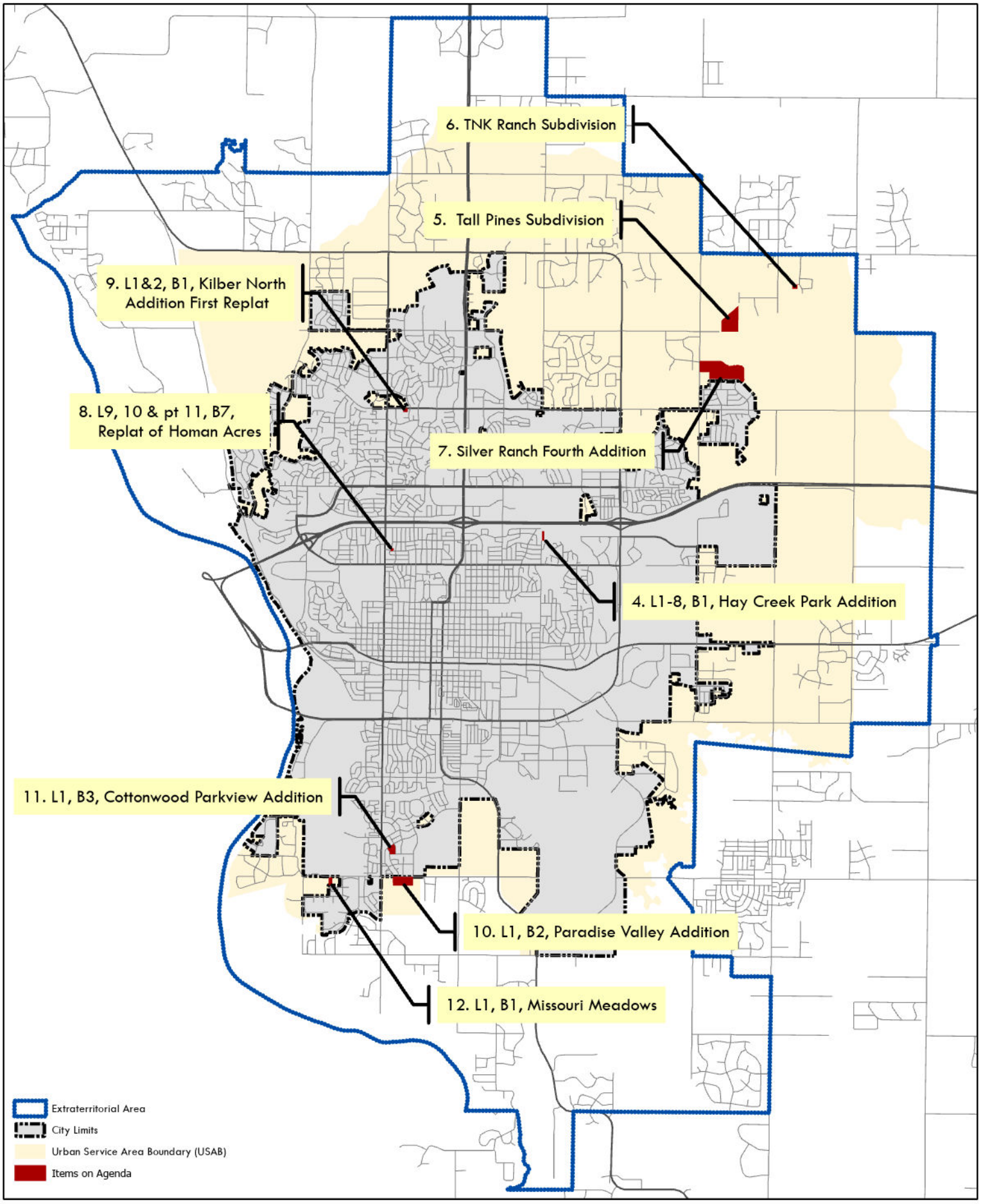
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions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

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

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

**General Location Map**

Bismarck Planning & Zoning Commission - January 25, 2023




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

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Bismarck COMMUNITY DEVELOPMENT

# STAFF REPORT

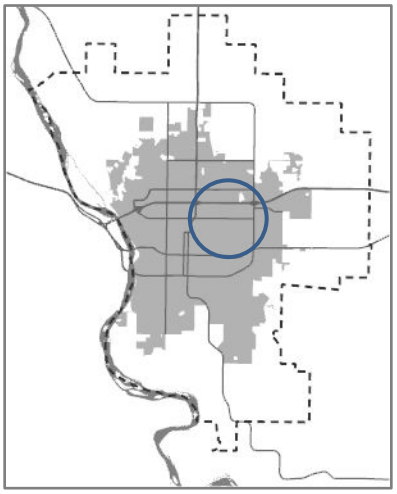
Agenda Item # 4
January 25, 2023

Application for: **Zoning Change**

Project ID: **ZC2022-026**

## Project Summary

| | |
|---|---|
| *Title:* | Lots 1-8, Block 1, Hay Creek Park Addition |
| *Status:* | Planning & Zoning Commission – Consideration |
| *Owner(s):* | Bismarck Parks and Recreation District (BPRD) |
| *Project Contact:* | Kevin Klipfel, Executive Director, BPRD |
| *Location:* | In east-central Bismarck, north of East Divide Avenue on the east side of North 26th Street. |
| *Project Size:* | 2.20 Acres |
| *Request:* | Rezone to allow development of single-family residential |



## Site Information

| Existing Conditions | | Proposed Conditions | |
|---|---|---|---|
| *Number of Lots:* | 8 lots in 1 block | *Number of Lots:* | 8 lots in 1 block |
| *Land Use:* | Undeveloped | *Land Use:* | Single-family residential |
| *Future Land Use:* | Urban Neighborhood | *Future Land Use:* | Urban Neighborhood |
| *Zoning:* | P – Public Use | *Zoning:* | R5 – Residential |
| *Uses Allowed:* | R5 – Single-family residential | *Uses Allowed:* | R5 – Single-family residential |
| *Max Density:* | R5 – 5 units / acre | *Max Density:* | R5 – 5 units / acre |

## Property History

| | | | | | |
|---|---|---|---|---|---|
| *Zoned:* | 01/2005 (to R5)<br>03/2016 (to P) | *Platted:* | 05/2012 | *Annexed:* | Pre-1980 |

## Staff Analysis

Bismarck Parks and Recreation District (BPRD) is requesting approval of a zoning change from the P – Public zoning district to the R5 – residential zoning district for Lots 1-8, Block 1, Hay Creek Park Addition.

Adjacent uses include parks and open space to the north and east, single-family residential to the south, and developing single-family residential to the west.

*(continued)*

When the plat of Hay Creek Park Addition as was approved in 2012, residential development of Lots 1-8, Block 1 was anticipated. However, this required construction of the adjacent North 26th Street, which was unimproved at the time. By 2016, the lots were rezoned to P – Public. However, this segment of North 26th Street was then improved at the request of adjoining property owners.

Now the BPRD is requesting a rezoning back to the R5 – Residential zoning district to follow the initial plan of selling these lots for development. The northern-most Lot 9 would remain in the P – public zoning district for future park use.

The Future Land Use Plan in Together 2045 identifies this area as Urban Residential. The proposed zoning would generally conform to the Comprehensive Plan.

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

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

**Staff Recommendation**

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the P – Public zoning district to the R5 – residential zoning district for Lots 1-8, Block 1, Hay Creek Park Addition.

**Attachments**

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

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

# *CITY OF BISMARCK*
# *ORDINANCE NO. XXXX*

| | |
|---|---|
| *First Reading* | _____ |
| *Second Reading* | _____ |
| *Final Passage and Adoption* | _____ |
| *Publication Date* | _____ |

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.), 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 P – Public zoning district and included in the R5 – Residential zoning district:

Lots 1-8, Block 1, Hay Creek Park Addition

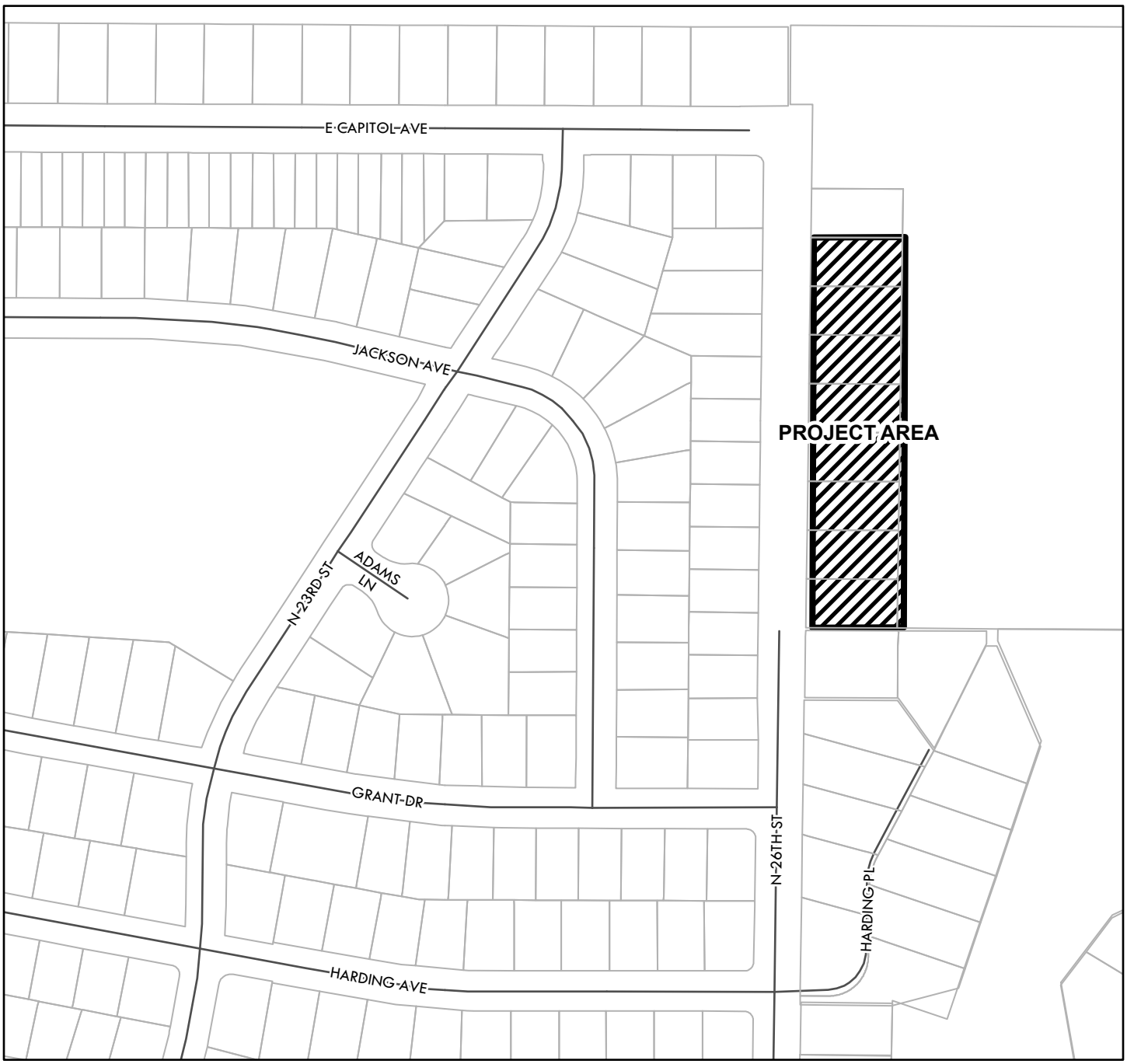
Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

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

# Location Map

HAY CREEK PARK ADDITION, LOTS 1-8, BLOCK 1

ZC2022-026

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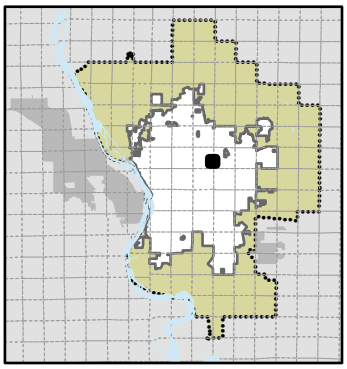
City Limits

Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*



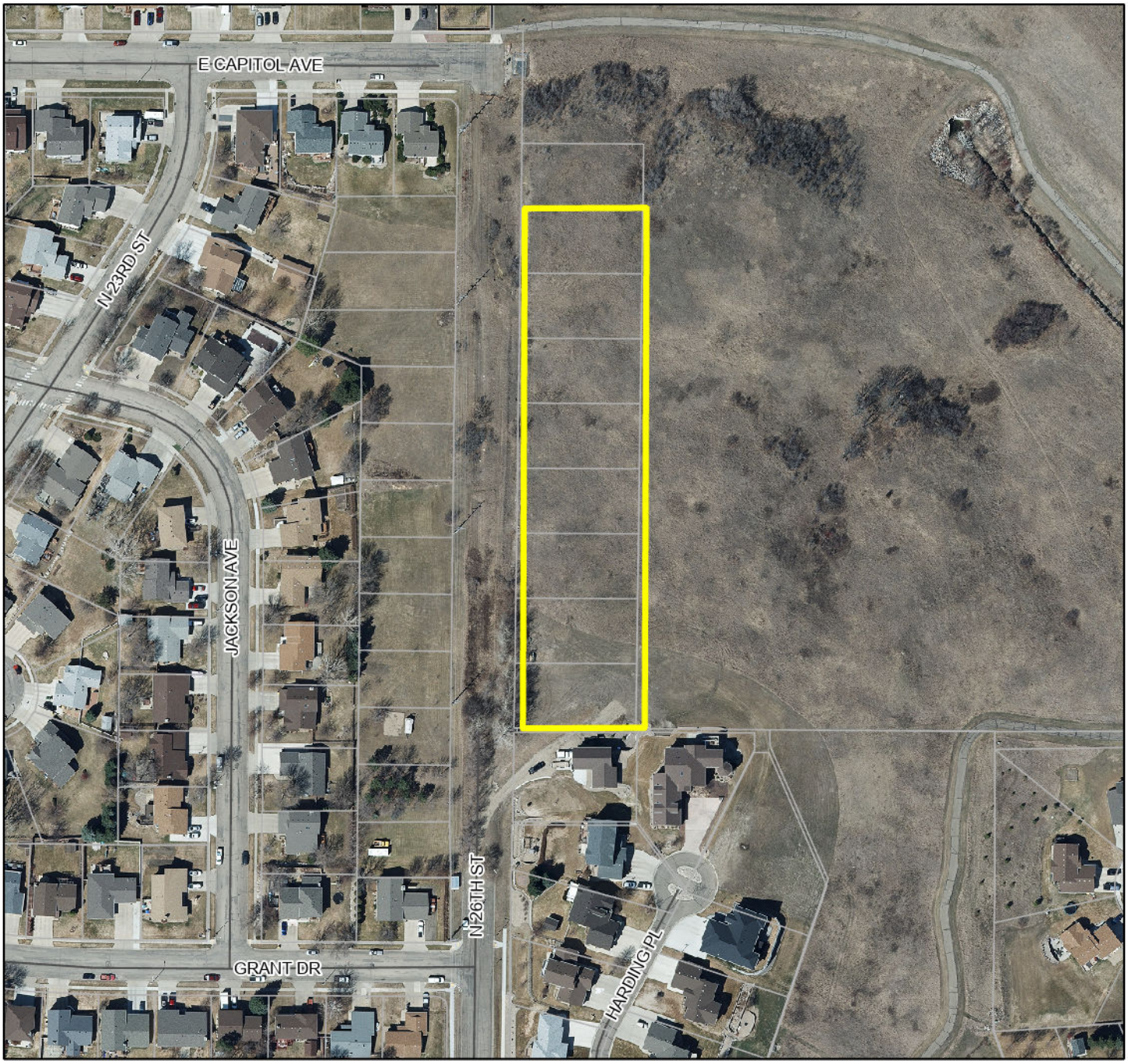
City of Bismarck
Community Development Department
Planning Division
January 3, 2023 (SF)

*This map is for representational use only and is not a survey. No liability is assume as to accuracy of the data shown hereon.*

# Aerial Map

ZC2022-026

HAY CREEK PARK ADDITION, LOTS 1-8, BLOCK 1

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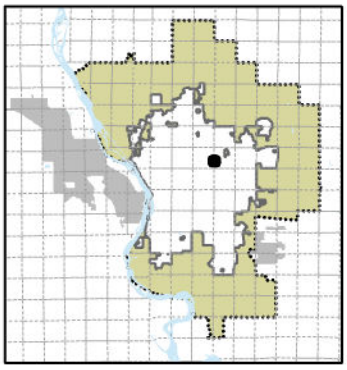
City Limits  Bismarck ETA Jurisdiction



City of Bismarck
Community Development
Planning Division
January 19, 2023

Aerial Imagery from April 2020

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# Zoning and Plan Reference Map

HAY CREEK PARK ADDITION, LOTS 1-8, BLOCK 1

ZC2022-026

*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*

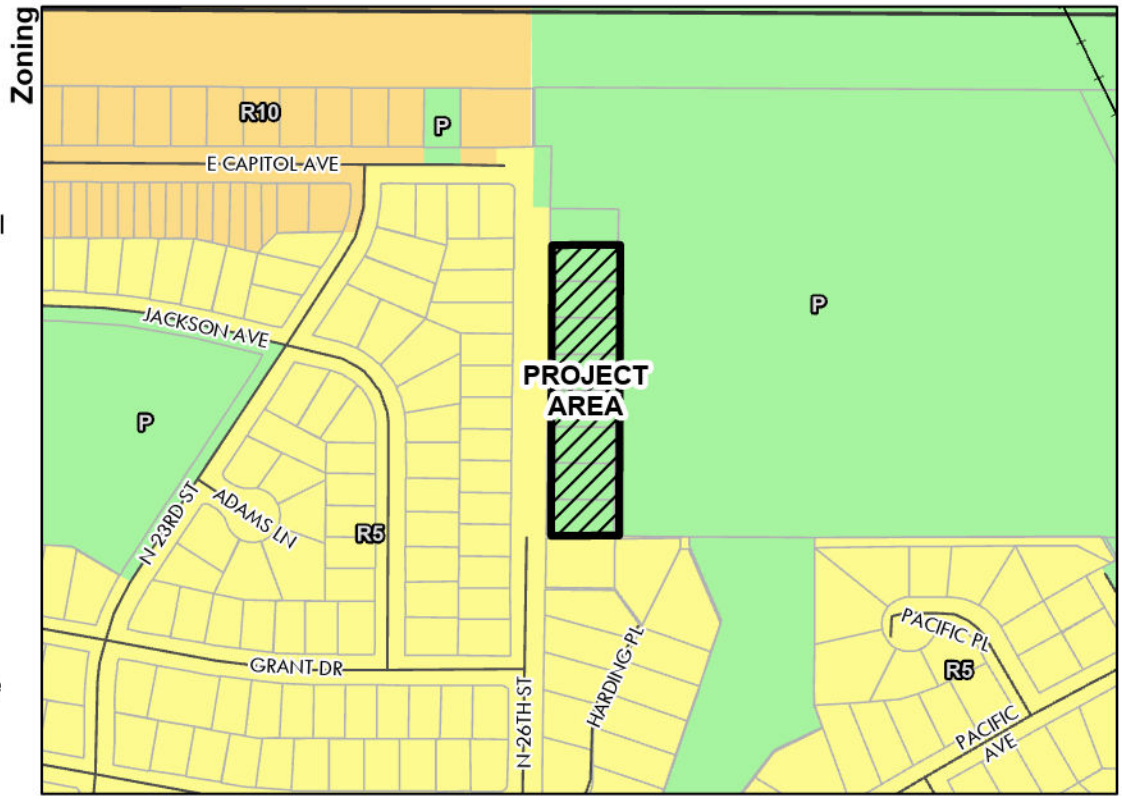
| | |
|---|---|
| **UN** | Urban Neighborhood |
| **NMU** | Neighborhood Mixed Use |
| **CMU** | Community Mixed Use |
| **DMU** | Destination Mixed Use |
| **DT** | Downtown |
| **IND** | Industrial |
| **IF** | Industrial Flex |
| **IMU** | Industrial Mixed Use |
| **INS** | Institutional |
| **RR** | Rural Residential |
| **TR** | Transitional Rural |
| **PKOS** | Parks/Open Space |
| | Urban Reserve |
| **URA/ URB** | Mid/Long-Term |

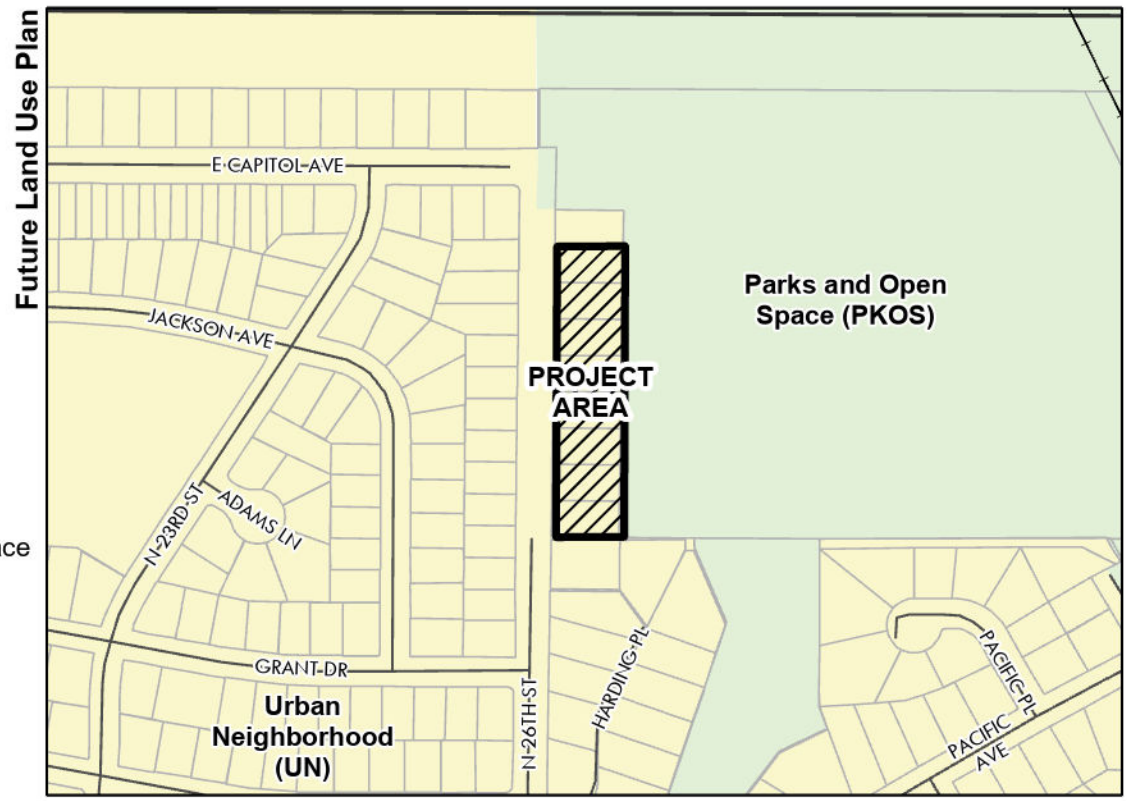
*Major Street Plan*

- Future Arterial
- Future Collector
- Future Interstate

*Active Mobility Plan*

- Future Shared Trail

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City of Bismarck
Community Development
Planning Division
January 19, 2023

# Proposed Zoning Change

HAY CREEK PARK ADDITION, LOTS 1-8, BLOCK 1

ZC2022-026

**Proposed New Zoning Map**

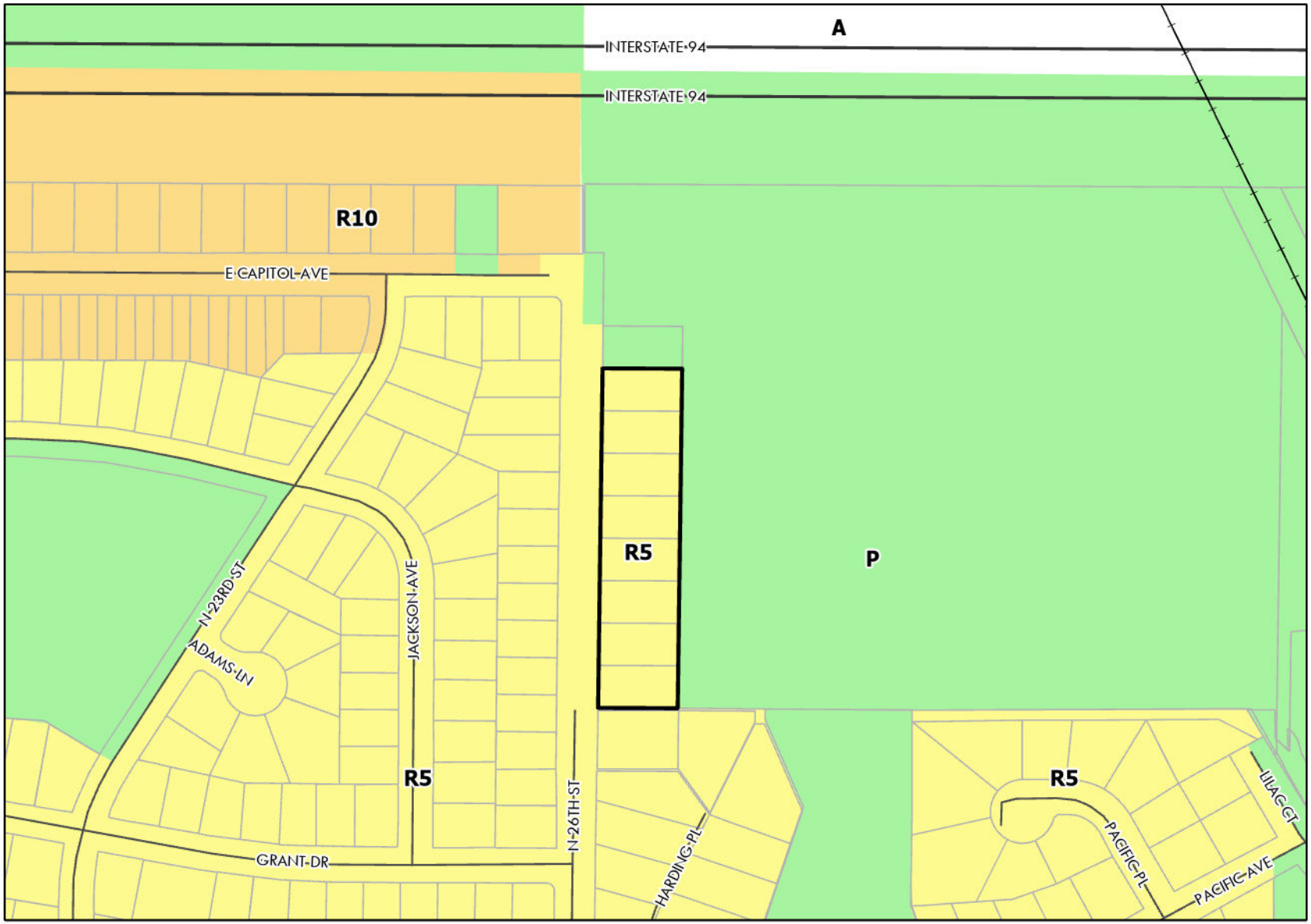
Project Area (zoning within is proposed)

City Limits

*Zoning Districts*

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

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




0 0.07 0.15 0.3 Miles

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City of Bismarck
Community Development
Planning Division
January 19, 2023

Bismarck COMMUNITY DEVELOPMENT

# STAFF REPORT

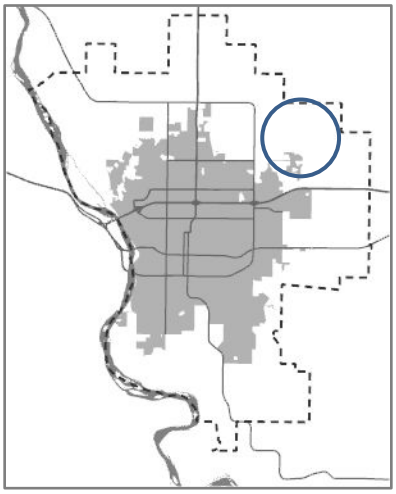
Agenda Item # 5
January 25, 2023

Application for: **Zoning Change**
**Preliminary Plat**

Project ID: **ZC2022-027**
**PPLT2022-017**

## Project Summary

| | |
|---|---|
| *Title:* | Tall Pines Subdivision |
| *Status:* | Planning & Zoning Commission – Consideration |
| *Owner(s):* | Eric and Melanie Wagner |
| *Project Contact:* | Andra Marquardt, RLS, Toman Engineering |
| *Location:* | Northeast of Bismarck, north of 43rd Avenue NE and east of 52nd Street on the north side of 57th Avenue NE (under construction) |
| *Project Size:* | 33.07 Acres |
| *Request:* | Plat a two-lot subdivision for development of a religious institution and one single-family residence |



## Site Information

| Existing Conditions | | Proposed Conditions | |
|---|---|---|---|
| *Number of Lots:* | 1 tract | *Number of Lots:* | 2 lots in 1 block |
| *Land Use:* | Agricultural | *Land Use:* | Rural residential and religious institution |
| *Future Land Use:* | Urban Neighborhood<br>Urban Reserve Mid-Term | *Future Land Use:* | Urban Neighborhood<br>Urban Reserve Mid-Term |
| *Zoning:* | A – Agricultural | *Zoning:* | RR5 – Residential<br>Conditional RR5 – Residential |
| *Uses Allowed:* | A – Agriculture | *Uses Allowed:* | RR5 – RR – Large lot single-family residential and limited agriculture<br>Conditional RR5 – Religious Institution and other special uses |
| *Max Density:* | RR – 1 unit per 65,000 square feet | *Max Density:* | RR – 1 unit per 65,000 square feet |

## Property History

| | | | | | |
|---|---|---|---|---|---|
| *Zoned:* | N/A | *Platted:* | N/A | *Annexed:* | N/A |

*(continued)*

**Staff Analysis**

Eric and Melanie Wagner are requesting approval of a zoning change from the A – Agricultural to the RR5 –Residential and Conditional RR5 – Residential zoning districts and a major subdivision preliminary plat for Tall Pines Subdivision.

The applicants intend to construct one single-family home on Lot 1 (west lot) and a religious institution, with potential future expansion for a school, on Lot 2 (east lot).

Adjacent uses include rural residences to the west and undeveloped agriculturally zoned land in all other directions.

The property would be accessed from 57th Avenue NE, which is currently under construction by Burleigh County. The applicant has requested a waiver from the Burleigh County Commission from the requirement to complete and pave all rights-of-way in the platted area. The outcome of this waiver request should be determined prior to the final plat.

*Conformance to Comprehensive Plan*

The Future Land Use Plan in Together 2045 designates the area within the proposed plat into two separate districts, roughly divided by a ridgeline. The southeastern portion is designated as Urban Neighborhood, which is within the Urban Service Area and expected to urbanize within the plan timeframe. The northwestern portion, which drains away from city limits, is designed as Urban Reserve Mid-Term.

Related to the Urban Neighborhood areas, Plan Objective G5(a) states:

> *"Preserve the ability of the City to expand its boundaries by strictly limiting rural development within the Urban Service Area of the Growth Phasing Plan, unless future urbanization is clearly feasible and agreed to by all parties."*

The applicant intends to construct a religious institution on this site prior to annexation, which will require a water holding tank and pumping system to aid with fire suppression because rural water does not provide sufficient pressures for fire protection for assembly uses. Rural development would also require a private septic tank. The applicant understands the City's expectation to annex the property and connect to city water and sewer systems in the future, once the city limits are contiguous to this property.

City staff is working with the applicant to determine future water and sewer servicing for this area and beyond and potential means for an annexation agreement.

No rural residences, either as a principle use on the lot or as a result of later subdivision, would be permitted within the conditional zoning district. A parsonage house on the property with the religious institutional use, and clearly ancillary in nature, would still be permitted. The applicant has noted potential future plans for a school on this site. A religious institution will require a special use permit prior to construction.

With this understanding and these conditions, staff believe that the proposed rural development on this lot would not inhibit the City's ability to grow in this direction.

Related to the Urban Reserve Mid-Term area, Plan Objective G5(c) states:

> *"Allow large-lot rural residential development with a minimum lot size of eight and a half acres in areas identified as Urban Reserve in the Growth Phasing Plan, with the expectation that lots would redevelop with urban services upon annexation"*

*(continued)*

Lot 1 is 12.11 acres in size, which is sufficient to naturally allow redevelopment into urban densities in the future when city services are available. Although about one-quarter of the lot area is within the Urban Service Area, the major is without. The property owner is encouraged to place the house on the lot outside of the Urban Service Area to allow the more accessible portion of the lot to the south to redevelop.

The Major Street Plan identifies the southern boundary of the plat as a future arterial and portions along the eastern boundary as a future collector. The north-south road is planned to begin further to the east but shift to the western boundary at some point to the north. Sufficient right-of-way is dedicated for half of both of these roadways. Because the alignment of the future collector has yet to be determined, any additional right-of way dedicated on this plat that will not be necessary for this roadway can be vacated at a later date.

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

*Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan of Together 2045;
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 been notified of 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 Major Street Plan;
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. A scoping sheet for a post-construction stormwater management permit (PCSMP) has been approved by the City Engineer;
5. The Gibbs Township Board of Supervisors has been notified of the proposed preliminary plat;
6. 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;
7. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year

*(continued)*

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;

8. 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.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends calling for a public hearing on a zoning change from the A – Agricultural to the RR5 –Residential and Conditional RR5 –Residential zoning districts and tentative approval for the preliminary plat for Tall Pines Subdivision, including granting of a waiver from the requirements related to ghost platting in the Urban Service Area Boundary, with the following condition:

1. Additional information pertaining to future annexation and provision of municipal utilities is provided prior to a public hearing on the final plat.

**Attachments**

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

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

# *CITY OF BISMARCK*
# *ORDINANCE NO. XXXX*

| | |
|---|---|
| *First Reading* | _____ |
| *Second Reading* | _____ |
| *Final Passage and Adoption* | _____ |
| *Publication Date* | _____ |

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.), 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 – Agricultural zoning district and included in the RR5 – Residential zoning district:

Lot 1, Block 1, Tall Pines Subdivision

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

The following described property shall be excluded from the A – Agricultural zoning district and included in the RR5 – Residential zoning district:

Lot 2, Block 1, Tall Pines Subdivision

This RR5 – Residential zoning district is subject to the following additional standards:

1. No residential uses are permitted prior to annexation into the City of Bismarck, unless clearly ancillary and sharing a parcel with the principal use.

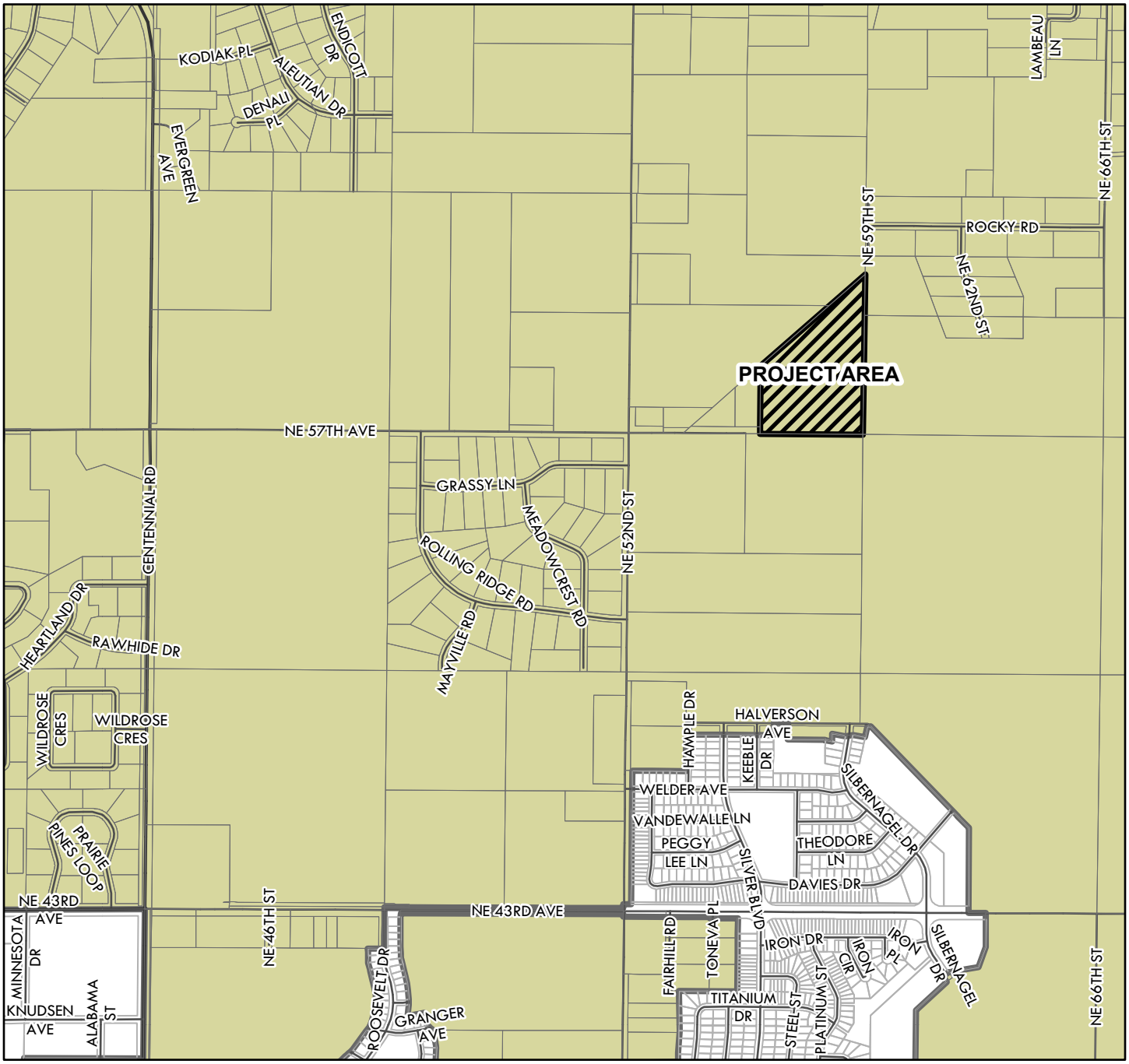
Section 3. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

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

# Location Map

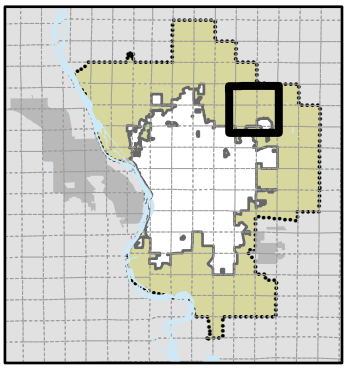
Tall Pines Subdivision

PPLT2022-017
ZC2022-027




0 0.38 0.75 1.5 Miles

N



City Limits

Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*

City of Bismarck
Community Development Department
Planning Division
January 3, 2023 (SF)

*This map is for representational use only and is not a survey. No liability is assume as to accuracy of the data shown hereon.*

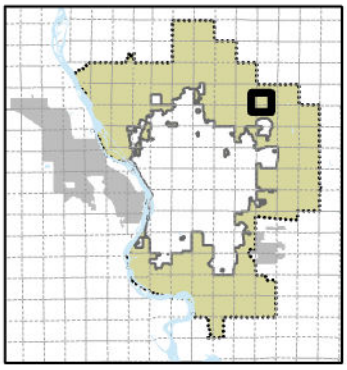
# Aerial Map

TALL PINES SUBDIVISION

PPLT2022-017
ZC2022-027

0 0.15 0.3 0.6 Miles

Bismarck ETA Jurisdiction



City of Bismarck
Community Development
Planning Division
January 17, 2023

Aerial Imagery from April 2020

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# Zoning and Plan Reference Map

TALL PINES SUBDIVISION

PPLT2022-017
ZC2022-027

*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*

| | |
|---|---|
| **UN** | Urban Neighborhood |
| **NMU** | Neighborhood Mixed Use |
| **CMU** | Community Mixed Use |
| **DMU** | Destination Mixed Use |
| **DT** | Downtown |
| **IND** | Industrial |
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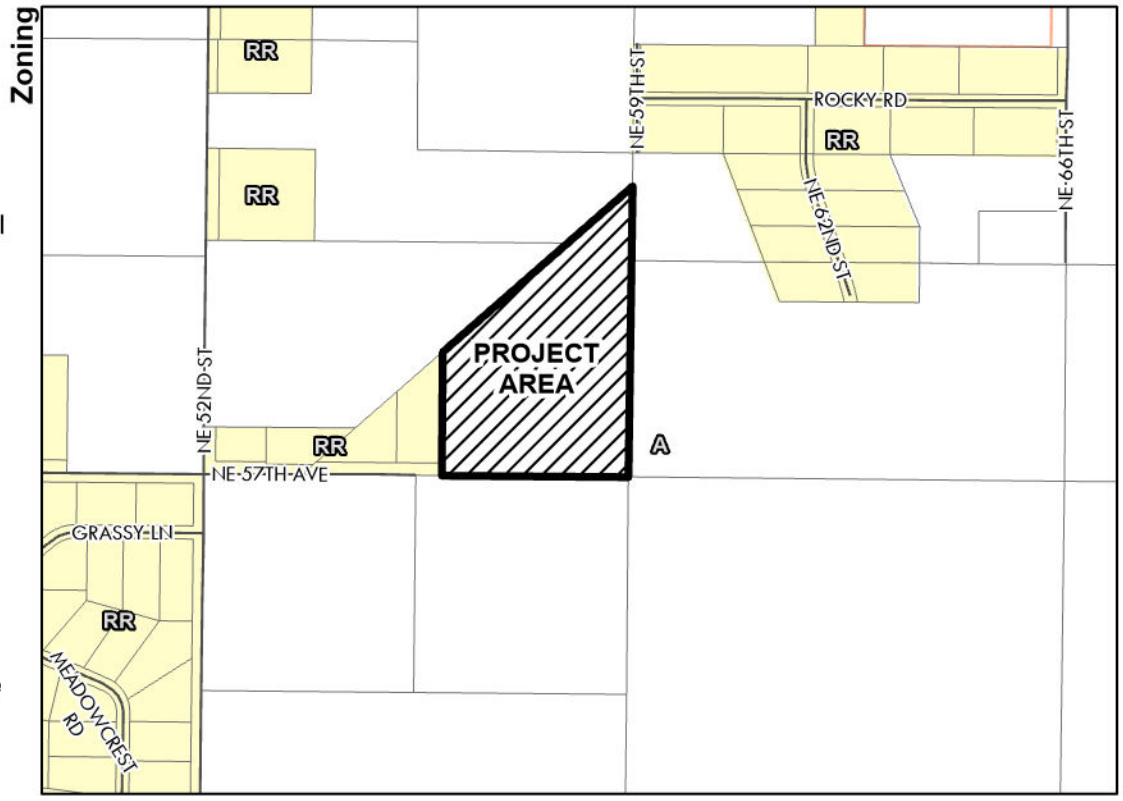
| **INS** | Institutional |
| **RR** | Rural Residential |
| **TR** | Transitional Rural |
| **PKOS** | Parks/Open Space |
| **URA** | Urban Reserve Mid/Long-Term |
| **URB** | |

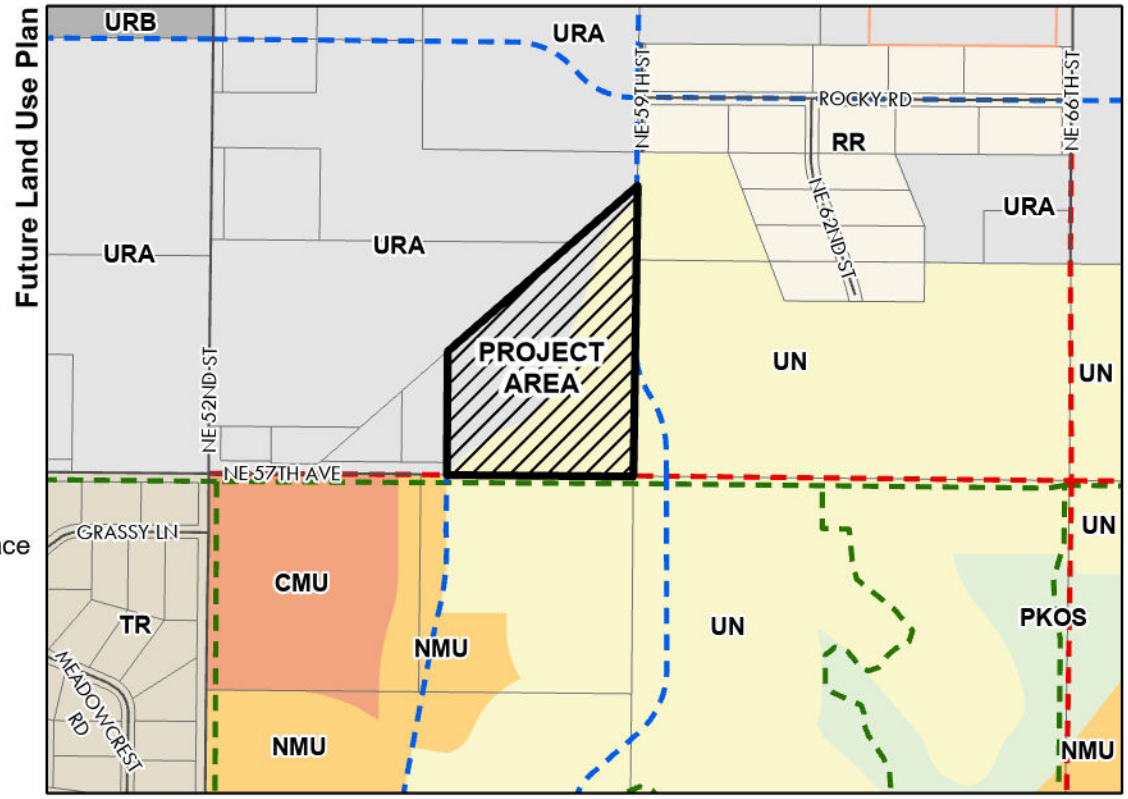
*Major Street Plan*

- Future Arterial
- Future Collector
- Future Interstate

*Active Mobility Plan*

- Future Shared Trail

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0 500 1,000 2,000 Feet

City of Bismarck
Community Development
Planning Division
January 17, 2023

# Proposed Zoning Change

TALL PINES SUBDIVISION

PPLT2022-017
ZC2022-027

**Proposed New Zoning Map**

Project Area (zoning within is proposed)

City Limits

*Zoning Districts*

| | |
|---|---|
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| **MA** | Industrial |
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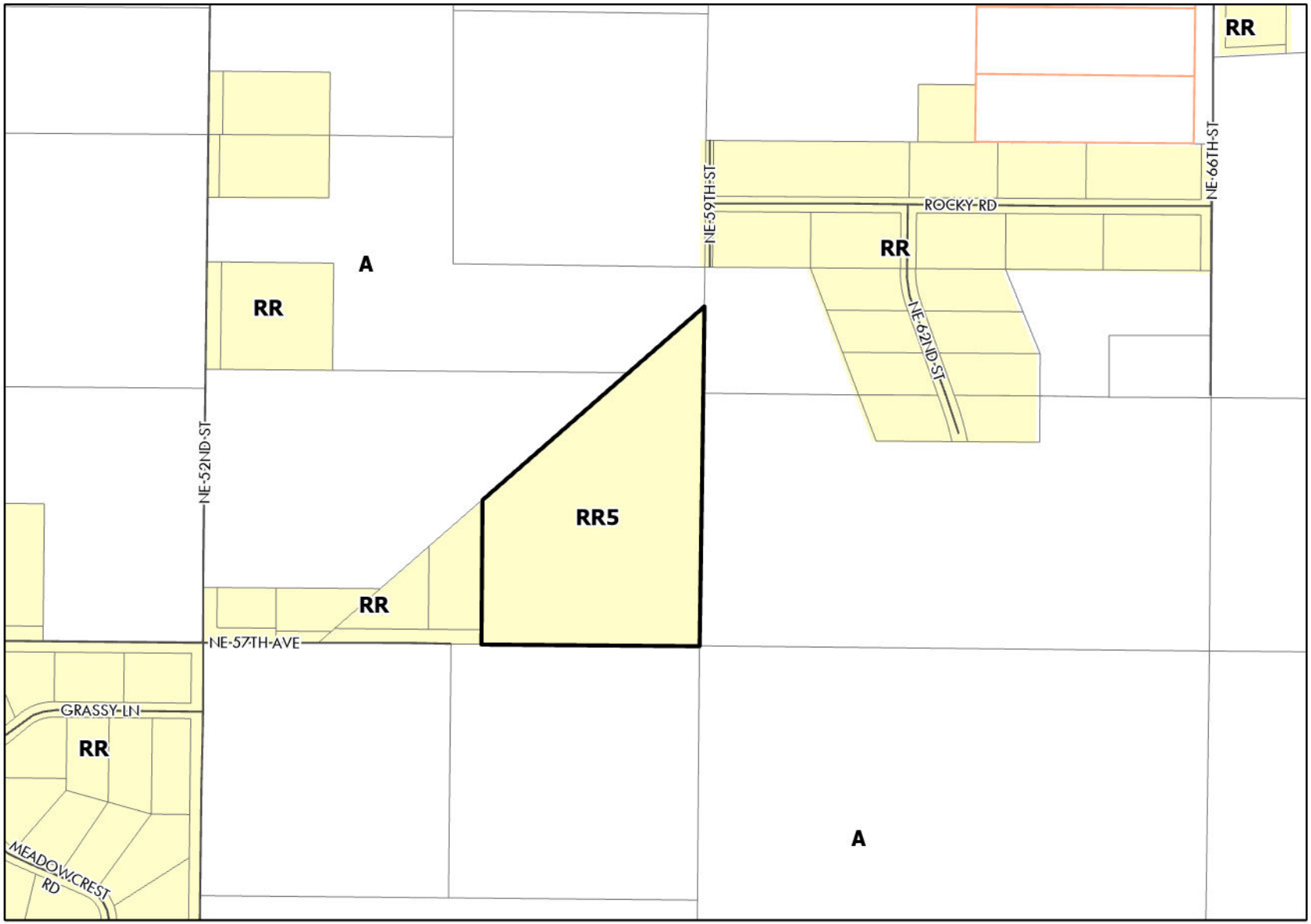
*A "C-" prior to the district indicates that special conditions would apply to the zoning district*




0 0.28 0.55 1.1 Miles

City of Bismarck
Community Development
Planning Division
January 17, 2023

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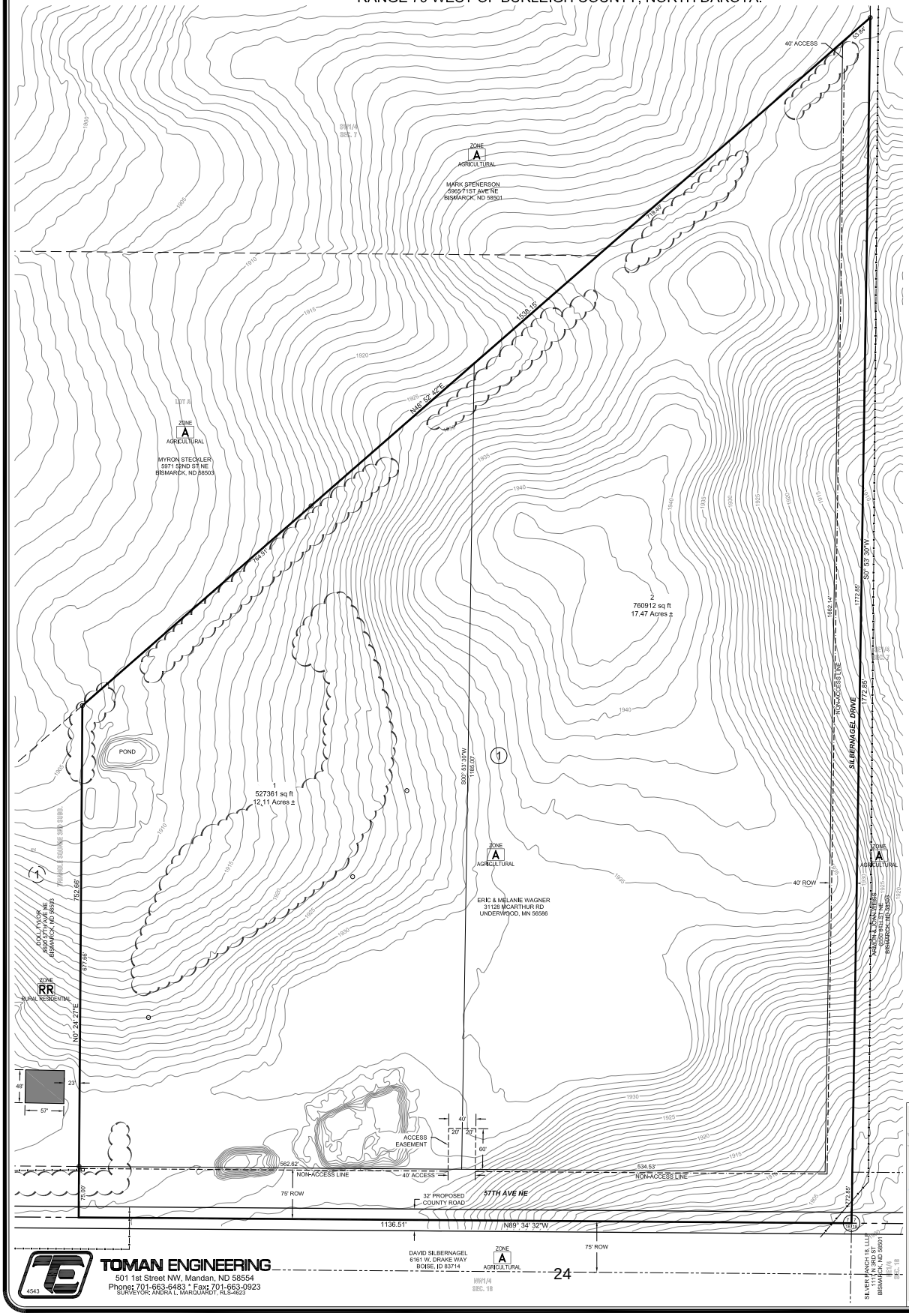
PRELIMINARY PLAT OF

# TALL PINES SUBDIVISION

OF BURLEIGH COUNTY, NORTH DAKOTA

ALL OF AUDITOR'S LOT B OF THE SW1/4 OF SECTION 7, TOWNSHIP 139 NORTH, RANGE 79 WEST OF BURLEIGH COUNTY, NORTH DAKOTA.




N

W E

S

**DECEMBER, 2022**

60 0 60 120

Scale 1" = 60 ft.

VERT. DATUM: NAVD88

HORIZ. DATUM: 1983 ST. PLANE, ND SOUTH (3302)

LEGEND

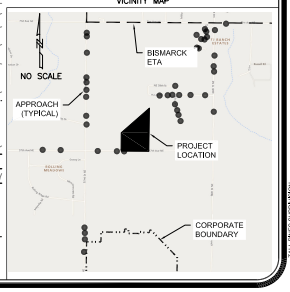
- FOUND REBAR MONUMENT
- ELECTRICAL BOX
- UNDERGROUND ELECTRIC
- GAS LINE
- RURAL WATER
- EXISTING BUILDING
- EXISTING TREE ROW

OWNERS:
ERIC & MELANIE WAGNER
31128 MCARTHUR RD
UNDERWOOD, MN 56586

BASIS OF BEARING:
BASIS OF BEARING: SOUTH BOUNDARY LINE
NORTH 89° 34' 32" WEST.

NOTES:
1. BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS DOCUMENTS OF RECORD DUE TO DIFFERENT METHODS OF FIELD MEASUREMENT.
2. CONTOURS TAKEN FROM BISMARCK-MANDAN MPO LIDAR DATA COMPILED ON APRIL, 2020.
3. TOTAL LOT ACREAGE: 29.58
TOTAL ROAD ACREAGE: 3.49
TOTAL ACREAGE: 33.07

VICINITY MAP





TOMAN ENGINEERING
501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923
SURVEYOR: ANDRA L. MARQUARDT, RLS-4623
4543




TALL PINES SUBDIVISION

# STAFF REPORT

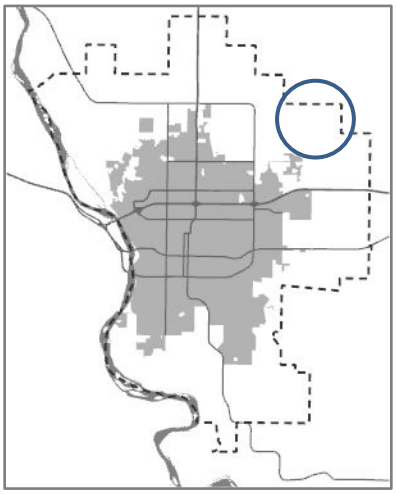
Agenda Item # 6
January 25, 2023

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

Project ID: **FPLT2022-015**
**ZC2022-019**

## Project Summary

| | |
|---|---|
| *Title:* | TNK Ranch Subdivision |
| *Status:* | Planning & Zoning Commission – Continued Public Hearing |
| *Owner(s):* | Thomas and Kim Fettig |
| *Project Contact:* | Tom Weigel, PE, RLS, Moore Engineering |
| *Location:* | Northeast of Bismarck, north of 57th Avenue NE and east of 66th Street NE on the west side of TJ Lane (6504 TJ Lane) |
| *Project Size:* | 2.14 Acres |
| *Request:* | Plat and rezone land to separate home site from surrounding agricultural land |



## Site Information

| Existing Conditions | | Proposed Conditions | |
|---|---|---|---|
| *Number of Lots:* | Part of 1 tract | *Number of Lots:* | 1 lot in 1 block |
| *Land Use:* | Large Lot Rural Residential | *Land Use:* | Large Lot Rural Residential |
| *Future Land Use:* | Medium Density Residential | *Future Land Use:* | Medium Density Residential |
| *Zoning:* | A – Agricultural | *Zoning:* | RR – Residential |
| *Uses Allowed:* | A – Agriculture | *Uses Allowed:* | RR – Large lot single-family residential and limited agriculture |
| *Max Density:* | A – 1 unit / 40 acres | *Max Density:* | RR – 1 unit per 65,000 square feet |

## Property History

| | | | | | |
|---|---|---|---|---|---|
| *Zoned:* | N/A | *Platted:* | N/A | *Annexed:* | N/A |

*(continued)*

## Staff Analysis

Thomas and Kim Fettig are requesting approval of a zoning change from the A – Agricultural zoning district to the RR – Residential zoning district and a major subdivision final plat for TNK Ranch Subdivision.

*Continuation of Hearing*

The Planning and Zoning Commission held a public hearing on the is request during their December 21, 2022 regular meeting and continued that public hearing until their next-regularly scheduled meeting. The stated reason for the continuation was to allow time to provide more information regarding an access easement outside of the platted area that was depicted on the plat.

The licensed surveyor who drafted the proposed plat for TNK Ranch Subdivision has provided additional information to justify his decision to depict the access easement as shown. This letter and supporting documentation is attached to this staff report.

Neither city staff nor the surveyor for the applicant have been contacted by any licensed surveyors in dispute of the proposed plat for TNK Ranch Subdivision. City staff have not reviewed any documentation that contradicts the interpretation of the licensed surveyor.

With adoption of Together 2045 Bismarck's Comprehensive Plan, this property is no longer with the Urban Service Area Boundary of Bismarck, and thus is no longer subject to requirements to show future urbanization designs. Therefore, the request for a waiver is no longer needed.

*Background Information*

The Planning and Zoning Commission considered this request at their meeting of November 16, 2022, tentatively approved the preliminary plat, and called for a public hearing on the zoning change.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on December 9 and December 16, and 24 letters were mailed to the owners of nearby properties on December 9, 2022.

Adjacent uses include single-family rural residential to the east and agricultural lands to the south, west, and north.

The platted area within TNK Ranch includes an existing residence, one existing accessory building, and a connection to the public right-of-way of TJ Lane. No additional development is anticipated at this time. The remainder of the parcel will remain unplatted agricultural land. This action would grant the right to build one additional single-family residence on this agricultural parcel, because it exceeds the required 40 acres in size to develop within the A – Agricultural zoning district.

*Conformance with Plans*

The Future Land Use Plan of Together 2045 identifies this area as Rural Residential. The proposed zoning change conforms to this designation.

Sufficient access to the public right-of-way of TJ Lane is available. The platted access strip to TJ Lane does not align with the existing driveway and does not meet the required 20-foot width for all developable parcels. However, there is an existing 66-foot wide public roadway easement to which the applicant has access rights that meets ordinance requirements.

*(continued)*

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

*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 Major Street Plan.
4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) with written concurrence from the County Engineer;
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts;
6. Gibbs Township Board of Supervisors has been notified of the proposed final plat and recommended denial;
7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision 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, 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 been notified of the proposed final plat and recommended denial;
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.

*(continued)*

### Staff Recommendation

Based on the above findings, staff recommends approval of a zoning change from the A – Agricultural zoning district to the RR – Residential zoning district and approval of the major subdivision final plat for TNK Ranch Subdivision.

### Attachments

1. Proposed Zoning Ordinance
2. Location Map
3. Aerial Map
4. Zoning and Plan Reference Map
5. Proposed Zoning Map
6. Final Plat
7. Preliminary Plat
8. Gibbs Township Resolution
9. Letter from Tom Weigel with Attachments

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

# *CITY OF BISMARCK*
# *ORDINANCE NO. XXXX*

| | |
|---|---|
| *First Reading* | _____ |
| *Second Reading* | _____ |
| *Final Passage and Adoption* | _____ |
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AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.), AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

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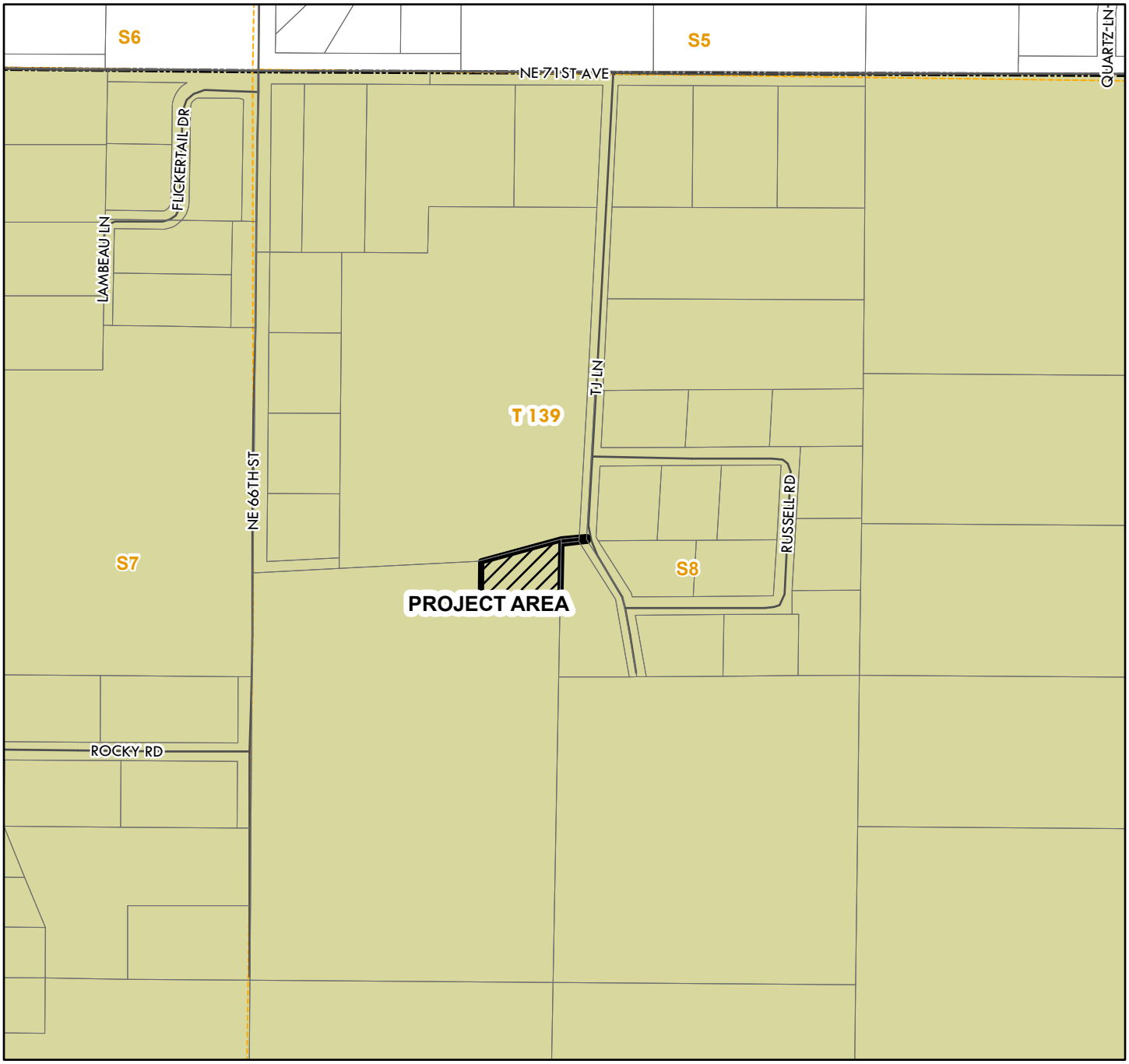
Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

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

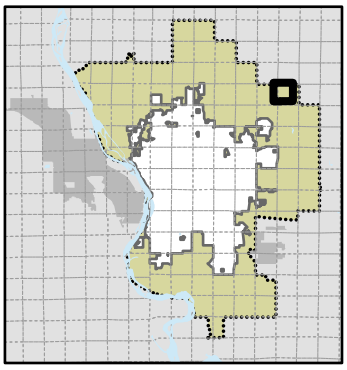
# Location Map

TNK RANCH SUBDIVISION

PPLT2022-013
ZC2022-019




0 0.13 0.25 0.5 Miles



Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*

City of Bismarck
Community Development Department
Planning Division
October 3, 2022 (SF)

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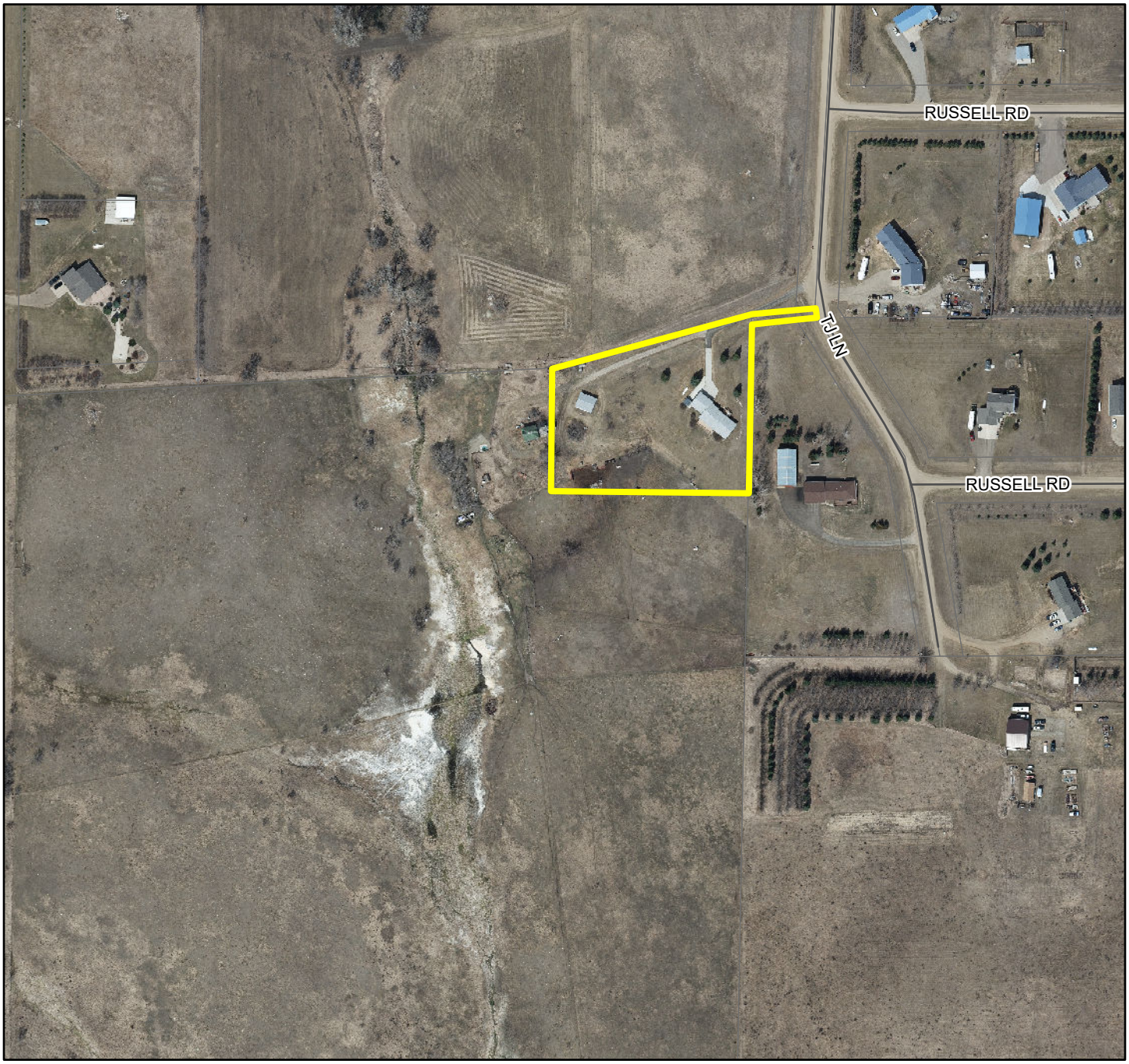
# Aerial Map

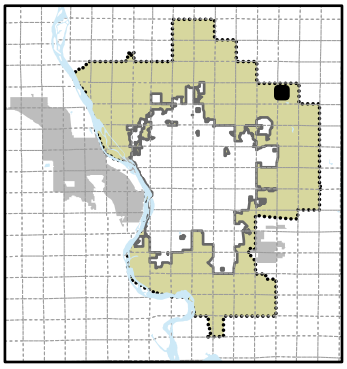
TNK RANCH SUBDIVISION

PPLT2022-013
ZC2022-019




0 0.05 0.1 0.2 Miles

Bismarck ETA Jurisdiction



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

Aerial Imagery from April 2020

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# Zoning and Plan Reference Map

TNK RANCH SUBDIVISION

PPLT2022-013

*Zoning Districts*

| | |
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| **A** | Agriculture |
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| **R10** | Residential |
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- Future Collector
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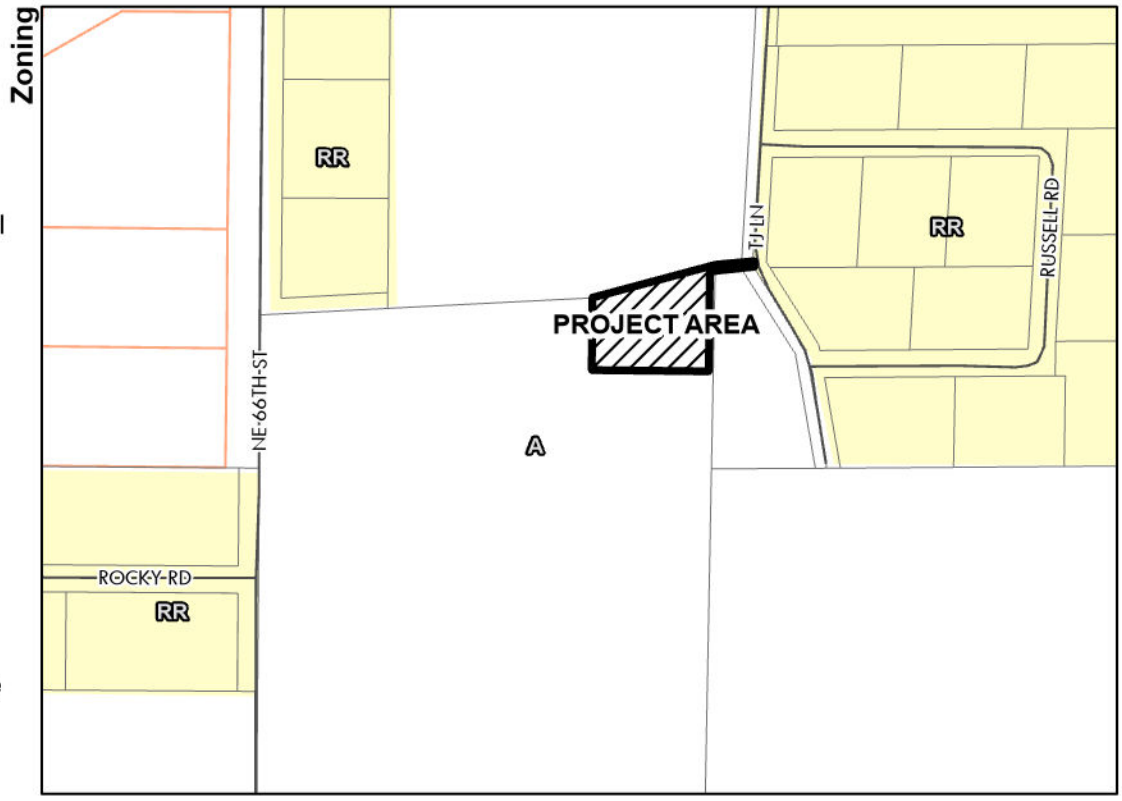


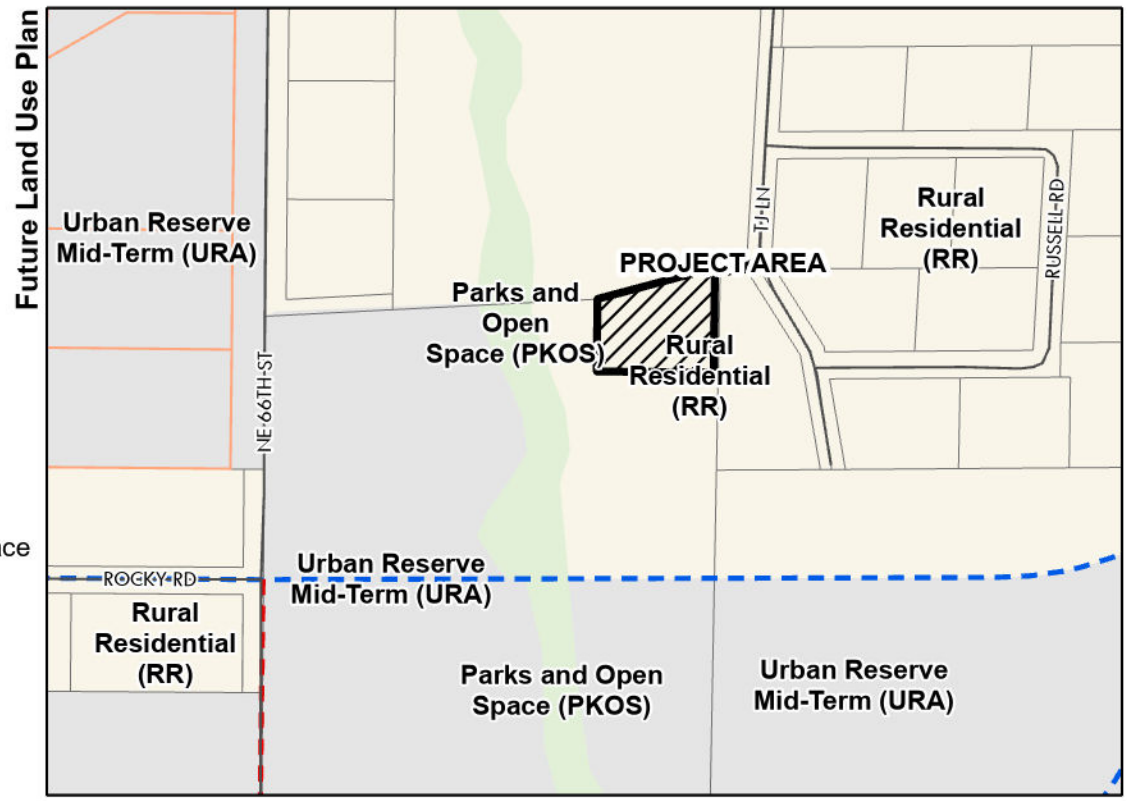


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0 412.5 825 1,650 Feet

City of Bismarck
Community Development
Planning Division
January 18, 2023

# Proposed Zoning Change

TNK RANCH SUBDIVISION

ZC2022-019

**Proposed New Zoning Map**

Project Area (zoning within is proposed)

City Limits

*Zoning Districts*

| | |
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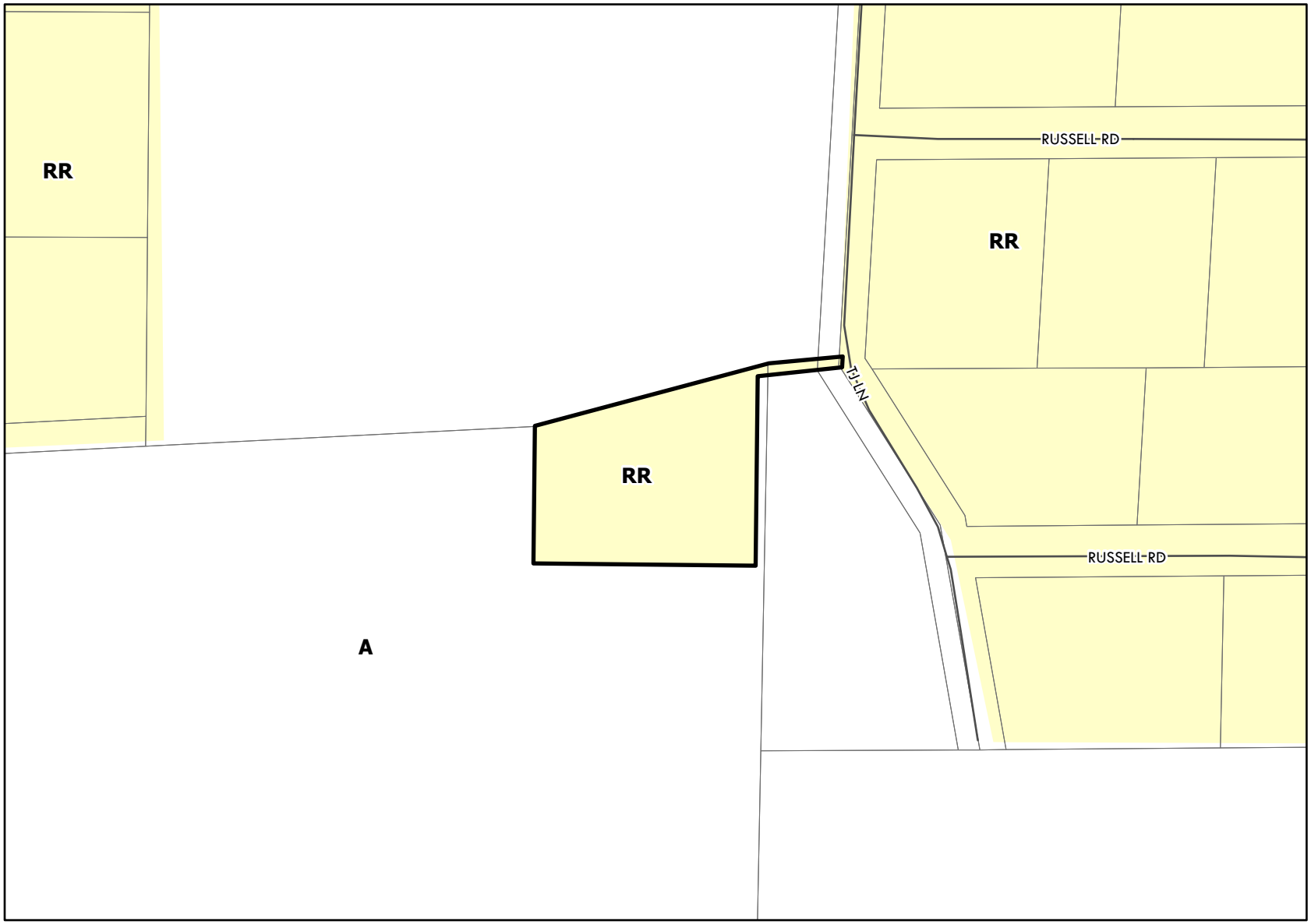


0 0.07 0.15 0.3 Miles

City of Bismarck
Community Development Dept.
Planning Division
October 19, 2022

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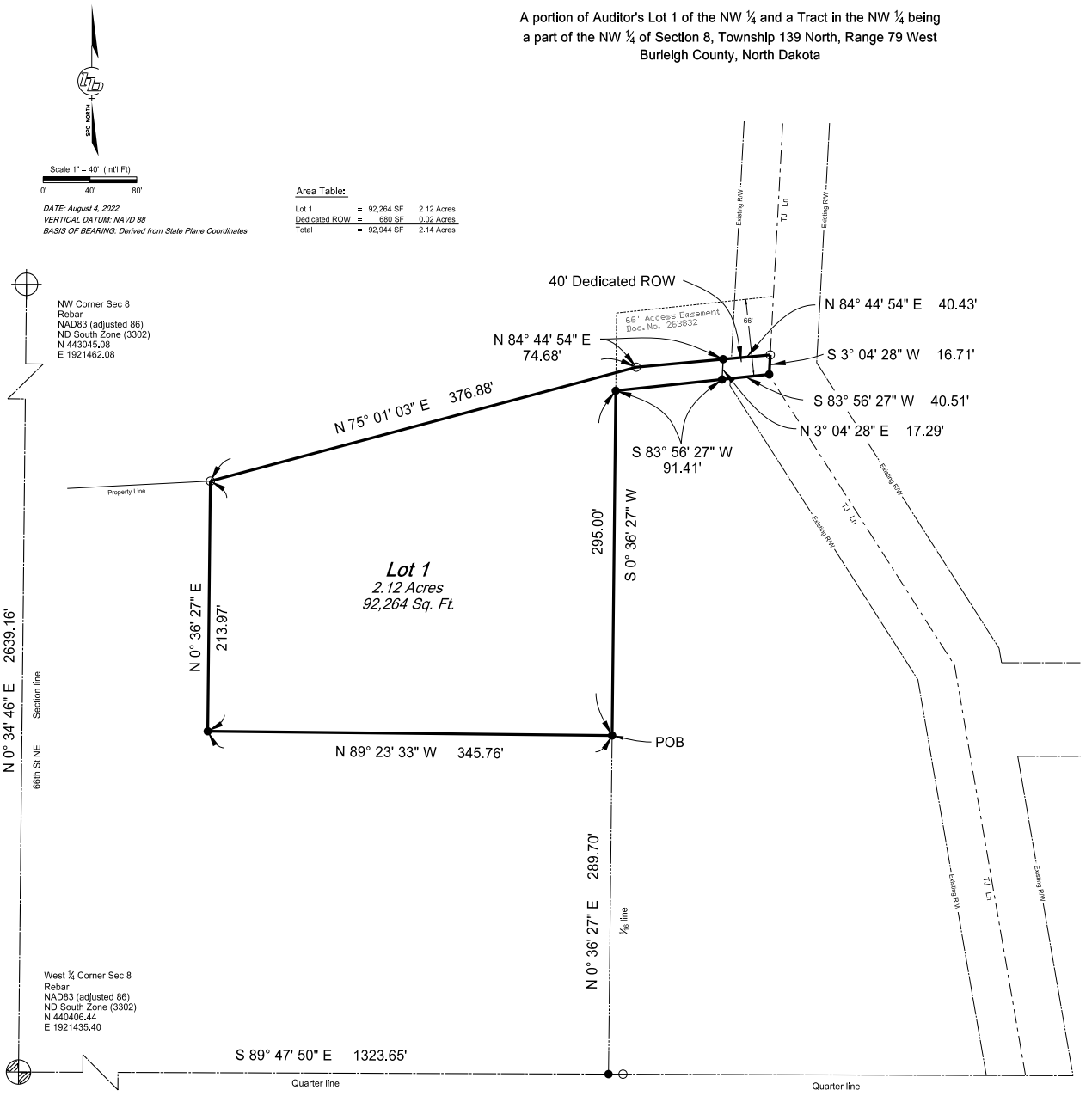
# TNK Ranch Subdivision

A portion of Auditor's Lot 1 of the NW ¼ and a Tract in the NW ¼ being a part of the NW ¼ of Section 8, Township 139 North, Range 79 West
Burleigh County, North Dakota




## BOUNDARY DESCRIPTION

A PORTION OF AUDITOR'S LOT 1 OF THE NW ¼ AND A TRACT IN THE NW ¼ BEING A PART OF THE NW ¼ OF SECTION 8, TOWNSHIP 139 NORTH, RANGE 79 WEST BURLEIGH COUNTY, NORTH DAKOTA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 8, THENCE S 89 DEG. 47 MIN. 50 SEC. E A DISTANCE OF 1323.65 FEET TO THE SOUTHEAST CORNER OF THE SW¼ OF THE NW¼ OF SAID SECTION 8; THENCE N 0 DEG. 36 MIN. 27 SEC. E ALONG THE EAST BOUNDARY LINE OF THE SW¼ OF THE NW¼ OF SAID SECTION 8 A DISTANCE OF 289.70 FEET TO THE POINT OF BEGINNING; THENCE N 89 DEG. 23 MIN. 33 SEC. W A DISTANCE OF 345.76 FEET; THENCE N 0 DEG. 36 MIN. 27 SEC. E A DISTANCE OF 213.97 FEET TO THE NORTH BOUNDARY LINE OF AUDITOR'S LOT 1 OF SECTION 8; THENCE N 75 DEG. 01 MIN. 03 SEC. E ALONG THE NORTH BOUNDARY LINE OF SAID AUDITOR'S LOT 1 OF SECTION 8 A DISTANCE OF 376.88 FEET; THENCE N 84 DEG. 44 MIN. 54 SEC. E A DISTANCE OF 115.11 FEET; THENCE S 3 DEG. 04 MIN. 28 SEC. W A DISTANCE OF 16.71 FEET; THENCE S 83 DEG. 56 MIN. 27 SEC. W A DISTANCE OF 131.93 FEET TO THE EAST BOUNDARY LINE OF THE SW¼ OF THE NW¼ OF SAID SECTION 8; THENCE S 0 DEG. 36 MIN. 27 SEC. W ALONG THE EAST BOUNDARY LINE OF THE SW¼ OF THE NW¼ OF SAID SECTION 8 A DISTANCE OF 295.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 2.14 ACRES, MORE OR LESS.

END OF DESCRIPTION.

THE LEGAL DESCRIPTION WAS PREPARED BY THOMAS D. WEIGEL, HOLLY BECK SURVEYING & ENGINEERING, INC., 3320 HAMILTON ST. UNIT 3, BISMARCK, ND 58503

## SURVEYOR'S CERTIFICATE

I, THOMAS D. WEIGEL, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT I MADE THE WITHIN AND FOREGOING PLAT WHICH IS A CORRECT REPRESENTATION OF THE SURVEY PREPARED UNDER MY DIRECT SUPERVISION AND COMPLETED ON AUGUST 4, 2022, THAT ALL DISTANCES ARE CORRECT, THAT THE OUTSIDE BOUNDARY LINES ARE CORRECTLY DESIGNATED HEREON, THAT ALL DIMENSIONAL AND GEODETIC DETAILS SHOWN HEREON ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT ALL REQUIRED MONUMENTS ARE PLACED IN THE GROUND AS SHOWN.

This document is preliminary and not for recording or implementation purposes.

THOMAS D. WEIGEL
PROFESSIONAL LAND SURVEYOR
ND REGISTRATION NO. LS-10871

## APPROVAL OF CITY PLANNING & ZONING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT HAS BEEN APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK, NORTH DAKOTA, ON THE _____ DAY OF _____, 20___, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA AND ORDINANCES OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ CHAIR

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 THIS PLAT, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS ACCEPTED THE DEDICATION OF ALL RIGHTS OF WAY AND PUBLIC EASEMENTS SHOWN THEREON, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THIS PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS APPROVED THE ____ DAY OF _____, 20___.

ATTEST
KEITH J. HUNKE, CITY ADMINISTRATOR

## APPROVAL OF BOARD OF COUNTY COMMISSIONERS

THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF BURLEIGH COUNTY, NORTH DAKOTA, HAS ACCEPTED THE DEDICATION OF ALL RIGHTS OF WAY AND PUBLIC EASEMENTS SHOWN THEREON, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THIS PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS APPROVED THE ____ DAY OF _____, 20___.

_____, CHAIR

ATTEST
LEO VETTER, COUNTY AUDITOR/TREASURER

## APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE THIS PLAT THIS _____ DAY OF _____, 20___.

GABRIEL J. SCHELL CITY ENGINEER

## OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THOMAS L FETTIG AND KIM R FETTIG, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "TNK RANCH SUBDIVISION", BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE ALL RIGHT OF WAY AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THOMAS L FETTIG

KIM R FETTIG

STATE OF NORTH DAKOTA )
COUNTY OF _____ )) SS

ON THIS _____ DAY OF _____, ____, PERSONALLY APPEARED BEFORE ME, THOMAS L FETTIG AND KIM R FETTIG, KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____

This document is preliminary and not for recording or implementation purposes.

## SURVEY NOTES

EXISTING ZONING: ETA - (A) Agricultural
PROPOSED ZONING: ETA - (RR) Rural Single Family Residential

○ FOUND MONUMENT
● SET No. 5 REBAR W/ALUM CAP

HOLLYBECK SURVEYING ■ ENGINEERING, INC

**FINAL PENDING**

PLAT IS SUBJECT TO ALL PRIOR EASEMENTS OF RECORD

Owners:
Thomas L & Kim R Fettig
6504 TJ Lane
Bismarck, ND 58503

Surveyor:
Thomas D. Weigel, LS-10871
Holly Beck Surveying & Engineering, Inc.
3320 Hamilton St. Unit 3
Bismarck, ND 58503

DATE ISSUED: 12/9/22

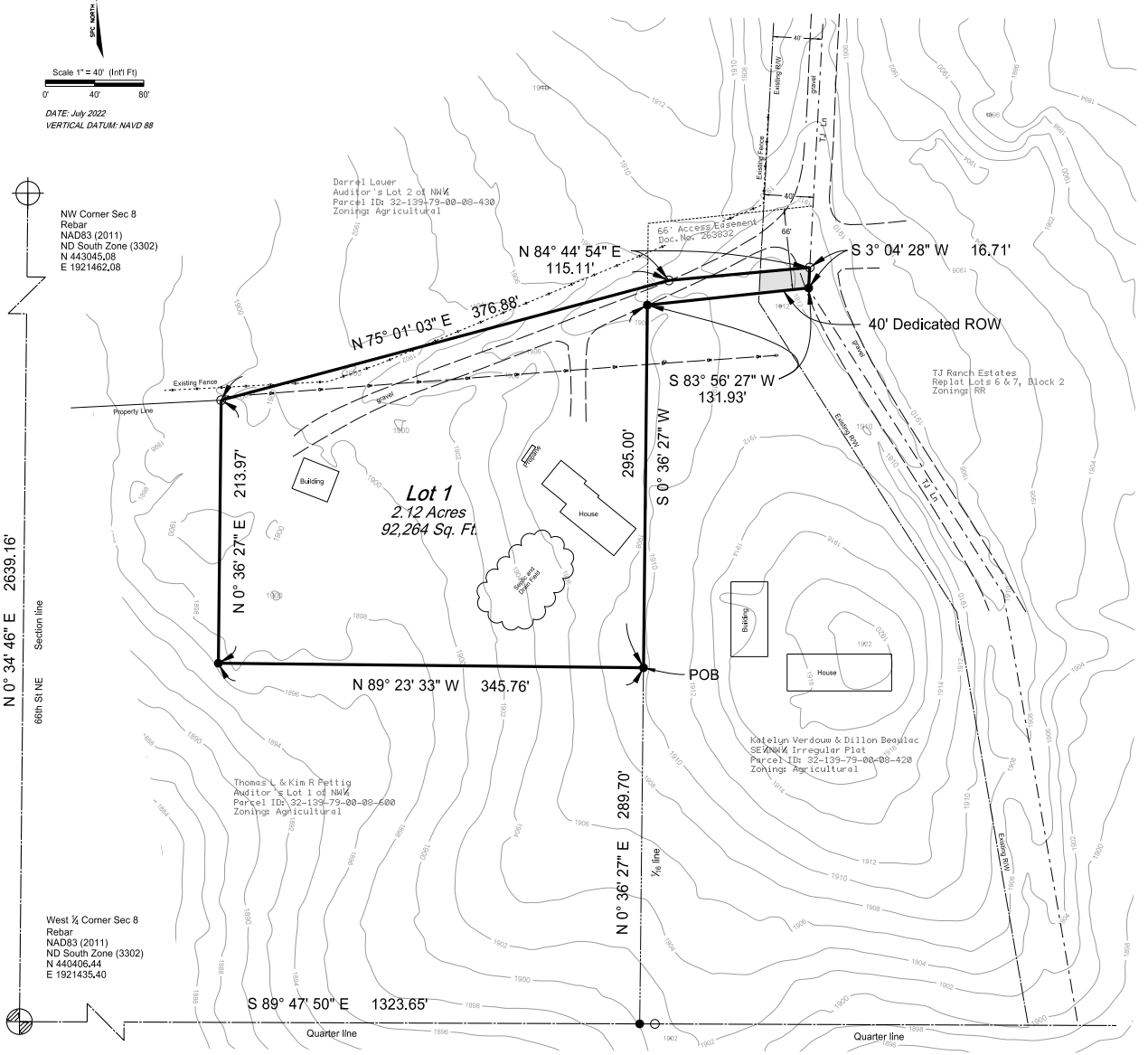
# TNK Ranch Subdivision

A portion of Auditor's Lot 1 of the NW ¼ and a Tract in the NW ¼ being a part of the NW ¼ of Section 8, Township 139 North, Range 79 West
Burleigh County, North Dakota

SPC NORTH

Scale 1" = 40' (Int'l Ft)
0' 40' 80'

DATE: July 2022
VERTICAL DATUM: NAVD 88




## VICINITY MAP

## BOUNDARY DESCRIPTION

A PORTION OF AUDITOR'S LOT 1 OF THE NW ¼ AND A TRACT IN THE NW ¼ BEING A PART OF THE NW ¼ OF SECTION 8, TOWNSHIP 139 NORTH, RANGE 79 WEST BURLEIGH COUNTY, NORTH DAKOTA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 8, THENCE S 89 DEG. 47 MIN. 50 SEC. E A DISTANCE OF 1323.65 FEET TO THE SOUTHEAST CORNER OF THE SW¼ OF THE NW¼ OF SAID SECTION 8; THENCE N 0 DEG. 36 MIN. 27 SEC. E ALONG THE EAST BOUNDARY LINE OF THE SW¼ OF THE NW¼ OF SAID SECTION 8 A DISTANCE OF 289.70 FEET TO THE POINT OF BEGINNING; THENCE N 89 DEG. 23 MIN. 33 SEC. W A DISTANCE OF 345.76 FEET; THENCE N 0 DEG. 36 MIN. 27 SEC. E A DISTANCE OF 213.97 FEET TO THE NORTH BOUNDARY LINE OF AUDITOR'S LOT 1 OF SECTION 8; THENCE N 75 DEG. 01 MIN. 03 SEC. E ALONG THE NORTH BOUNDARY LINE OF SAID AUDITOR'S LOT 1 OF SECTION 8 A DISTANCE OF 376.88 FEET; THENCE N 84 DEG. 44 MIN. 54 SEC. E A DISTANCE OF 115.11 FEET; THENCE S 3 DEG. 04 MIN. 28 SEC. W A DISTANCE OF 16.71 FEET; THENCE S 83 DEG. 56 MIN. 27 SEC. W A DISTANCE OF 131.93 FEET TO THE EAST BOUNDARY LINE OF THE SW¼ OF THE NW¼ OF SAID SECTION 8; THENCE S 0 DEG. 36 MIN. 27 SEC. W ALONG THE EAST BOUNDARY LINE OF THE SW¼ OF THE NW¼ OF SAID SECTION 8 A DISTANCE OF 295.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 2.13 ACRES, MORE OR LESS.

END OF DESCRIPTION.

THE LEGAL DESCRIPTION WAS PREPARED BY THOMAS D. WEIGEL, HOLLY BECK SURVEYING & ENGINEERING, INC., 3320 HAMILTON ST, UNIT 3, BISMARCK, ND 58503

## SURVEY NOTES

*EXISTING ZONING: ETA - (A) Agricultural*
*PROPOSED ZONING: ETA - (RR) Rural Single Family Residential*

*Existing ground contours are derived from 2017 Aerial LIDAR Survey published by NRCS, USACOE, and NDSWC*

○ *FOUND MONUMENT*
● *SET No. 5 REBAR w/ALUM CAP*

Area Table:

| | | | |
|---|---|---|---|
| Lot 1 | = | 92,264 SF | 2.12 Acres |
| Dedicated ROW | = | 680 SF | 0.02 Acres |
| Total | = | 92,944 SF | 2.14 Acres |

Owner:
Tom & Klm Fettlg
6504 TJ Lane
Bismarck, ND 58503

Surveyor:
Thomas D. Weigel, LS-10871
Holly Beck Surveying & Engineering, Inc.
3320 Hamilton St. Unit 3
Bismarck, ND 58503

This document is preliminary and not for recording or implementation purposes.

HOLLYBECK SURVEYING ■ ENGINEERING, INC

## PRELIMINARY PLAT

*PLAT IS SUBJECT TO ALL PRIOR EASEMENTS OF RECORD*



*DATE ISSUED: 9/14/22*

# RESOLUTION

WE, THE BOARD OF TOWNSHIP SUPERVISORS OF GIBBS TOWNSHIP, BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE PROPOSED PLAT AND ZONING CHANGE FROM THE A – AGRICULTURE ZONING DISTRICT TO THE RR – RESIDENTIAL ZONING DISTRICT FOR TNK RANCH SUBDIVISION AND HEREBY RECOMMEND TO THE BOARD OF CITY COMMISSIONERS THAT SAID PLAT AND ZONING CHANGE BE (APPROVED) (DENIED). WE FURTHER RECOMMEND ACCEPTANCE OF THE RIGHTS-OF-WAY SHOWN ON SAID PLAT BY THE BURLEIGH COUNTY BOARD OF COUNTY COMMISSIONERS ON OUR BEHALF.

(PLEASE ATTACH CONDITIONS, IF ANY, TO THE BOARD'S ACTION.)

IF THE TOWNSHIP IS RECOMMENDING DENIAL, PLEASE LIST THE REASONS:

There is still a Landowner dispute over the Driveway Right-of-Way

CHAIRMAN, TOWNSHIP BOARD

ATTEST: TOWNSHIP CLERK

12/22/22

Daniel,

I did not have an opportunity to respond to “survey issues” that were raised during the last meeting, so I’m providing some additional information related to the access easement depicted on the proposed final plat for TNK Ranch Subdivision. I have not been contacted by any other surveyors regarding this property and I would be happy to discuss this survey with any of your staff or commissioners that might have a concern. I’ve attached an updated drawing of the subdivision plat with additional historic information referenced (highlighted in blue) which I hope can help explain why the dimensions shown on the current subdivision plat are different than the record dimensions.

If I’m understanding the question on the 1974 (Doc. 263832) easement correctly, there is some confusion on the call “…, a distance of Seventy-five and Three Tenths Feet (75.3’), more or less, to the intersection of T.J. Lane as platted and surveyed.” as to whether the stated distance or the call to the road controls. The answer is that the call to the intersection of T.J. Lane controls and the distance is a secondary call. Below is the order of importance known as the rules of construction in writing or reading legal descriptions referenced from the NDSPLS Manual of Practice for Land Surveying 2019-North-Dakota-Manual-with-Exhibits.pdf (ndspls.org) .

1. Monuments, natural or artificial, or legal referring to matters of record or some combination of these kinds of monuments which are recited. The recital of these in descriptions adds to the supremacy of them over other conditions.
2. Monuments, physical or record, not recited but disclosed by reference to maps and other record documents.
3. Recital of a boundary record, such as reference to a map or deed.
4. Recited distance and/or bearing ties to record corners or lines not on the boundary of this property.
5. Distances on this boundary, without ties to any of the foregoing.
6. Bearings on the boundary or angles between lines, without ties.
7. Areas stated as a corollary or an addendum to the description.

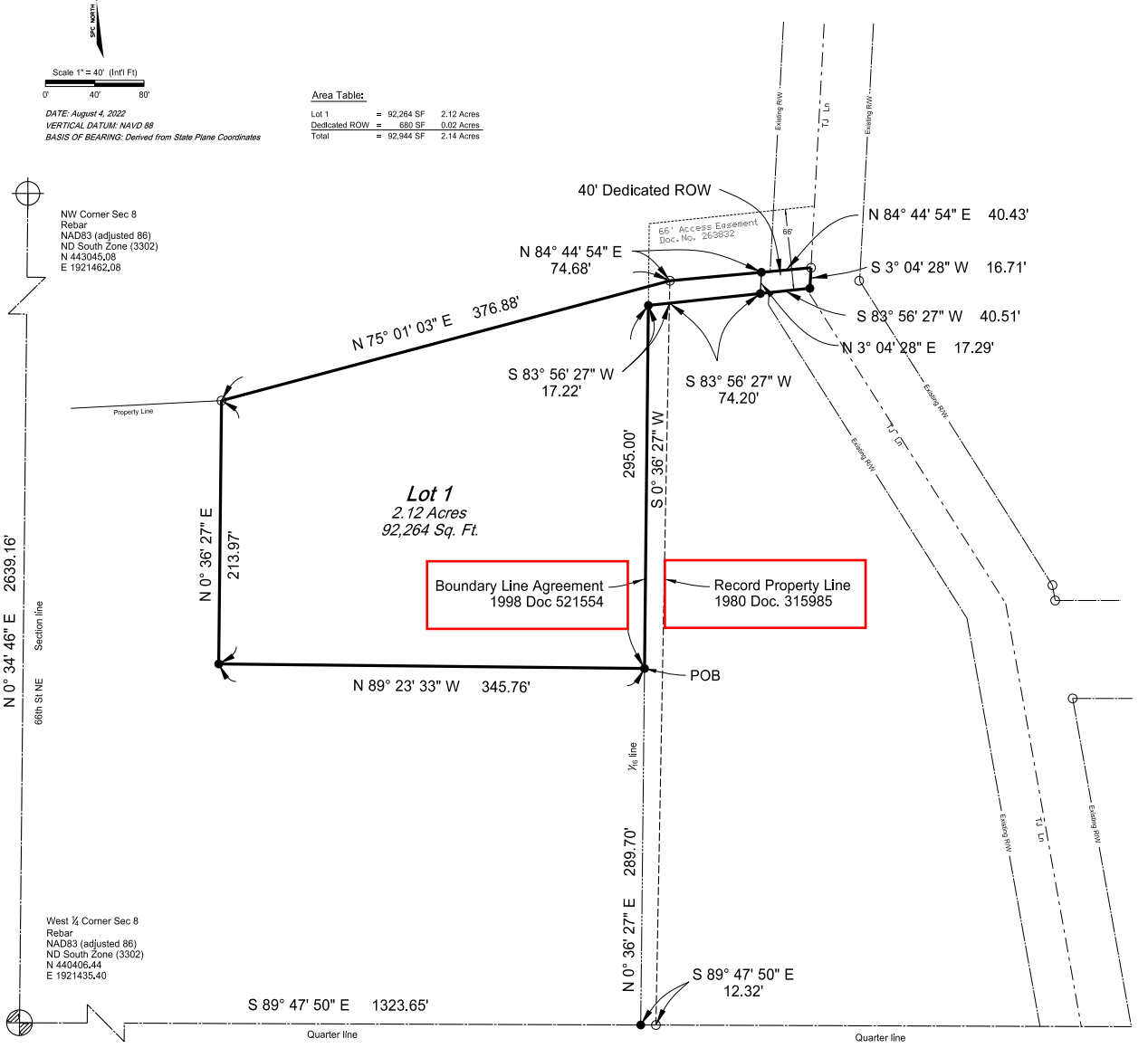
Please let me know if you have any questions at all. Thank You.

**Tom Weigel | PLS, PE**
Project Manager
**moore engineering, inc.**

# PROPOSED PLAT SHOWING BOUNDARY LINE AGREEMENT

## TNK Ranch Subdivision

A portion of Auditor's Lot 1 of the NW ¼ and a Tract in the NW ¼ being a part of the NW ¼ of Section 8, Township 139 North, Range 79 West Burleigh County, North Dakota




### BOUNDARY DESCRIPTION

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END OF DESCRIPTION.

THE LEGAL DESCRIPTION WAS PREPARED BY THOMAS D. WEIGEL, HOLLY BECK SURVEYING & ENGINEERING, INC., 3320 HAMILTON ST. UNIT 3, BISMARCK, ND 58503

### SURVEYOR'S CERTIFICATE

I, THOMAS D. WEIGEL, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT I MADE THE WITHIN AND FOREGOING PLAT WHICH IS A CORRECT REPRESENTATION OF THE SURVEY PREPARED UNDER MY DIRECT SUPERVISION AND COMPLETED ON AUGUST 4, 2022, THAT ALL DISTANCES ARE CORRECT, THAT THE OUTSIDE BOUNDARY LINES ARE CORRECTLY DESIGNATED HEREON, THAT ALL DIMENSIONAL AND GEODETIC DETAILS SHOWN HEREON ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT ALL REQUIRED MONUMENTS ARE PLACED IN THE GROUND AS SHOWN.

THOMAS D. WEIGEL
PROFESSIONAL LAND SURVEYOR
ND REGISTRATION NO. LS-10871

This document is preliminary and not for recording or implementation purposes. PRELIMINARY

### APPROVAL OF CITY PLANNING & ZONING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT HAS BEEN APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK, NORTH DAKOTA, ON THE _____ DAY OF _____, 20___, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA AND ORDINANCES OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ CHAIR 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 THIS PLAT, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS ACCEPTED THE DEDICATION OF ALL RIGHTS OF WAY AND PUBLIC EASEMENTS SHOWN THEREON, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THIS PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS APPROVED THE _____ DAY OF _____, 20___.

ATTEST
KEITH J. HUNKE, CITY ADMINISTRATOR

### APPROVAL OF BOARD OF COUNTY COMMISSIONERS

THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF BURLEIGH COUNTY, NORTH DAKOTA, HAS ACCEPTED THE DEDICATION OF ALL RIGHTS OF WAY AND PUBLIC EASEMENTS SHOWN THEREON, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THIS PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS APPROVED THE _____ DAY OF _____, 20___.

_____, CHAIR ATTEST
LEO VETTER, COUNTY AUDITOR/TREASURER

### APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE THIS PLAT THIS _____ DAY OF _____, 20___.

GABRIEL J. SCHELL CITY ENGINEER

### OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THOMAS L FETTIG AND KIM R FETTIG, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "TNK RANCH SUBDIVISION", BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE ALL RIGHT OF WAY AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THOMAS L FETTIG KIM R FETTIG

STATE OF NORTH DAKOTA )
COUNTY OF _____ )) SS

ON THIS _____ DAY OF _____, ____, PERSONALLY APPEARED BEFORE ME, THOMAS L FETTIG AND KIM R FETTIG, KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____

This document is preliminary and not for recording or implementation purposes. PRELIMINARY

### SURVEY NOTES

EXISTING ZONING: ETA - (A) Agricultural
PROPOSED ZONING: ETA - (RR) Rural Single Family Residential

○ FOUND MONUMENT
● SET No. 5 REBAR W/ALUM CAP

HOLLYBECK SURVEYING ■ ENGINEERING, INC

**FINAL PENDING**

PLAT IS SUBJECT TO ALL PRIOR EASEMENTS OF RECORD


Owners:
Thomas L & Kim R Fettig
6504 TJ Lane
Bismarck, ND 58503

Surveyor:
Thomas D. Weigel, LS-10871
Holly Beck Surveying & Engineering, Inc.
3320 Hamilton St. Unit 3
Bismarck, ND 58503


DATE ISSUED: 12/22/22

258612

1974

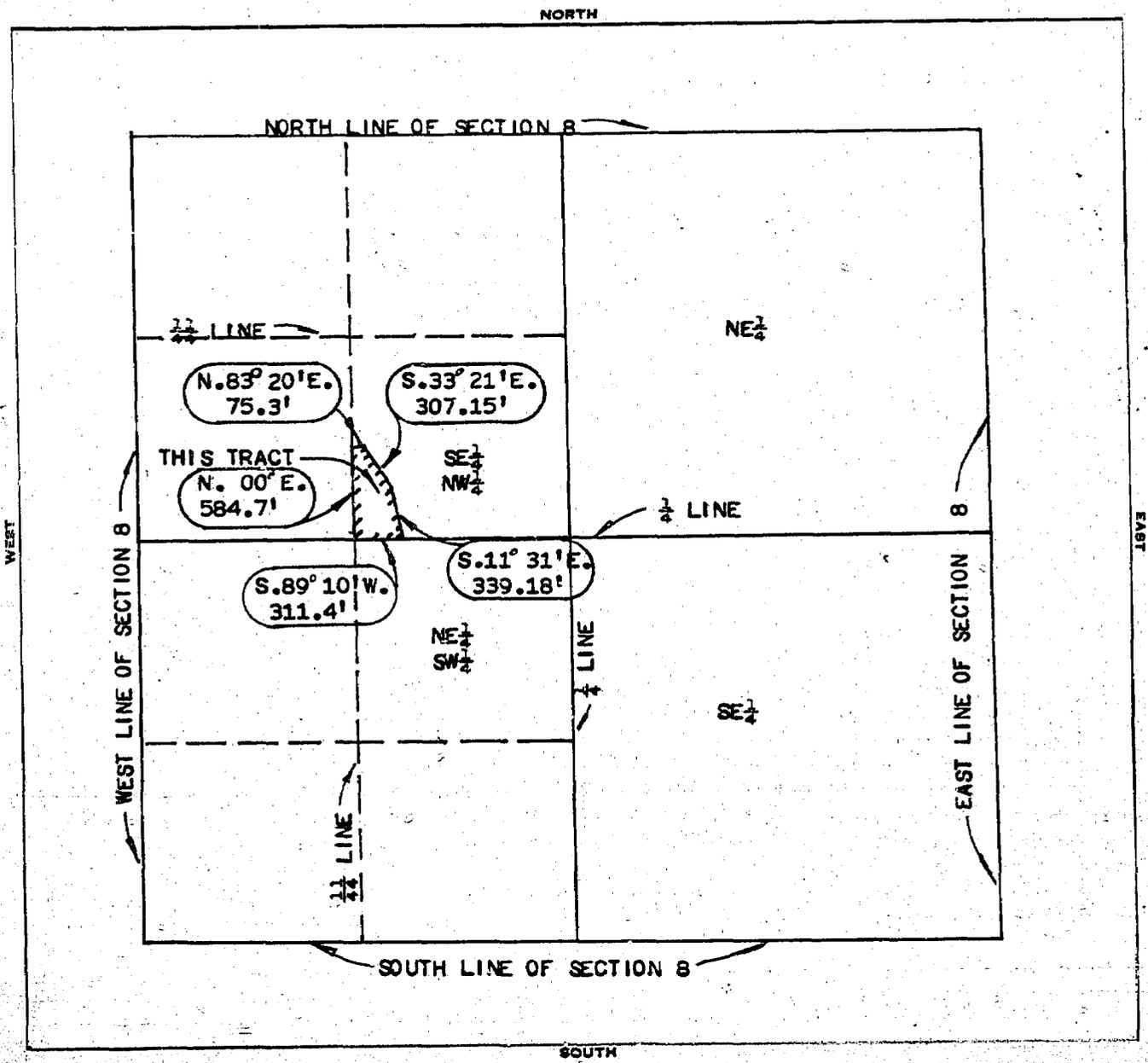
PLAT OF IRREGULAR DESCRIPTION. (Sec. 57-02-39—N. D. C. C.)

"Buy North Dakota Products"

# PLAT OF

~~PART OF SE¼ NW¼~~ Section 8 Township 139 N. Range 79 W

Present Owner Ed A. Fahlsing and Betty J. Fahlsing




## Description

Lot Number ( ) of ~~SE¼ NW¼~~ Section 8 Township 139 N. Range 79 W., described as follows: ~~ALL THAT PART OF THE SE¼ OF THE~~ NW¼ OF SECTION 8, TOWNSHIP 139 NORTH, RANGE 79 WEST, FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, STATE OF NORTH DAKOTA WHICH LIES WITHIN AND IS BOUNDED BY THE FOLLOWING DESCRIBED TRAVERSE;

BEGINNING AT THE S.W. CORNER OF THE SE¼ OF THE N.W.¼ OF SAID SECTION 8; THENCE BEARING NORTH (N. 00° 00'E.) ALONG THE WEST LINE OF SAID SE¼NW¼ OF SAID SECTION 8 A DISTANCE OF 584.7 FEET; THENCE BEARING N. 83° 20' E. A DISTANCE OF 75.3 FEET; THENCE BEARING S. 33° 21'E. A DISTANCE OF 307.15 FEET; THENCE BEARING S. 11° 31' E. A DISTANCE OF 339.18 FEET, MORE OR LESS, TO THE SOUTH LINE OF SAID SE¼ NW¼ OF SAID SECTION 8; THENCE BEARING S. 89° 10'W. ALONG SAID SOUTH LINE A DISTANCE OF 311.4 FEET, MORE OR LESS, TO THE POINT OF BEGINNING OF THE TRACT BEING DESCRIBED.

THE ABOVE TRACT OF LAND CONTAINS 3.06 ACRES, MORE OR LESS.

**THE UNDERSIGNED,** Owners of the within described property, in accordance with the provisions of Sec. 57-02-39, North Dakota Century Code, and upon demand of the County Auditor of Burleigh County, North Dakota, have caused to be made the within and foregoing plat of said land with the lots as herein described, and have caused the same to be placed on record, as provided by law.

Witness our hands and seal, this 30th day of September 19 74

In presence of Ed A Fahlsing

Mrs Betty J. Fahlsing

STATE OF NORTH DAKOTA, }
County of Burleigh } ss.

I, Norman D. Steinle, a Notary Public within and for said County, do hereby certify that on this 30th day of September A. D., 19 74, personally appeared before me Ed A. Fahlsing & Betty J. Fahlsing to me well known to be the same person described in and who executed the within and foregoing instrument and acknowledged that he executed the same freely and voluntarily.

Norman D. Steinle

My commission expires July 11 1975 Notary Public Burleigh County, N. D.

I, LARRY J. DENNIS, REGISTERED LAND Surveyor, do hereby certify that, at the request of MR. ED FAHLSING I made the within and foregoing plat and description of the land as herein described and that the lots, distances, area and locations as indicated on said plat and contained in said description are true and correct TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Larry J. Dennis

Subscribed and sworn to before me this 12th day of SEPTEMBER A. D., 19 74

NORMAN D. STEINLE
Notary Public, Burleigh Co., N. Dak.
My Commission Expires July 11, 1975.

Norman D. Steinle

My commission expires 19 Notary Public, County, N. D.

**CERTIFICATE OF APPROVAL**

The within and foregoing Plat is hereby approved.

Dated Oct 1, 19 74

Wm G Gillen

City Engineer of (or) County Surveyor Engineer of Burleigh County, N. D.

Microfilmed
Proofed
Grantor
Grantee
Indexed

258612

Plat of

Sec. Twp. R.

OFFICE OF REGISTER OF DEEDS
Burleigh County, North Dakota

I hereby certify that the within instrument was filed for record in this office on the 14 day of OCT 19 74 at 1:45 o'clock P. M., and was duly recorded as AS DOCUMENT NO. 258612

E. Marie Kelley Register of Deeds.

By Deputy.

OFFICE OF REGISTER OF DEEDS SEAL BURLEIGH COUNTY, N. D.

Ed Fahlsing
Box 92 Rt #1
Bis.

2.00 Rd.

263832

1975

EASEMENT FOR PUBLIC ROAD

This Deed, made this 5th day of August, 1975, by Edwin A. Fahlsing a/k/a Ed Fahlsing and Betty J. Fahlsing, husband and wife, of Bismarck, County of Burleigh, State of North Dakota, herein referred to as grantors to the public herein referred to as grantee.

The grantors herein hereby grant to the grantee, an easement hereinafter described, over and across the hereinafter described land, for a public road. The easement shall be Sixty-six (66) feet in width, lying immediately North of and adjacent to the following described line on the following described property:

Beginning at a point on the East line of the West Half Northwest Quarter (W½NW¼), Section Eight (8), Township One Hundred Thirty-nine (139), Range Seventy-nine (79), in Burleigh County. Said point being located Five Hundred Eighty-four and Seven Tenths (584.7) feet north of the south-east corner of the West Half Northwest Quarter (W½NW¼) of Section Eight (8), Township One Hundred Thirty-nine (139), Range Seventy-nine (79); thence bearing North Eighty-three degrees, Twenty minutes East (N.83°20'East), a distance of Seventy-five and Three Tenths Feet (75.3'), more or less, to the intersection of T.J. Lane as platted and surveyed.

Said property containing 0.11 acres, more or less.

IN WITNESS WHEREOF, the grantors have executed this Deed at Bismarck, North Dakota, the date and year first written above.

Edwin A. Fahlsing

Betty J. Fahlsing

STATE OF NORTH DAKOTA )
) ss.
COUNTY OF BURLEIGH )

On this 5th day of August, 1975, before me, a notary public within and for said county and state, personally appeared Edwin A. Fahlsing and Betty J. Fahlsing, known to me to be the same persons who are described in and who executed the above and foregoing instrument and they severally acknowledged to me that they executed the same.

DENNIS A. SCHNEIDER

Dennis A. Schneider
Notary Public, Kidder County.
State of North Dakota.
My Commission expires: 5-22-76.

OFFICE OF REGISTER OF DEEDS SEAL BURLEIGH COUNTY, N.D.

STATE OF NORTH DAKOTA, COUNTY OF BURLEIGH, } SS.
I hereby certify that the within instrument was filed in this office for record on the ..... day of AUG 5 1975 A.D. 19 ..... at 2:20 o'clock P M. and was duly recorded as DOCUMENT NO. 263832

REGISTER OF DEEDS

By ..... Deputy

#2.00 Pd. Dennis Schneider · 1418 Rosser Ave

# T-J RANCH ESTATES

1975

## PART OF THE N.W. 1/4 OF SEC. 8, TWP. 139N., RGE. 79W.

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH
I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE FOR RECORD ON July 23, 1975 AT 10 O'CLOCK A. M. AND RECORDED AS DOCUMENT No. 163229
BY Sharon Hamel
DEPUTY
REGISTER OF DEEDS

OFFICE OF REGISTER OF DEEDS SEAL BURLEIGH COUNTY, N.D.

SECTION CORNER

N. 89° 20' 00" E. 2636.29'

NORTH LINE SEC. 8

N. 0° 00' 00" E. 590'

14' UTILITY EASEMENT

BUILDING SETBACK LINE

BLOCK 1

Lots 1, 2, 3, 4

342' 375' 375' 381.98'

330' 530' 530' 530' 530'

S. 89° 20' 00" W. 1473.14'

14' UTILITY EASEMENT

BUILDING SETBACK LINE

Lots 1, 2, 3, 4

327.36' 370' 380'

530' 530' 530'

370' 380'

119.10'

1141.64'

1134.89'

T-J LANE

1462.01'

N. 3° 17' 20" E.

S. 0° 03' 30" W. 2637.38'

N. 53° 21' 00" W. 329.15'

N. 31° 21' 00" W.

S. 89° 10' 00" W. 1007.85'

Lots 5, 6, 7

400.76' 400' 400' 400

1978

294738

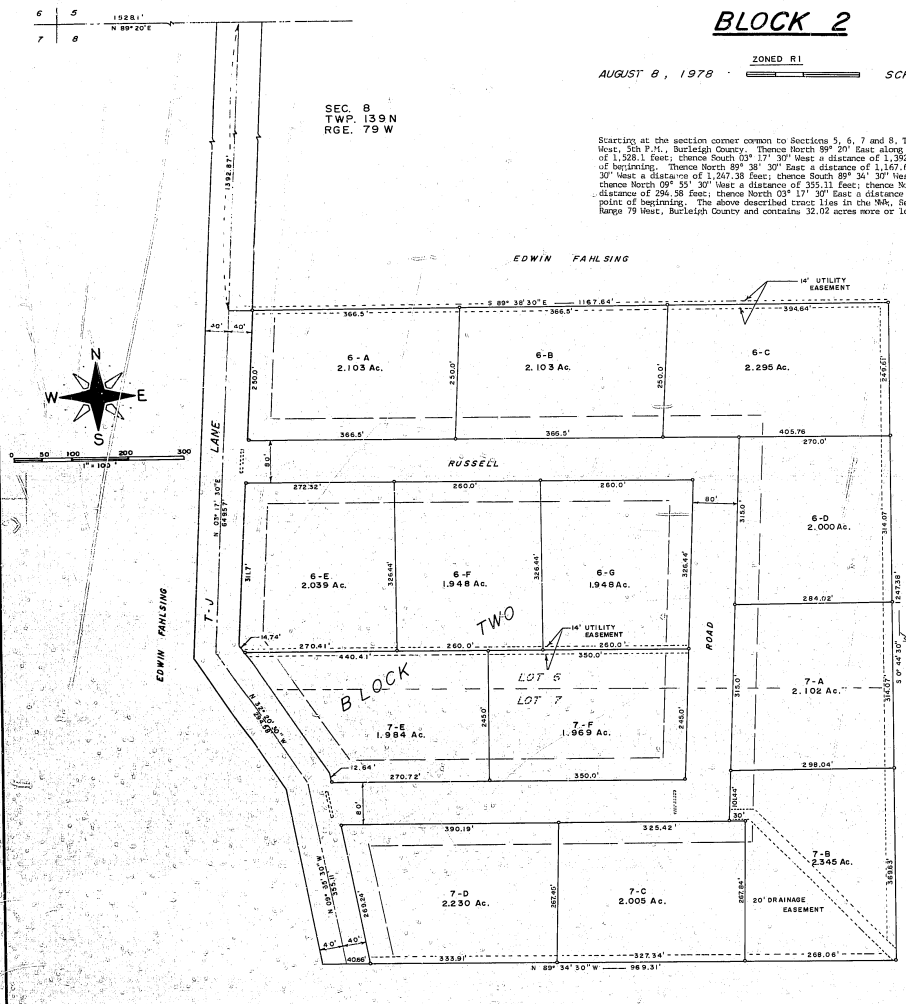
# T-J RANCH ESTATES
# REPLAT LOTS 6 & 7
# BLOCK 2

ZONED RI

AUGUST 8, 1978 · SCHULZ ENGINEERING

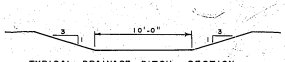
SEC. 8
TWP. 139 N
RGE. 79 W

Starting at the section corner common to Sections 5, 6, 7 and 8, Township 139 North, Range 79 West, 5th P.M., Burleigh County. Thence North 89° 20' East along the section line a distance of 1,528.1 feet; thence South 03° 17' 30" West a distance of 1,392.87 feet which is the point of beginning. Thence North 89° 38' 30" East a distance of 1,167.64 feet; thence South 0° 44' 30" West a distance of 1,247.38 feet; thence South 89° 34' 30" West a distance of 969.31 feet; thence North 09° 55' 30" West a distance of 355.11 feet; thence North 32° 20' 30" West a distance of 294.58 feet; thence North 03° 17' 30" East a distance of 649.57 feet to the point of beginning. The above described tract lies in the NW¼, Section 8, Township 139 North, Range 79 West, Burleigh County and contains 32.02 acres more or less.

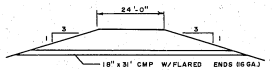



COVENANTS

1. The owners of each tract of this subdivision may have:
   A. Two horses
   B. Two dogs
   C. Two cats
   D. Offspring of animals may be kept six months only.
   E. All animals must be adequately contained to prevent damage to property of others.
2. Main floor square footage of home shall not be less than 1000 sq. ft.
3. Any existing structure to be moved onto the premises must meet with the sellers and Burleigh County Commissioners to obtain approval and to conform to Burleigh County building codes. Exterior of home shall be new material.
4. Any buildings detached from home shall be kept in good repair.
5. Owner shall maintain his property; shall keep it reasonably free of debris and wreckage and shall observe minimal fire safety measures.
6. There shall not be more than 1 residence per 2 acres unless approved by Burleigh Community Development Office and Burleigh County Commissioners.
7. Mobile homes shall be permissable as set forth by the Burleigh County Commissioners.

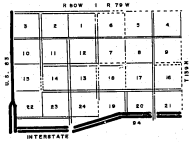



TYPICAL DRAINAGE DITCH SECTION
NO SCALE




TYPICAL APPROACH SECTION FOR ALL LOTS
NO SCALE

LOCATION MAP




OFFICE OF REGISTER OF DEEDS SEAL BURLEIGH COUNTY, N.D.

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH
I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE FOR RECORD ON AUG 8 1978 AT 9:45 O'CLOCK P M. AND RECORDED AS DOCUMENT No. 294738
BY Elmer Heinz
DEPUTY
REGISTER OF DEEDS

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS: That Arthur Schaffer - Alice Schaffer being the owners and proprietors of the property shown on the above plat have caused that portion described above and shown on the above plat to be surveyed and platted as "T J Ranch Estates Replat Lots 6 and 7 Block 2" and do so dedicate streets, including all sewers and culvert and other public utilities shown hereon or not to the public use forever.

It also dedicated easements, to run with the land, for water, sewer, gas, electric, telephone or other public utilities or services under those certain strips of land designated as "utility easements."

Alice Schaffer
ALICE SCHAFFER

Arthur Schaffer
ARTHUR SCHAFFER

STATE OF NORTH DAKOTA
SS
COUNTY OF BURLEIGH

On this 7th day of August, 1978, before me personally appeared Arthur and Alice Schaffer of Bismarck, North Dakota, and acknowledged the signing of the foregoing plat to be their voluntary act and deed. In testimony whereof, I have set my hand and notary seal on the day and date written above.

Delton D. Schulz
Delton D. Schulz, Notary Public
Burleigh County, North Dakota
My commission expires 2-4-83

SURVEYOR'S CERTIFICATE

I, Delton D. Schulz, a registered professional engineer and land surveyor in the state of North Dakota hereby certify that the above plat is a true copy of the notes of a survey performed under my supervision and completed on 8th day of August, 1978, that all information shown hereon is true and correct to the best of my knowledge and belief.

Delton D. Schulz
Delton D. Schulz
Reg. Prof. Engineer & Land Surveyor
Reg. No. 1988

STATE OF NORTH DAKOTA
SS
COUNTY OF BURLEIGH

On this 8th day of August, 1978, before me personally appeared Delton D. Schulz, known to me to be the person who executed the foregoing surveyor's certificate, and he acknowledged to me that he executed the same of his own free will and deed.

Debra Joesz
Debra Joesz
Burleigh County, North Dakota
My commission expires 2-16-83

APPROVAL OF BOARD OF COUNTY COMMISSIONERS

The Board of County Commissioners of the county of Burleigh, North Dakota, has approved the subdivision of land as shown on the plat, has accepted the dedication of all streets shown there on and has approved the grounds as shown on the plat as an amendment to the master plan of Bismarck.

The foregoing action of the Board of County Commissioners of Burleigh, North Dakota, was taken by resolution approved the 8th day of Aug., 1978.

J. Kenneth Harlow, Sec.

ATTEST: E. W. Klipstein, Chairman

PLANNING COMMISSION APPROVAL

The subdivision of land as shown on the plat has been approved by the Planning Commission of the county of burleigh on the 8th day of August, 1978, in accordance with the laws of the state of North Dakota, ordinances of the county of Burleigh, 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 county of Burleigh.

J. Kenneth Harlow, Sec.

Duane A. Bohrer, Chairman

APPROVAL OF COUNTY ENGINEER

I, Thomas E. Schmidt, County Engineer of the county of Burleigh, North Dakota, hereby approve the above subdivision.

Thomas E. Schmidt
Thomas E. Schmidt, County Engineer

NOTE:
REPLAT TO CORRECT PLAT DOCUMENT NO. 292928 WHICH WAS VACATED.

315985

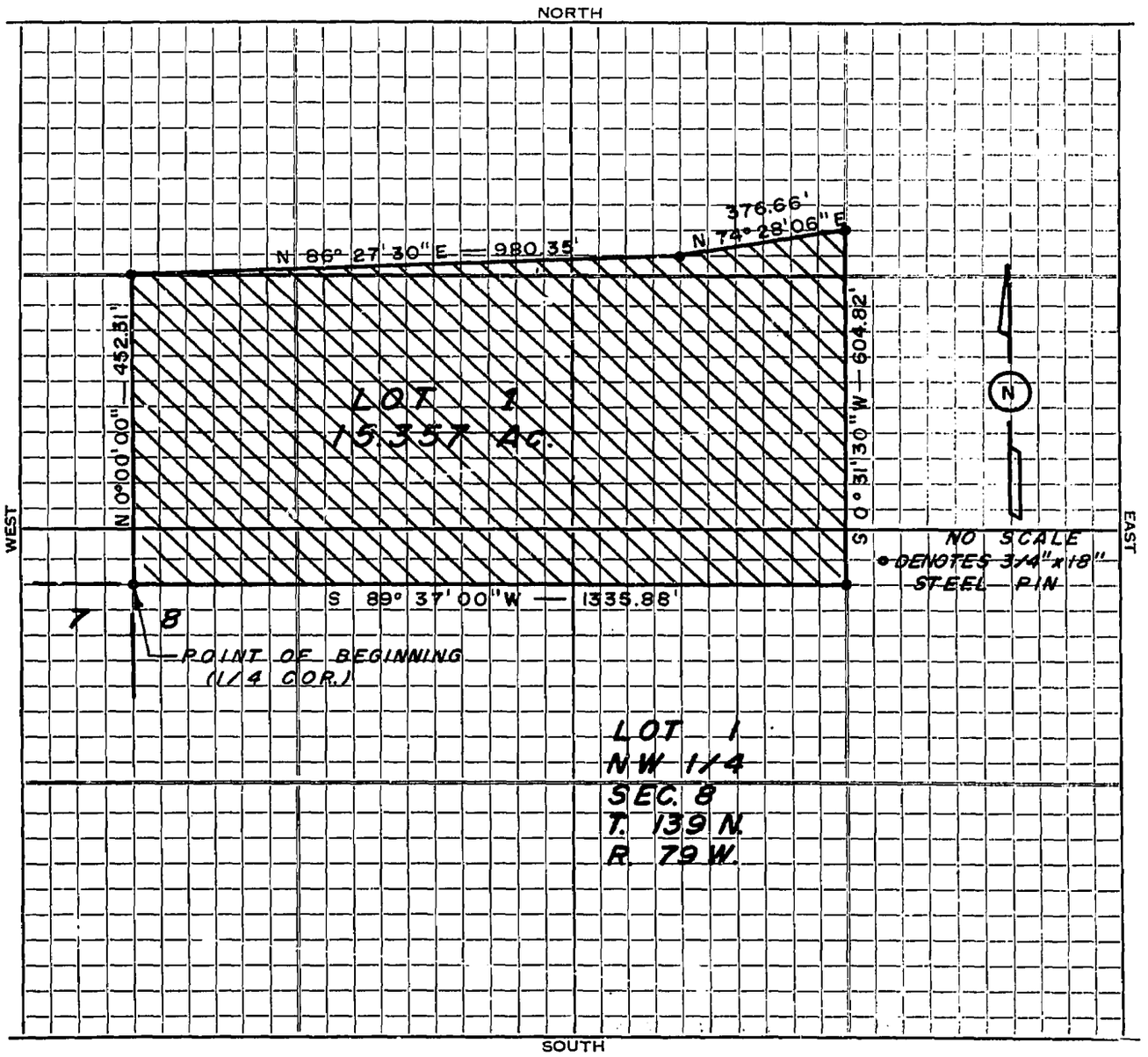
160 1½—PLAT OF IRREGULAR DESCRIPTION. (Sec. 57-0239—1943 Rev. Code) 500—1-54 KNIGHT PRINTING CO., FARGO, N. D.

1980

# PLAT OF

Lot 1 NW¼ Section 8 Township 139 North Range 79 West

Present Owner Edwin A. & Betty J. Fahlsing




## DESCRIPTION

Lot Number Lot 1 NW¼ (.....) of Section 8 Township 139 North Range 79 West, described as follows: Beginning at the quarter corner common to Sections 7 and 8, Township 139 North, Range 79 West of the 5th P.M., Burleigh County which is the point of beginning; thence North 0° 00' 00" along the section line a distance of 452.31 feet; thence North 86° 27' 30" East a distance of 980.35 feet; thence North 74° 28' 06" East a distance of 376.66 feet; thence South 0° 31' 30" West a distance of 604.82 feet; thence South 89° 37' 00" West a distance of 1335.88 feet to the point of beginning.

The above described tract lies in the Northwest Quarter of Section 8, Township 139 North, Range 79 West of the 5th P.M., Burleigh County, and contains 15.357 acres.

L-SC9-222

**THE UNDERSIGNED,** Owners of the within described property, in accordance with the provisions of Sec. 57-0239, Revised Code of 1943, and upon demand of the County Auditor of Burleigh County, North Dakota, have caused to be made the within and foregoing plat of said land with the lots as herein described, and have caused the same to be placed on record, as provided by law.

Witness our hands and seal, this 22 day of May 19 80.

In presence of

Edwin A. Fahlsing [SEAL]

Betty J. Fahlsing [SEAL]

[SEAL]

STATE OF NORTH DAKOTA, }
County of Burleigh } ss.

I, Delton D. Schulz, a Notary Public within and for said County, do hereby certify that on this 22 day of May A. D., 19 80, personally appeared before me Edwin A. Fahlsing & Betty J. Fahlsing to me well known to be the same persons described in and who executed the within and foregoing instrument and acknowledged that they executed the same freely and voluntarily.

DELTON D. SCHULZ NOTARY PUBLIC STATE OF NORTH DAKOTA

Delton D. Schulz

My commission expires February 4th 19 83 Notary Public, Burleigh County, N. D.

I, Delton D. Schulz, P.E. & L.S. #1088 Surveyor, do hereby certify that, at the request of Edwin A. Fahlsing & Betty J. Fahlsing I made the within and foregoing plat and description of the land as herein described and that the lots, distances, area and locations as indicated on said plat and contained in said description are true and correct.

DELTON D. SCHULZ REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR 1088 NORTH DAKOTA

Delton D. Schulz, P.E. & L.S.

Subscribed and sworn to before me this 22 day of May A. D., 19 80.

DEBRA JOERSZ NOTARY PUBLIC STATE OF NORTH DAKOTA

Debra Joersz

My commission expires February 16 19 83 Notary Public, Burleigh County, N. D.

## CERTIFICATE OF APPROVAL

The within and foregoing Plat is hereby approved.

Dated May 31, 19 80.

~~City Engineer~~ of (or) ~~County Surveyor~~

Engineer of Burleigh County, N. D.

Microfilmed
Proofed
Grantor
Grantee
Indexed

315985

PLAT OF

Sec. Twp. R.

OFFICE OF REGISTER OF DEEDS

BURLEIGH County, N. D.

I hereby certify that the within instrument was filed for record in this office on the 3 day of SEP 1980, at 1:20 o'clock P. M., and was duly recorded ~~on page~~ DOCUMENT NO. 315985 ~~of Plat~~ Book 345

Register of Deeds.

By Deputy.

OFFICE OF REGISTER OF DEEDS BURLEIGH COUNTY, N. D. SEAL

$5.00 pd

Schulz Engineering

1998

BISMARCK TITLE COMPA AGRMT 13.00
521554
Page: 1 of 3
12/30/1998 01:28P
Burleigh County

# BOUNDARY LINE AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, That

WHEREAS, The undersigned JOHN N. HAUCK AND MYRNA L. HAUCK, husband and wife, of the post office address of 6420 TJ Lane, Bismarck, ND 58501, are the owners of that certain parcel of real property located in the County of Burleigh, State of North Dakota, more particularly described as follows, to-wit:

> ALL THAT PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (SE¼NW¼) OF SECTION EIGHT (8), TOWNSHIP ONE HUNDRED THIRTY-NINE (139) NORTH, RANGE SEVENTY-NINE (79) WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, AS SHOWN ON THE PLAT OF IRREGULAR DESCRIPTION RECORDED AS DOCUMENT NO. 258612, AND WHICH LIES WITHIN THE FOLLOWING DESCRIBED TRAVERSE:
>
> BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER NORTHWEST QUARTER (SE¼NW¼) OF SAID SECTION EIGHT (8); THENCE BEARING NORTH 00°00' EAST ALONG THE WEST LINE OF SAID SE¼NW¼ OF SAID SECTION 8 A DISTANCE OF 584.7 FEET; THENCE BEARING NORTH 83°20' EAST A DISTANCE OF 75.3 FEET; THENCE BEARING SOUTH 33°21' EAST A DISTANCE OF 307.15 FEET; THENCE BEARING SOUTH 11°31' EAST A DISTANCE OF 339.18 FEET, MORE OR LESS, TO THE SOUTH LINE OF SAID SE¼NW¼ OF SAID SECTION 8; THENCE BEARING SOUTH 89°10' WEST ALONG SAID SOUTH LINE A DISTANCE OF 311.4 FEET, MORE OR LESS, TO THE POINT OF BEGINNING OF THE TRACT BEING DESCRIBED.

which tract of land for the purposes of this Agreement shall be referred to as the Hauck Tract; and

Whereas, Martin W. Alexander and Sue E. Alexander, husband and wife, of the post office address of 6504 TJ Lane, Bismarck, ND 58501, are the owners of that certain tract of real property located in the County of Burleigh, State of North Dakota, more particularly described as follows, to-wit:

> LOT ONE (1) OF THE NORTHWEST QUARTER (NW¼) OF SECTION EIGHT (8), TOWNSHIP ONE HUNDRED THIRTY-NINE (139) NORTH, RANGE SEVENTY-NINE (79) WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS: BEGINNING AT THE QUARTER CORNER COMMON TO SECTIONS SEVEN (7) AND EIGHT (8), TOWNSHIP ONE HUNDRED THIRTY-NINE (139) NORTH, RANGE SEVENTY-NINE (79) WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, WHICH IS THE POINT OF BEGINNING; THENCE NORTH 0°00'00" ALONG THE SECTION LINE A DISTANCE OF 452.31' FEET; THENCE NORTH 86°27'30" EAST A DISTANCE OF 980.35' FEET; THENCE NORTH 74°28'06" EAST A DISTANCE OF 376.66' FEET; THENCE SOUTH 0°31'30" WEST A DISTANCE OF 604.82' FEET; THENCE SOUTH 89°37'00" WEST A DISTANCE OF 1335.88' FEET TO THE POINT OF BEGINNING.

which tract of land for the purposes of this Agreement shall be referred to as the Alexander Tract; and

Whereas, it does appear from a comparison of the various deeds, plats and documents of record, that the Easterly portion of the Alexander Tract does encroach upon the Westerly portion of the Hauck Tract, as described above, a distance of 15.88' Feet, more or less; and

Whereas, the above named property owners wish to resolve this particular boundary line situation in an amicable manner, which agreement is deemed binding upon the parties hereto as well as inure for their respective benefit as well as their personal representatives, heirs, successors and assigns; and

Whereas, the undersigned parties do stipulate and agree that this Agreement is executed by them voluntarily, knowingly and willingly and that they all have such mental competency and knowledge that the encroachment does exist to execute this Agreement and bind themselves thereto;

NOW, Therefore, for valuable consideration received, the parties do hereby mutually agree as follows, to-wit:

For the purpose of record title ownership of the real property herein described, IT IS AGREED that the actual East boundary line of the Alexander Tract shall be the same as the East boundary line of the Southwest Quarter of the Northwest Quarter of Section 8, Township 139, Range 79 (aka the most Westerly boundary of the Hauck Tract). The true boundary line between the Hauck Tract and the Alexander Tract shall be the line above described, which common lot line shall remove any encroachment or overlap that presently exists.

The adjustment of the boundary line to the Alexander Tract shall affect only that portion of the Alexander Tract that encroaches upon the Hauck Tract, and in no manner affects or alters the boundary of the Alexander Tract in regards to any other property.

The parties hereto also agree that the Boundary Adjustment contemplated herein does not affect the current driveway that services the Alexander Tract.

FURTHERMORE, Martin W. Alexander and Sue E. Alexander, husband and wife, do hereby grant, remise, release and Quit Claim to John N. Hauck and Myrna L. Hauck, husband and wife, as joint tenants, any and all of that portion of the Alexander Tract that lies within the Hauck Tract, being in the Southeast Quarter of the Northwest Quarter (SE¼ NW¼) of Section 8, Township 139, Range 79.

This Boundary Line Agreement shall run with the land of the parties hereto, and shall inure to the benefit of the parties herein, their successors and/or assigns.

IN WITNESS THEREOF, the parties have set their hands the day and year hereafter shown.

Martin W. Alexander
MARTIN W. ALEXANDER

John N. Hauck
JOHN N. HAUCK

Sue E. Alexander
SUE E. ALEXANDER

Myrna L. Hauck
MYRNA L. HAUCK

SUBSCRIBED and sworn to before me this 23rd day of December, 1998.

JACQUELINE K. BISCHOF NOTARY PUBLIC STATE OF NORTH DAKOTA

Jacqueline K Bischof
Notary Public

Burleigh County, North Dakota

JACQUELINE K. BISCHOF
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires JAN. 29, 1999

Bismarck COMMUNITY DEVELOPMENT

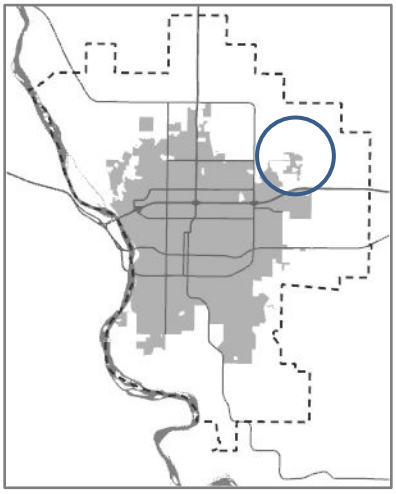
# STAFF REPORT

Agenda Item # 7
January 25, 2023

Application for: **Annexation** Project ID:**ANNX2022-008**
**Zoning Change** **ZC2022-014**
**Final Plat** **FPLT2022-014**

## Project Summary

| | |
|---|---|
| *Title:* | Silver Ranch Fourth Addition |
| *Status:* | Planning & Zoning Commission – Public Hearing/Final Consideration |
| *Owner(s):* | Investcore, Inc (Applicant)<br>Silver Ranch 19 LLLP (Owner) |
| *Project Contact:* | Landon Niemiller, Swenson Hagen & Co. |
| *Location:* | Northwest of Bismarck, north of 43rd Avenue NE and west of 52nd Street NE along extensions of Silver Boulevard and Silbernagel Drive |
| *Project Size:* | 67.9 Acres |
| *Request:* | Plat and zone for future mixed-density residential and neighborhood commercial development |



## Site Information

| Existing Conditions | | Proposed Conditions | |
|---|---|---|---|
| *Number of Lots:* | 1 unplatted parcel | *Number of Lots:* | 35 lots in 8 blocks |
| *Land Use:* | Undeveloped | *Land Use:* | Single-family residential, two-family residential, multi-family residential, school, commercial |
| *Future Land Use:* | Urban Neighborhood<br>Neighborhood Mixed Use | *Future Land Use:* | Urban Neighborhood<br>Neighborhood Mixed Use |
| *Zoning:* | A – Agricultural | *Zoning:* | R10 – Residential<br>RM20 – Residential<br>CA – Commercial<br>P – Public Use |
| *Uses Allowed:* | A – Agriculture | *Uses Allowed:* | R10 – Single and two-family residential<br>RM20 – Multi-family residential<br>CA – Neighborhood commercial<br>P – Parks, open space, stormwater facilities, and other public uses |

*(continued)*

| | | | |
|---|---|---|---|
| *Max Density:* | A – 1 unit / 40 acres | *Max Density:* | R10 – 10 units / acre<br>RM20 – 20 units / acre<br>CA – 30 units / acre<br>P – N/A |

**Property History**

| | | | | | |
|---|---|---|---|---|---|
| *Zoned:* | N/A | *Platted:* | N/A | *Annexed:* | N/A |

**Staff Analysis**

Investcore, Inc and Silver Ranch 18, LLLP are requesting approval of a zoning change from the A – Agricultural zoning district to the R10 – Residential, RM20 – Residential, CA – Commercial, and P – Public zoning districts and the final plat for Silver Ranch Fourth Addition. The applicants are also requesting approval of a partial annexation of Silver Ranch Fourth Addition that includes land with Silver Ranch Third Addition.

The Planning and Zoning Commission considered this request at their meeting of December 21, 2022, and called for a public hearing on this zoning change and tentatively approved this preliminary plat.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on January 13 and January 20, and 39 letters were mailed to the owners of nearby properties on January 13, 2023.

Adjacent uses include agricultural land to the north and east, developing residential to the south, and existing rural residential to the west across 52nd Street NE.

This annexation would extend the city limits by 33.69 acres. The boundary is contiguous with existing city limits, with a total of 10.5% of the entire subdivision boundary adjacent to city limits

*Conformance with Comprehensive Plan*

The Future Land Use Plan in Together 2045 defines the majority of the area within the proposed Silver Ranch 4th Addition as Urban Neighborhood and the area north of Noble Drive and west of Silver Boulevard as Neighborhood Mixed Use. The proposed plat generally conforms to the Future Land Use Plan.

The Major Street Plan shows 52nd Street NE as an arterial roadway and two collectors extending through the platted area of Silver Ranch Fourth Addition. The rights-of-way within this plat generally conform to this plan.

The Active Mobility Plan shows a shared use trail connection extending from south to north through the center of the proposed subdivision, extending from a park and greenway within Silver Ranch Third Addition. The proposed plat includes a multiuse trail easement to allow the extension of this trail. The proposed plat generally conforms to the Active Mobility Plan.

*Additional Information*

Lot 2, Block 1 is proposed for a school to be constructed by Bismarck Public Schools and has been sized to meet facility standards. Blocks 3-5 may be further subdivided in the future through a replatting process as development plans proceed.

The intersection of Noble Drive and Silbernagel Drive, both collectors, is designed to allow sufficient space for a roundabout.

*(continued)*

Turnaround easements will be dedicated at the ends of each roadway adequately sized for emergency vehicles. The easements can be released as the roadways are extended through future development.

The proposed annexation does not include the adjacent right-of-way of 52nd Street NE, which would remain within Burleigh County.

A neighborhood park is proposed to be installed on Lot 20, Block 8, Silver Ranch Third Addition just south of the proposed subdivision. A park development agreement has been signed by all parties reflecting use of this park within both subdivisions, in conjunction with the platting of Silver Ranch Third Addition.

There remain emergency services concerns for allowing adequate access to the entire Silver Ranch area in event of a blockage of 43rd Avenue NE between Roosevelt and 52nd Street. This has been an ongoing issue, but more development in this area increases the level of risk.

**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 of Together 2045.
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

*Major Subdivision Final Plat*

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission;

*(continued)*

3. The proposed subdivision generally conforms to the Major Street Plan, as amended;
4. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP)
5. A neighborhood park agreement including this plat was approved by the Bismarck Parks and Recreation District in conjunction with Silver Ranch Third Addition;
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the zoning change from the A – Agricultural zoning district to the R10 – Residential, RM20 – Residential, CA – Commercial, and P – Public zoning districts, the partial annexation as indicated on the attached ordinance, and approval of the Major Subdivision Final Plat for Silver Ranch Fourth Addition, with the following condition:

1. Temporary turnaround easements are dedicated at the termini of Silver Boulevard, Keeble Drive, Silbernagel Drive, Noble Drive, and Halverson Avenue in conjunction with plat recordation.

**Attachments**

1. Proposed Annexation Ordinance
2. Proposed Zoning Ordinance
3. Location Map – Plat and Zoning Change
4. Location Map – Annexation
5. Aerial Map
6. Zoning and Plan Reference Map
7. Zoning Proposed Map
8. Annexation Exhibit
9. Final Plat
10. Preliminary Plat
11. Existing Park Development Agreement

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

# *CITY OF BISMARCK*
# *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:

Lots 8-9, Block 6; Lot 8, Block 7, Silver Ranch 3rd Addition; Lots 1-4, Block 1; Lots 1 and 3, Block 2; Lots 1-4 and 5, Block 7; Lots 1-12, Block 8, Silver Ranch 4th Addition, and all adjoining rights-of-way of Hample Drive, Halverson Avenue, Silver Boulevard, and Noble Drive.

The above described tract of land contains 33.69 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.

# *CITY OF BISMARCK*
# *ORDINANCE NO. XXXX*

| | |
|---|---|
| *First Reading* | _____ |
| *Second Reading* | _____ |
| *Final Passage and Adoption* | _____ |
| *Publication Date* | _____ |

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.), 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 – Agricultural zoning district and included in the P – Public zoning district:

Lot 1, Block 1, Silver Ranch Fourth Addition.

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

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

Lots 2-3, Block 1, Silver Ranch Fourth Addition.

Section 3. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A – Agricultural zoning district and included in the R10 – Residential zoning district:

Lot 4, Block 1; Lots 1-4 and 7-10, Block 7; Lots 1-12, Block 8; and Lots 1-2, Block 9, Silver Ranch Fourth Addition.

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

The following described property shall be excluded from the A – Agricultural zoning district and included in the RM20 – Residential zoning district:

Lots 1-3, Block 2; Lot 1, Block 3; Lot 1, Block 4; Lot 1, Block 5; Lot 1, Block 6; and Lots 5-6, Block 7, Silver Ranch Fourth Addition.

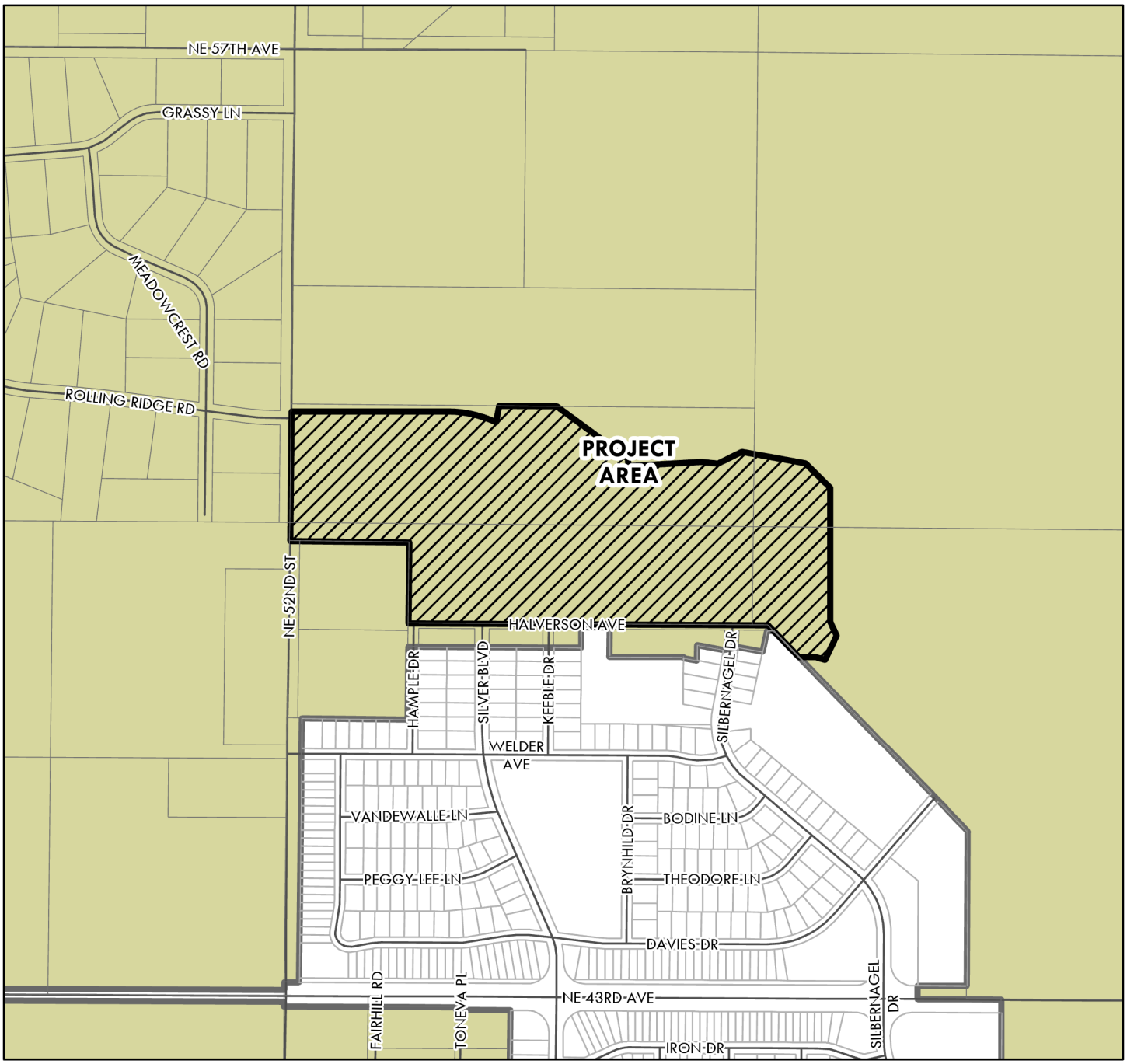
Section 5. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

Section 6. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

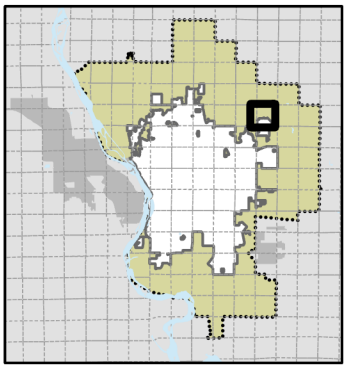
# Location Map

SILVER RANCH FOURTH ADDITION

PPLT2022-009
ZC2022-014




Miles
0 0.17 0.35 0.7



City Limits

Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*

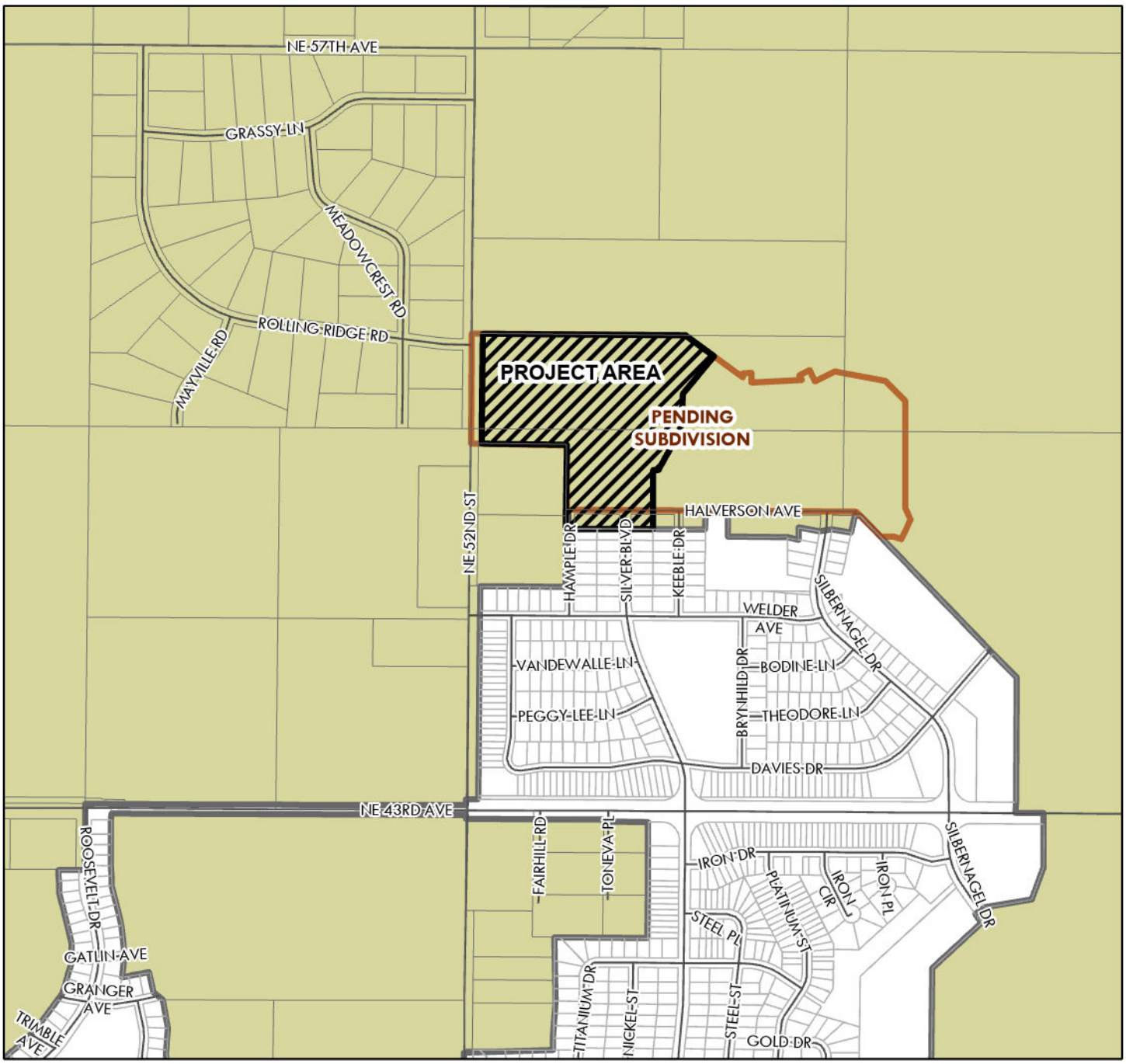
City of Bismarck
Community Development Department
Planning Division
June 30, 2022 (HLB)

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

# Location Map

SILVER RANCH FOURTH ADDITION

ANNX2022-008



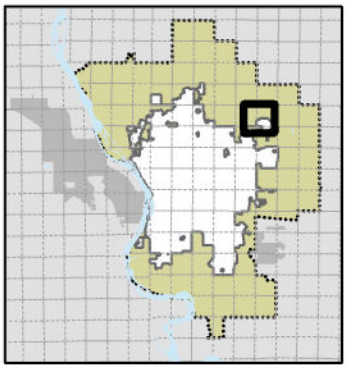

0 0.23 0.45 0.9 Miles

N

City Limits

Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*



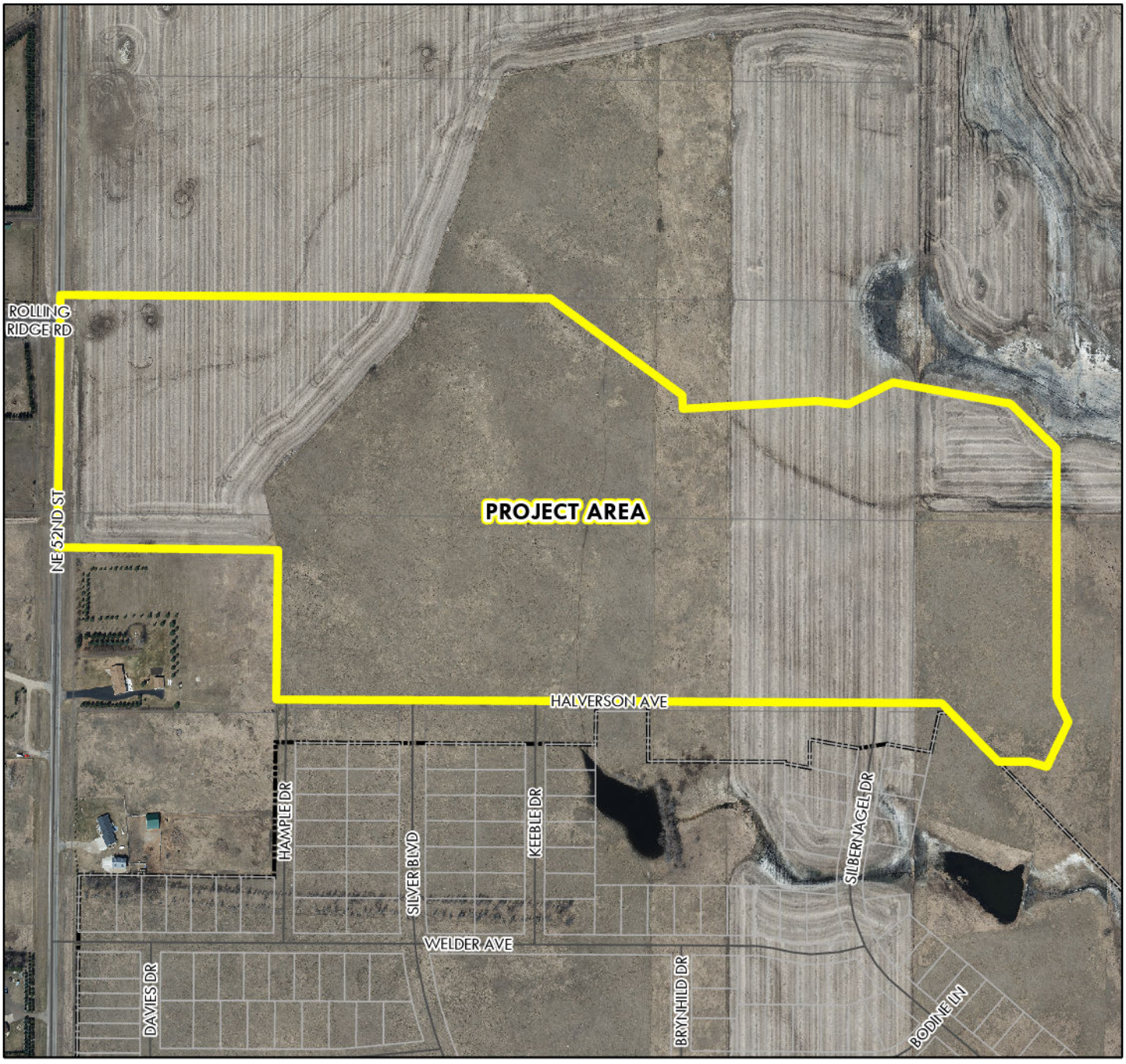
City of Bismarck
Community Development Department
Planning Division
January 18, 2023 (SF)

*This map is for representational use only and is not a survey. No liability is assume as to accuracy of the data shown hereon.*

# Aerial Map

SILVER RANCH FOURTH ADDITION

ZC2022-014

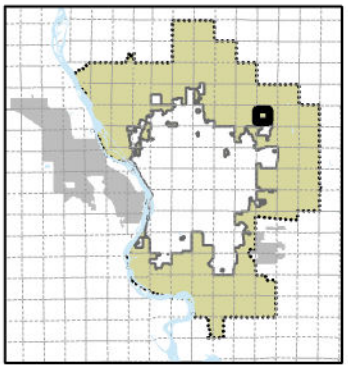



0 0.1 0.2 0.4 Miles

City Limits  Bismarck ETA Jurisdiction

Aerial Imagery from April 2020

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



City of Bismarck
Community Development Dept.
Planning Division
August 9, 2022

# Zoning and Plan Reference Map

SILVER RANCH FOURTH ADDITION

FPLT2022-014
ZC2022-014

*Zoning Districts*

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

*Future Land Use Plan*

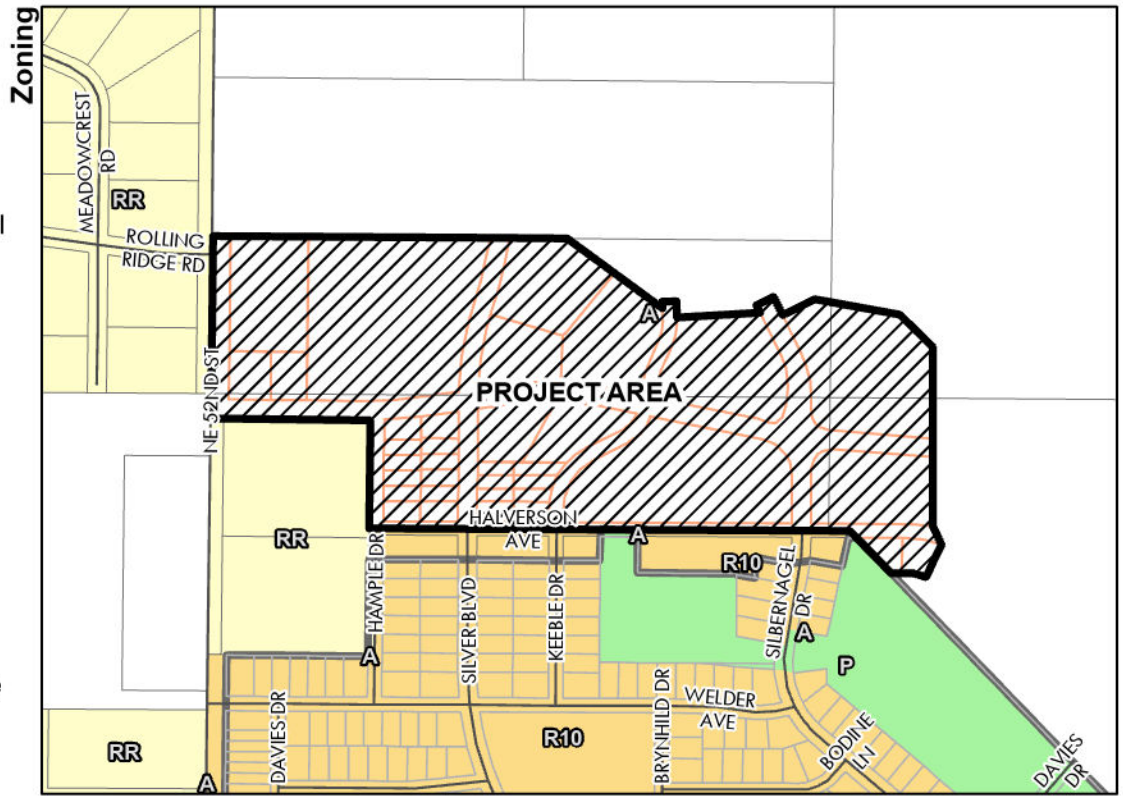
| | |
|---|---|
| **UN** | Urban Neighborhood |
| **NMU** | Neighborhood Mixed Use |
| **CMU** | Community Mixed Use |
| **DMU** | Destination Mixed Use |
| **DT** | Downtown |
| **IND** | Industrial |
| **IF** | Industrial Flex |
| **IMU** | Industrial Mixed Use |
| **INS** | Institutional |
| **RR** | Rural Residential |
| **TR** | Transitional Rural |
| **PKOS** | Parks/Open Space Urban Reserve |
| **URA/ URB** | Mid/Long-Term |

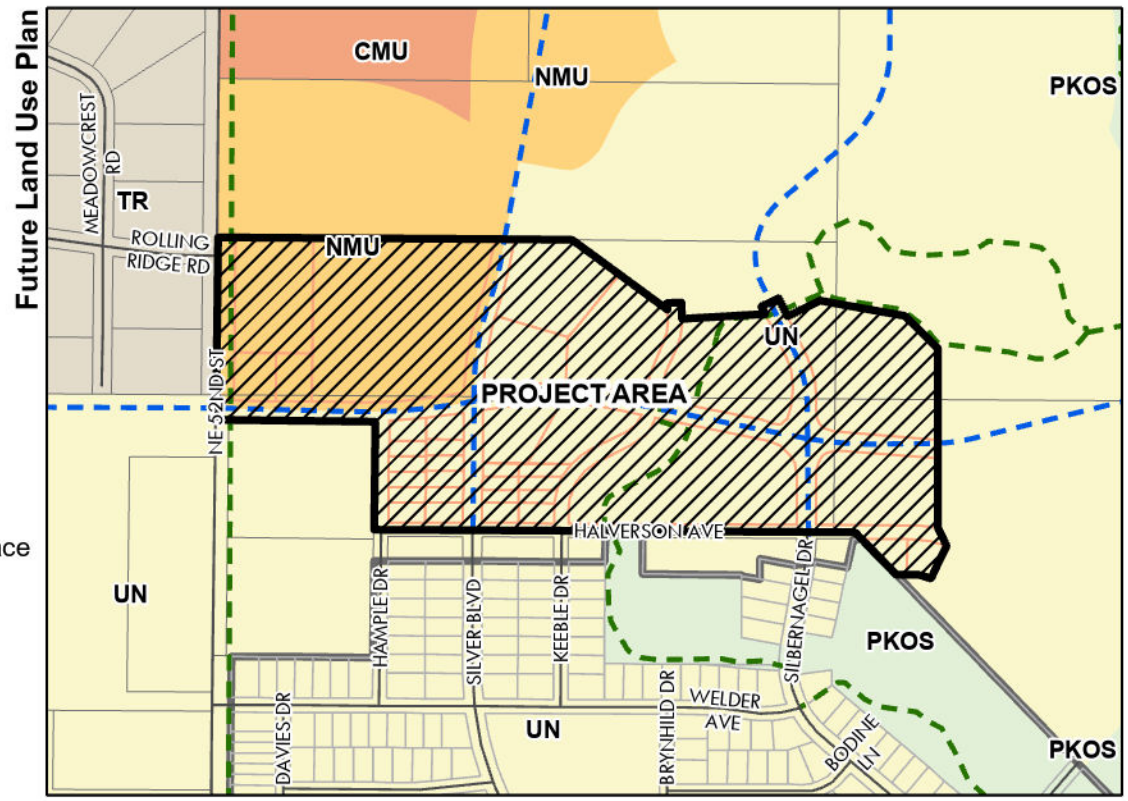
*Major Street Plan*

- Future Arterial
- Future Collector
- Future Interstate

*Active Mobility Plan*

- Future Shared Trail




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

0 500 1,000 2,000 Feet

City of Bismarck
Community Development
Planning Division
January 17, 2023

# Proposed Zoning Change

SILVER RANCH FOURTH ADDITION

ZC2022-014

**Proposed New Zoning Map**

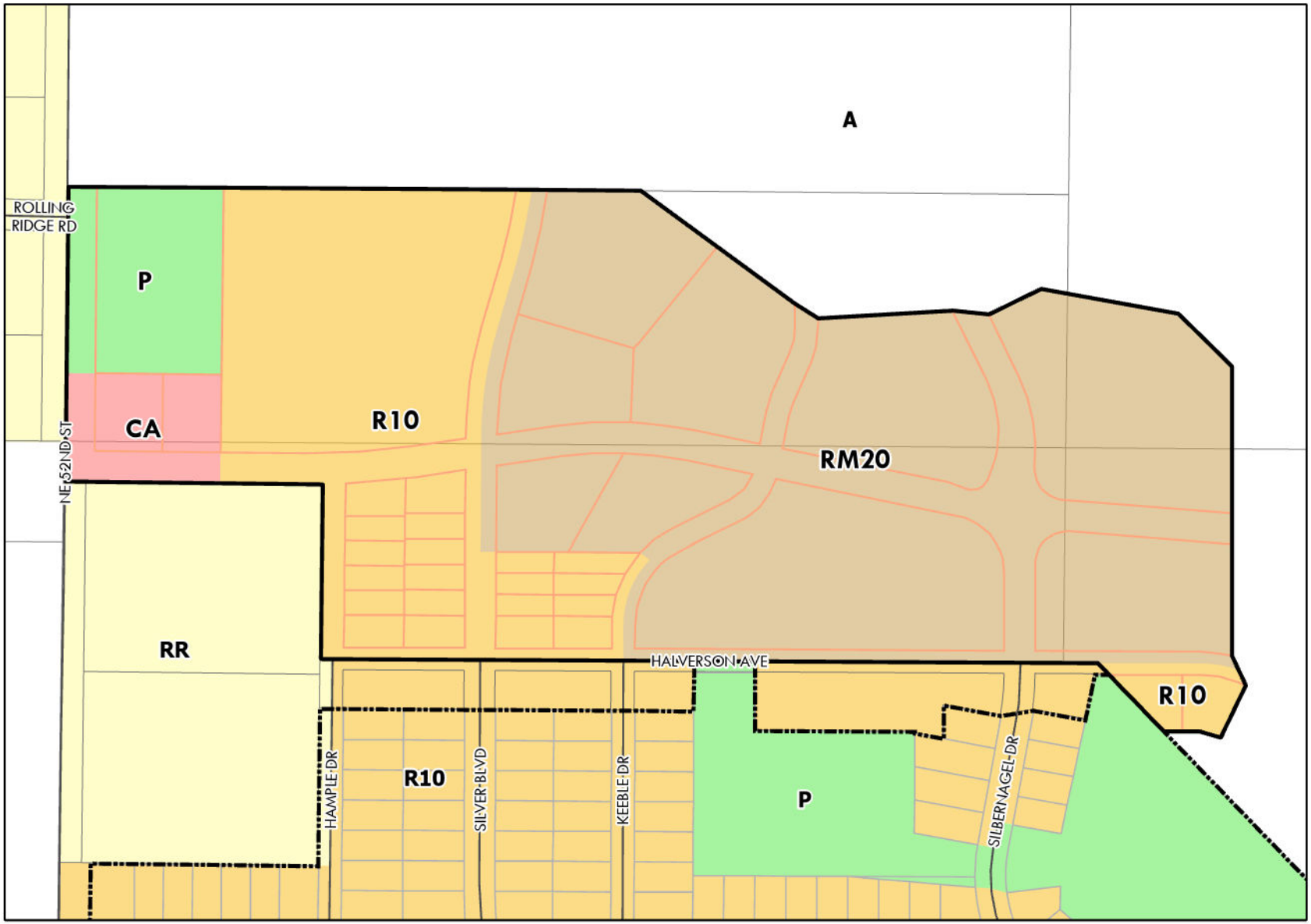
Project Area (zoning within is proposed)

City Limits

*Zoning Districts*

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

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



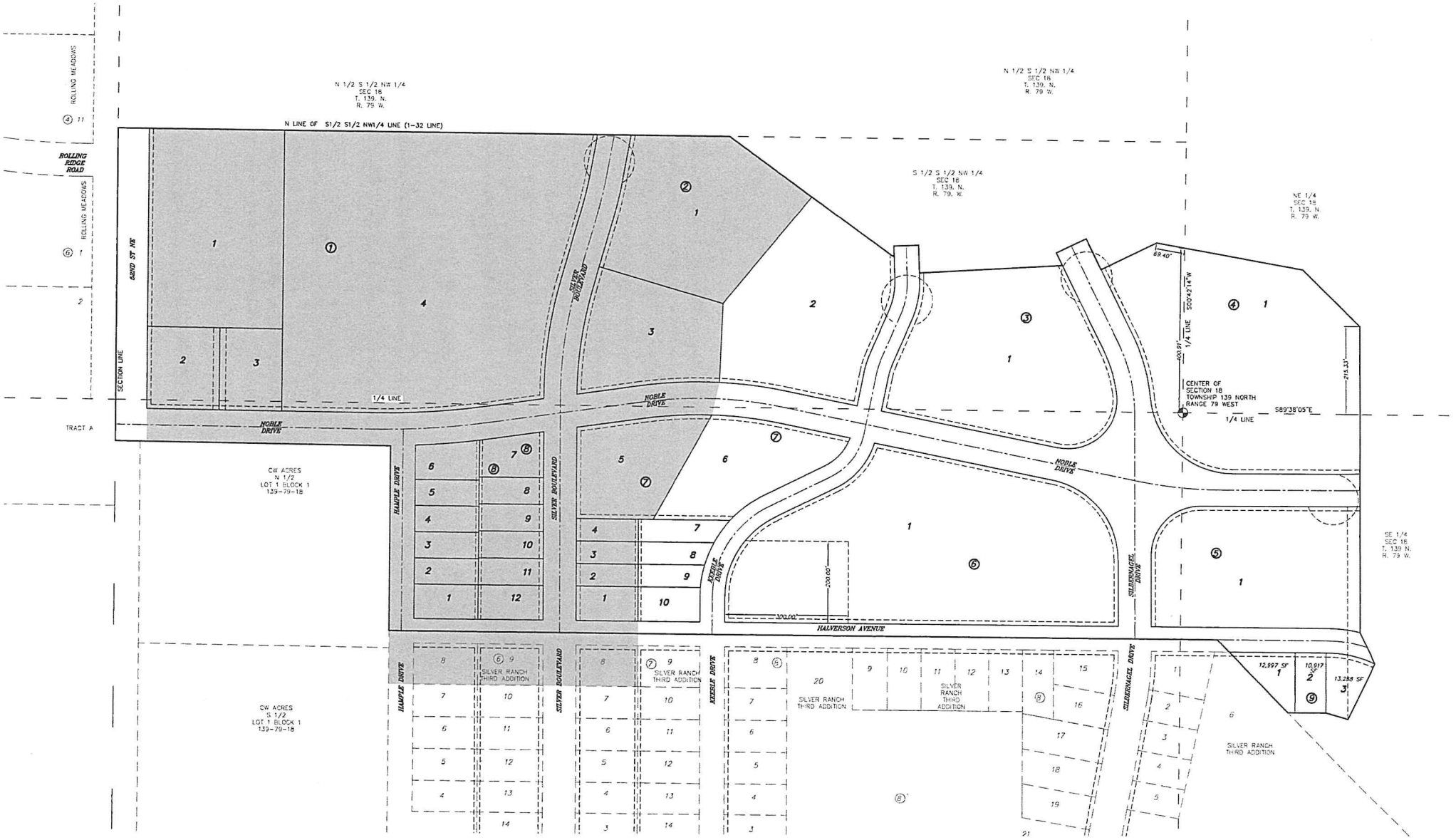

0 0.13 0.25 0.5 Miles

*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
Planning Division
January 17, 2023

# Annexation Exhibit



SILVER RANCH ANNEXATION

Lots 1-4 Block 1 Silver Ranch 4th

Lots 1 & 3 Block 2 Silver Ranch 4th

Lots 1-5 Block 7 Silver Ranch 4th

Lots 1-12 Block 8 Silver Ranch 4th

Lots 8-9 Block 6 Silver Ranch 3rd

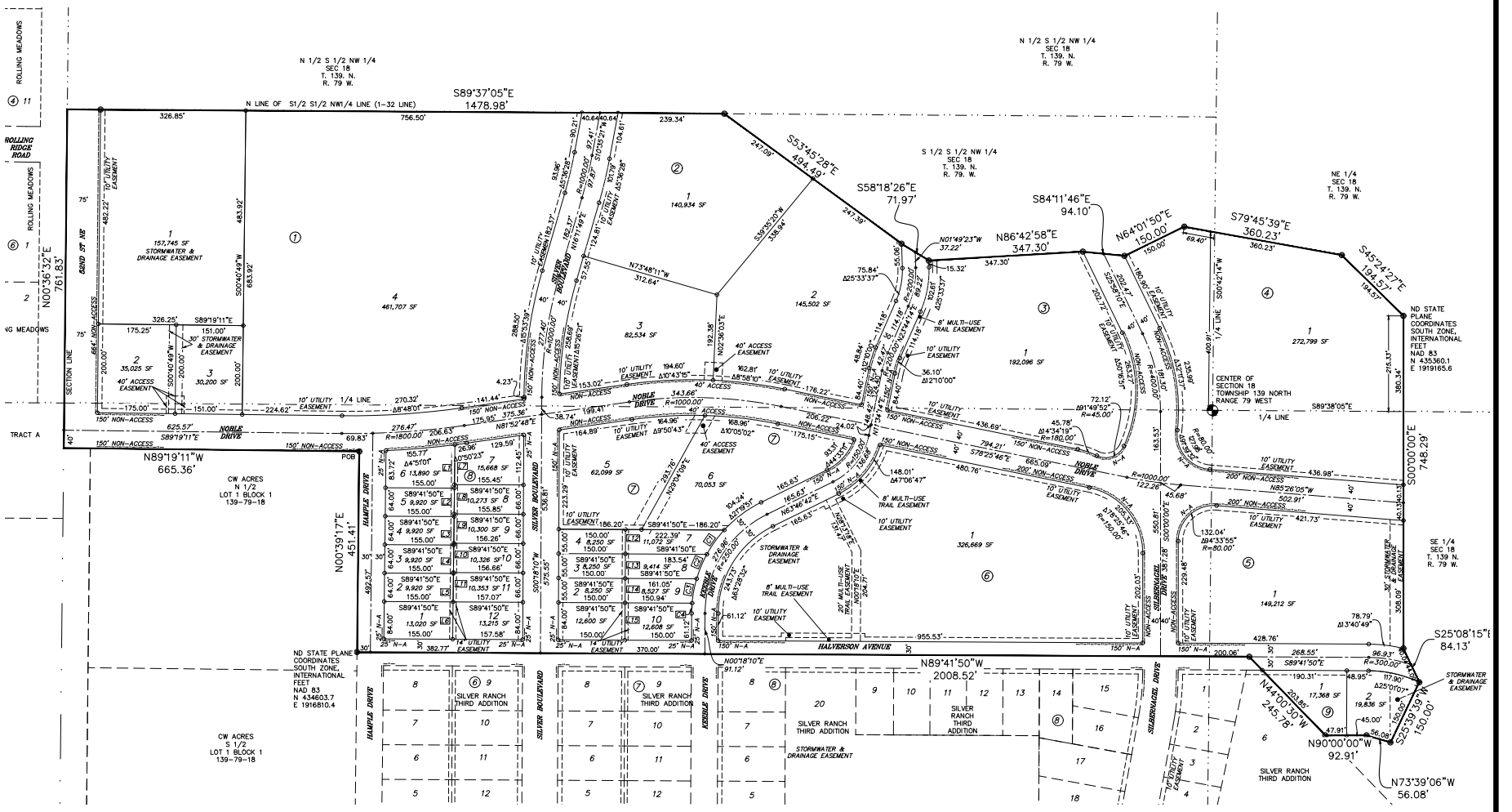
Lot 8 Block 7 Silver Ranch 3rd

And adjoining Silver Boulevard, Halverson Avenue, Hample Drive, & Noble Drive rights-of-way

# SILVER RANCH FOURTH ADDITION

*PART OF SECTION 18*
*TOWNSHIP 139 NORTH RANGE 79 WEST*
*OF THE FIFTH PRINCIPAL MERIDIAN*

## BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA




### NOTES

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

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

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

*VERTICAL BENCHMARK:*
*NE CORNER LOT 1 BLOCK 1 CW ACRES*
*ELEV. 1895.26 (NGVD 29)*

0' 100'
SCALE-1" = 100'
JANUARY 13, 2023

○ MONUMENT TO BE SET
◎ MONUMENT IN PLACE

| AREA DATA | | |
|---|---|---|
| LOTS | 2,379,478 S.F. | 54.63 ACRES |
| STREETS | 626,925 S.F. | 14.39 ACRES |
| TOTAL | 3,006,403 S.F. | 69.02 ACRES |

| AREA DATA | | |
|---|---|---|
| NW 1/4 | 1,436,429 S.F. | 32.98 ACRES |
| NE 1/4 | 147,825 S.F. | 3.39 ACRES |
| SW 1/4 | 1,133,735 S.F. | 26.03 ACRES |
| SE 1/4 | 288,414 S.F. | 6.62 ACRES |

| LINE TABLE | | |
|---|---|---|
| LINE # | LENGTH | BEARING |
| L1 | 97.72' | N00°39'17"E |
| L2 | 64.00' | N00°39'17"E |
| L3 | 64.00' | N00°39'17"E |
| L4 | 64.00' | N00°39'17"E |
| L5 | 64.00' | N00°39'17"E |
| L6 | 84.00' | N00°39'17"E |
| L7 | 89.72' | S00°39'17"W |
| L8 | 66.00' | S00°39'17"W |
| L9 | 66.00' | S00°39'17"W |
| L10 | 66.00' | S00°39'17"W |
| L11 | 66.00' | S00°39'17"W |
| L12 | 55.00' | S00°18'10"W |
| L13 | 62.00' | S00°18'10"W |
| L14 | 55.00' | S00°18'10"W |
| L15 | 84.00' | S00°18'10"W |

| CURVE TABLE | | | | |
|---|---|---|---|---|
| CURVE # | LENGTH | RADIUS | DELTA | TANGENT |
| C1 | 67.50' | 280.00' | 13°48'46" | 33.92' |
| C2 | 59.53' | 280.00' | 12°10'55" | 29.88' |
| C3 | 56.02' | 280.00' | 11°27'44" | 28.10' |
| C4 | 22.91' | 280.00' | 4°41'15" | 11.46' |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909 Basin Avenue
Bismarck, North Dakota 58504
sheng@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

# SILVER RANCH FOURTH ADDITION

PART OF SECTION 18
TOWNSHIP 139 NORTH RANGE 79 WEST
OF THE FIFTH PRINCIPAL MERIDIAN

## BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

### DESCRIPTION

PART OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 79 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 1 BLOCK 1 CW ACRES; THENCE NORTH 89 DEGREES 19 MINUTES 11 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT 1 AND ITS WESTERLY EXTENSION, A DISTANCE OF 665.36 FEET TO THE WEST LINE OF SAID SECTION 18; THENCE NORTH 00 DEGREES 36 MINUTES 32 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 761.83 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NW 1/4 OF SAID SECTION 18; THENCE SOUTH 89 DEGREES 37 MINUTES 05 SECONDS EAST, ALONG SAID NORTH LINE, A DISTANCE OF 1478.98 FEET; THENCE SOUTH 53 DEGREES 45 MINUTES 28 SECONDS EAST, A DISTANCE OF 494.49 FEET; THENCE SOUTH 58 DEGREES 18 MINUTES 26 SECONDS EAST, A DISTANCE OF 71.97 FEET; THENCE NORTH 88 DEGREES 10 MINUTES 37 SECONDS EAST, A DISTANCE OF 80.00 FEET; THENCE SOUTH 01 DEGREE 49 MINUTES 23 SECONDS EAST, A DISTANCE OF 67.35 FEET; THENCE NORTH 86 DEGREES 42 MINUTES 58 SECONDS EAST, A DISTANCE OF 347.30 FEET; THENCE SOUTH 84 DEGREES 11 MINUTES 46 SECONDS EAST, A DISTANCE OF 94.10 FEET; THENCE NORTH 64 DEGREES 01 MINUTE 50 SECONDS EAST, A DISTANCE OF 80.00 FEET; THENCE SOUTH 25 DEGREES 58 MINUTES 10 SECONDS EAST, A DISTANCE OF 83.62 FEET; THENCE NORTH 64 DEGREES 01 MINUTE 50 SECONDS EAST, A DISTANCE OF 150.00 FEET; THENCE SOUTH 79 DEGREES 45 MINUTES 39 SECONDS EAST, A DISTANCE OF 360.23 FEET; THENCE SOUTH 45 DEGREES 24 MINUTES 27 SECONDS EAST, A DISTANCE OF 194.57 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 748.29 FEET; THENCE SOUTH 25 DEGREES 08 MINUTES 15 SECONDS EAST, A DISTANCE OF 84.13 FEET; THENCE SOUTH 25 DEGREES 39 MINUTES 39 SECONDS WEST, A DISTANCE OF 150.00 FEET; THENCE NORTH 73 DEGREES 39 MINUTES 06 SECONDS WEST, A DISTANCE OF 56.08 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 92.91 FEET TO THE BOUNDARY OF SILVER RANCH THIRD ADDITION; THENCE NORTH 44 DEGREES 00 MINUTES 30 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 245.78 FEET; THENCE NORTH 89 DEGREES 41 MINUTES 50 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 2008.52 FEET TO THE EAST LINE OF LOT 1 BLOCK 1 CW ACRES; THENCE NORTH 00 DEGREES 39 MINUTES 17 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 451.41 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 69.02 ACRES, MORE OR LESS.

### SURVEYOR'S CERTIFICATE

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

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

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

### APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE _____ DAY OF _____, 202_, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS. 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 _____, 2023.

_____
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 "SILVER RANCH FOURTH 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 _____, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "SILVER RANCH FOURTH 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 UTILITY EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

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

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH )

_____
_____

ON THIS _____ DAY OF _____, 2022, BEFORE ME PERSONALLY APPEARED _____ OF _____, 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 _____



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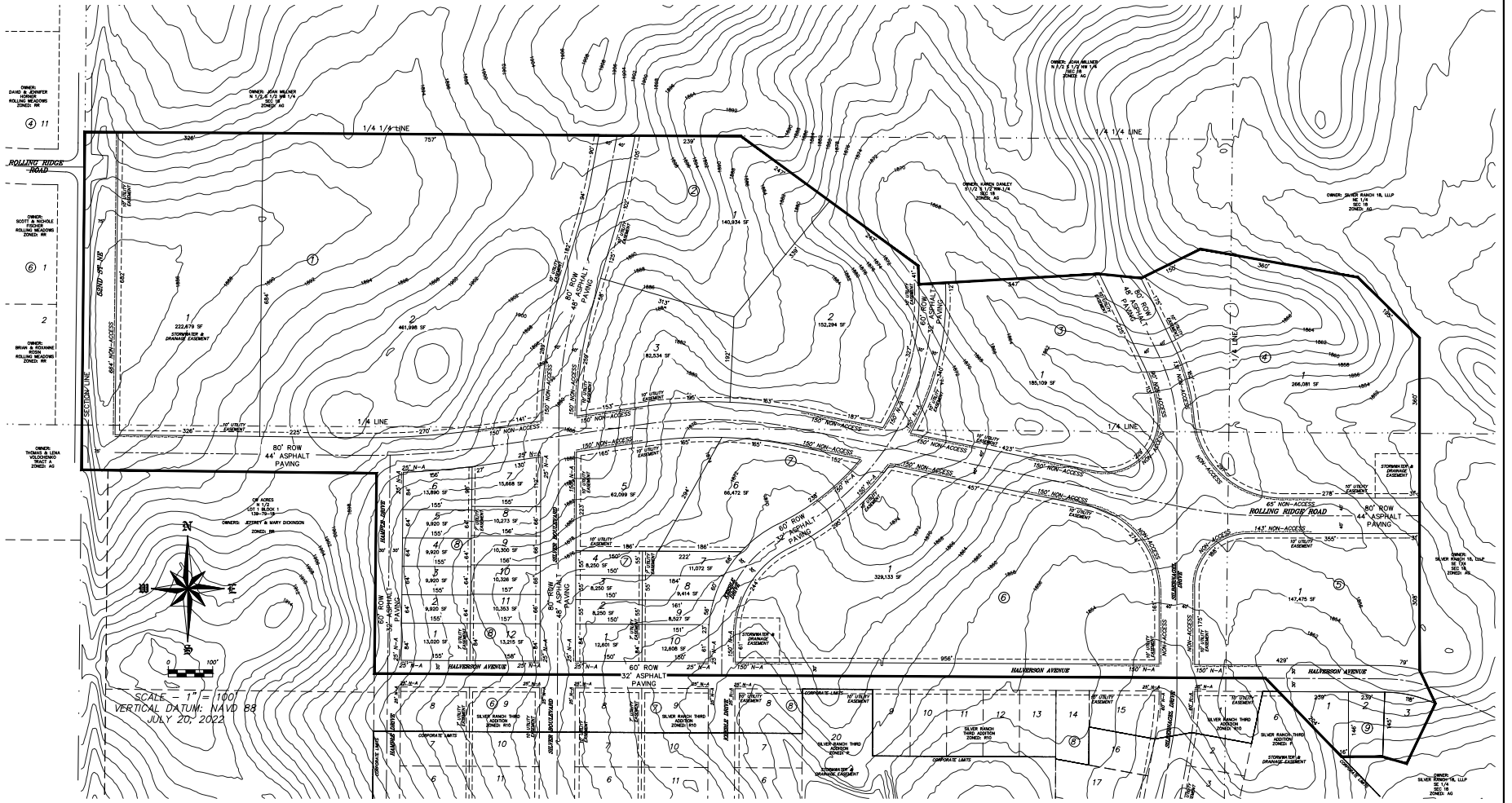
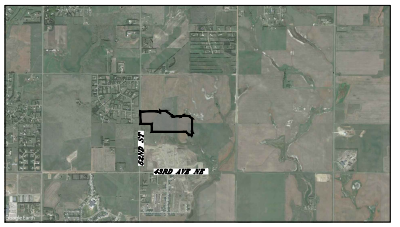
Construction Management

# SILVER RANCH FOURTH ADDITION

*PART OF SECTION 18*
*TOWNSHIP 139 NORTH, RANGE 79 WEST*

## BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA




**LOCATION MAP**

***69.0 ACRES***
***EXISTING ZONING: AG***
***PROPOSED ZONING: R10/RM20/P***
***34 LOTS***

***OWNER: KAREN DANLEY***
***8441 WEST HILL RD***
***BOISE, ID 83714***

***OWNER: SILVER RANCH 18, LLLP***
***1117 N. 3RD ST***
***BISMARCK, ND 58501***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Fax (701) 223 - 2606

# PARK DEVELOPMENT AGREEMENT
## Neighborhood Park in Silver Ranch 3rd & 4th Additions

This Park Development Agreement (the "Agreement") is made and entered into this _____ day of September, 2022, by and between **Investcore, Inc**, address is 1601 North 12th Street, Suite 411 ("Developer"), and the **PARK DISTRICT OF THE CITY OF BISMARCK**, a park district under the laws of the State of North Dakota, 400 East Front Avenue, Bismarck, North Dakota 58504 ("Park District").

### Preliminary Statement

The purpose of the neighborhood parks and open space policy is to maintain and enhance the high quality visual aesthetic of the community and to ensure that adequate usable neighborhood parks, open space and recreational facilities are provided for the existing and future residents of the City of Bismarck. Because new development within the City, or intended to be in the City, increases population and the demand for public services, it shall be the policy of the City of Bismarck that the owner and/or Landowners of major urban residential subdivision plats provide for neighborhood parks, playgrounds, open space and natural areas, and trails. The provision of such facilities in newly developed areas maintains the high quality of the life enjoyed by the citizens of the community by permitting the City to identify, obtain, continue, maintain and enhance its recreation and open space system.

Park District is the owner of a 5.7 acre, more or less, tract of real property (Park Area) and a 13.1 acre, more or less, tract of real property (Greenway) located in, or planned to be annexed to, the City of Bismarck, Burleigh County, North Dakota (the "Property"), specifically described below and delineated on the plat/survey as attached Exhibit A:

Park Area: Lot 20, Block 8 (5.7 acres) in Silver Ranch 3rd Addition
Greenway: Lot 6, Block 14 (13.1 acres) in Silver Ranch 3rd Addition

Developer is in the process of planning a residential development on the Developer's Property in which the Developer desires to include a neighborhood park of approximately 5.7 acres and a trail connection in the greenway on the Park District Property, the location being generally shown on Exhibit A. Developer's focus is to create a community with its own character and to provide residential development and recreational amenities for the support of the community and to promote ease of access in and around the community.

Park District desires to establish an additional neighborhood park in Bismarck and will design the 5.7-acre tract (the "Park Area") and trail connection ("greenway"), affect the construction of the park amenities, and manage the Park Area and Open Space Area, all pursuant to the terms and conditions of this Agreement and the rules and regulations established by the Board of Park Commissioners from time to time.

The Park Area and Greenway will play a vital role in this development by not only providing recreational amenities for this community and the surrounding area but also to provide the necessary connections throughout the development to other areas in Bismarck. To the extent appropriate and possible, all trails will ultimately connect to current and future Park District parks.

### Agreement

NOW, THEREFORE, in consideration of the above preliminary statements, the terms and conditions of this Agreement, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:



9/16/2022

DocuSigned by:
Chad Wachter
F90F484E78BC44A...

1. Scope of Agreement. This Agreement shall not constitute a partnership or a joint venture by and between the Developer and the Park District. Neither party has a right or obligation to bind the other party to any course of action or commitment as it relates to the development of the Developer's Property, including the Park Area that is described herein. Each of the parties is an independent contractor and, although they will coordinate their efforts to develop the Park Area and Greenway, possibly to include elements of design, access and amenities, neither party is assuming any obligation of the other party.

2. Developer and Park District Obligations. Developer and Park District acknowledge that they will be responsible for the following amenities to be located on the Park District Property and the Park Area:

a. Specific Neighborhood Park Amenities are described on Exhibit B and will be installed by the Park District and financed through a City of Bismarck special assessment improvement district with the costs for the Specific Park Amenities assessed against the benefitted Lot Owners Property as described in Exhibit A-2.

b. Park District District-wide Amenities, if included, are described on Exhibit B and will be installed by the Park District and financed through a City of Bismarck special assessment improvement district with the costs for the Park District District-wide Amenities assessed against the benefitted Park District Property.

c. The Developer shall provide the necessary easements for utilities for the Park Area.

d. The Developer, at their sole cost and expense, shall provide the following with regard to the Park Area:

i. Prepare a complete boundary survey of the Park Area showing all rights-of-way, easements and any other physical burdens that may encumber the Park Area. The Developer shall cause the Park Area and Greenway to be staked so that it can be later identified by the Park District.

ii. The Developer will provide the Park District with copies of such tests, investigations and reports which may have been completed by the Developer including, but not limited to, any soil boring tests and results of environmental testing.

iii. To the best of its ability, the Developer shall provide the Park District with safe access to the Park Area and Greenway and such areas leading to the Park Area and Greenway.

4. Park Area Design. The Park District shall develop a design for the Park Area that provides park activities, such as walking trails, shelters and playgrounds. Attached on Exhibit A-1 is the parties' initial concept of the park design. As the Park District designs and plans the Park Amenities for the Park Area, it will provide the Developer with periodic reports.

5. Maintenance. In entering into this Agreement, the Park District contemplates it will maintain the Park Area within its normal park maintenance program and consistent with other parks within the Bismarck area. The Park District will be generally responsible for future maintenance of the Park Area, the trails leading to the Park Area and the equipment and the other Park Amenities in the Park Area. If the Developer and the Park District agree to coordinate access to other trails or parks or provide other amenities, any such other amenities agreed to by and between the Park District and the Developer may require a joint maintenance agreement.

6. Construction. The construction of the Park Amenities described in Section 3 and as shown on Exhibit B are intended to be completed by one calendar year after annexation of Silver Ranch 4th is approved.



9/16/2022
DocuSigned by:
Chad Wachter
F90F484E78BC44A...

7. Naming Rights. The Developer reserves the right to name the Park Area, pending BPRD Board of Park Commissioners approval.

8. General Provisions.

a. This Agreement, together with the other surveys, plans and specifications that have been reviewed by the parties or will later be provided pursuant to this Agreement and the attachments hereto, contain the entire agreement among the parties respecting the matters herein set forth and supersede all prior discussions with respect to such matters. Notwithstanding the above, the parties acknowledge that this is a work in progress and development of the final design for the Park Area will be part of this Agreement.

b. This Agreement shall be binding upon and inure to the benefit of all the parties and their respective successors and assigns.

c. This Agreement shall be construed and enforced in accordance with the laws of the State of North Dakota.

d. This Agreement may be modified only by a written document signed by all parties. A purported oral modification shall not be effective.

e. The Developer shall hold the Park District harmless for any claim or injury to a person or property arising out of, or in the course of, its construction, design, and plan of the Park Area. In like manner, the Park District, once it acquires the Park Area and assumes maintenance responsibility, will hold the Developer harmless for claims arising out of its negligence in maintaining the Park Area.

DEVELOPER:

DocuSigned by:
Chad Wachter
F90F484E78BC44A...

By: _____
Chad Wachter, Investcore, Inc.

PARK DISTRICT:

THE PARK DISTRICT OF THE CITY OF BISMARCK

By: _____
Its: President

By: _____
Its: Clerk

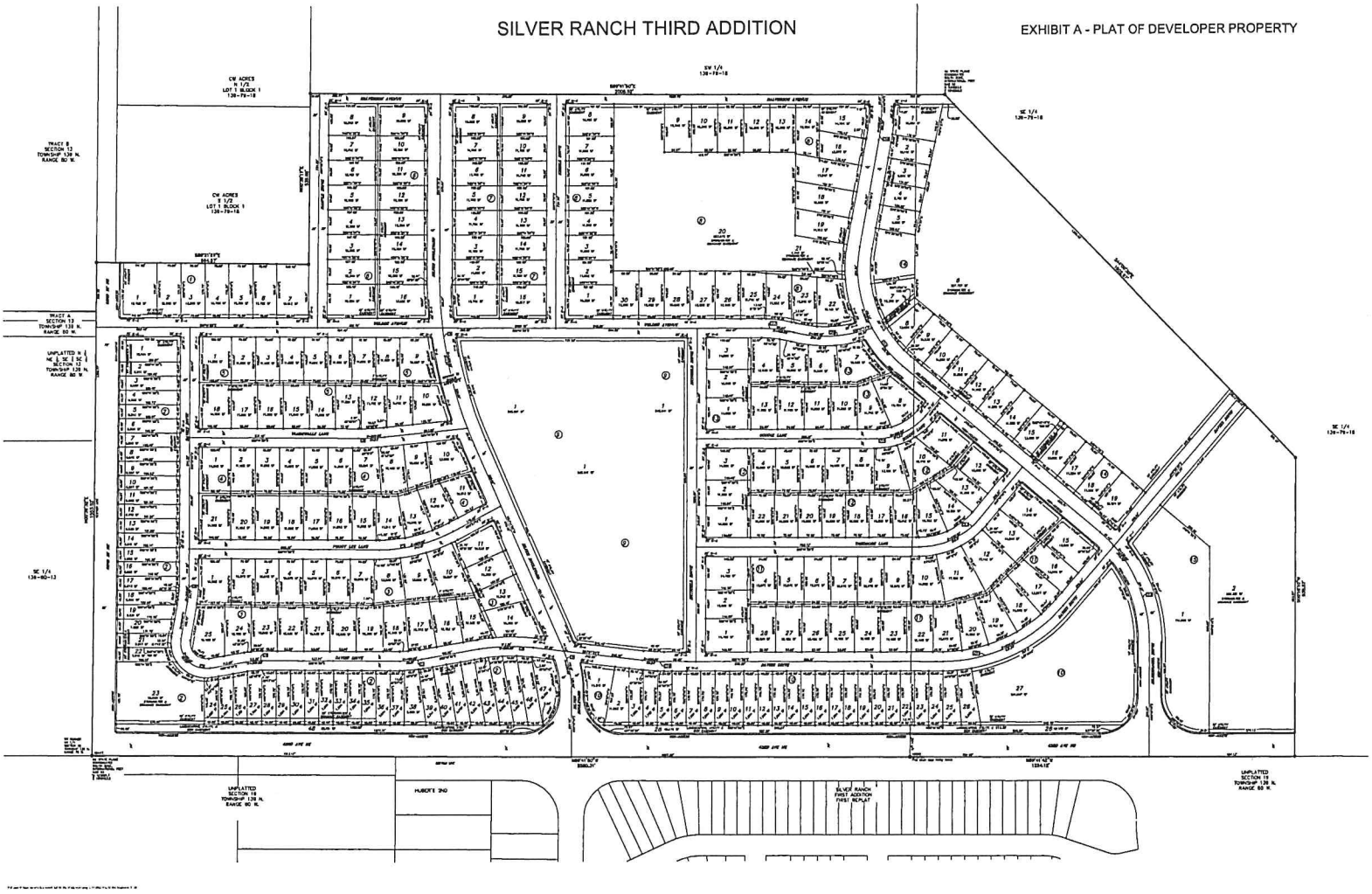


9/16/2022

DocuSigned by:
Chad Wachter
F90F484E78BC44A...

SILVER RANCH THIRD ADDITION

EXHIBIT A - PLAT OF DEVELOPER PROPERTY



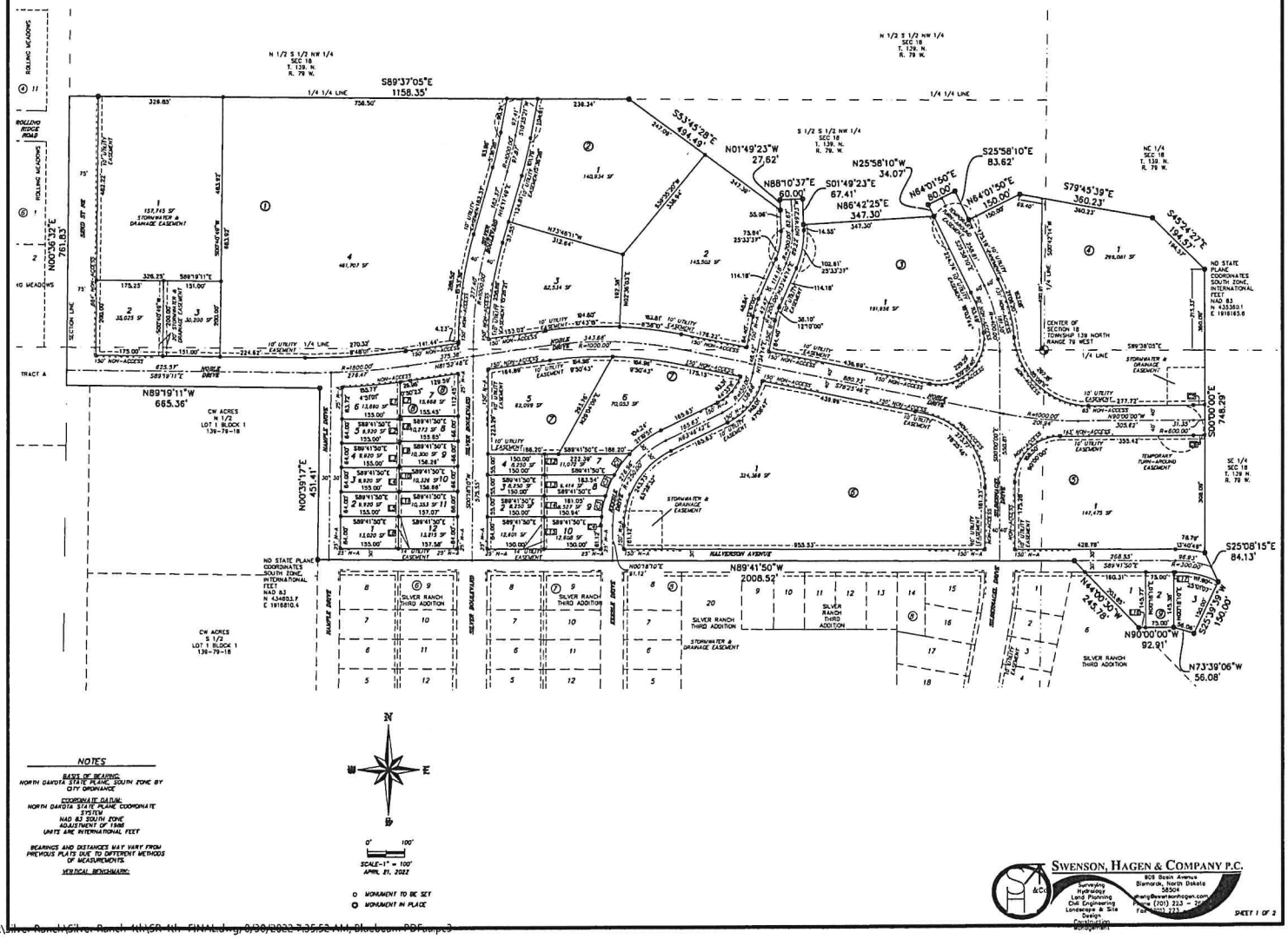
9/16/2022

DocuSigned by:
Chad Wachter
F90F484E78BC44A...

# SILVER RANCH FOURTH ADDITION

PART OF SECTION 18
TOWNSHIP 139 NORTH RANGE 79 WEST
OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA




NOTES

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

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

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

VERTICAL BENCHMARK:

SWENSON, HAGEN & COMPANY P.C.
808 Basin Avenue
Bismarck, North Dakota
58504
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

SHEET 1 OF 2

P:\Bismarck\Silver Ranch\Silver Ranch 4th\SR 4th FINAL.dwg, 9/30/2022 7:35:52 AM, Blackburn, PDF.ctb, p3



9/16/2022
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Chad Wachter
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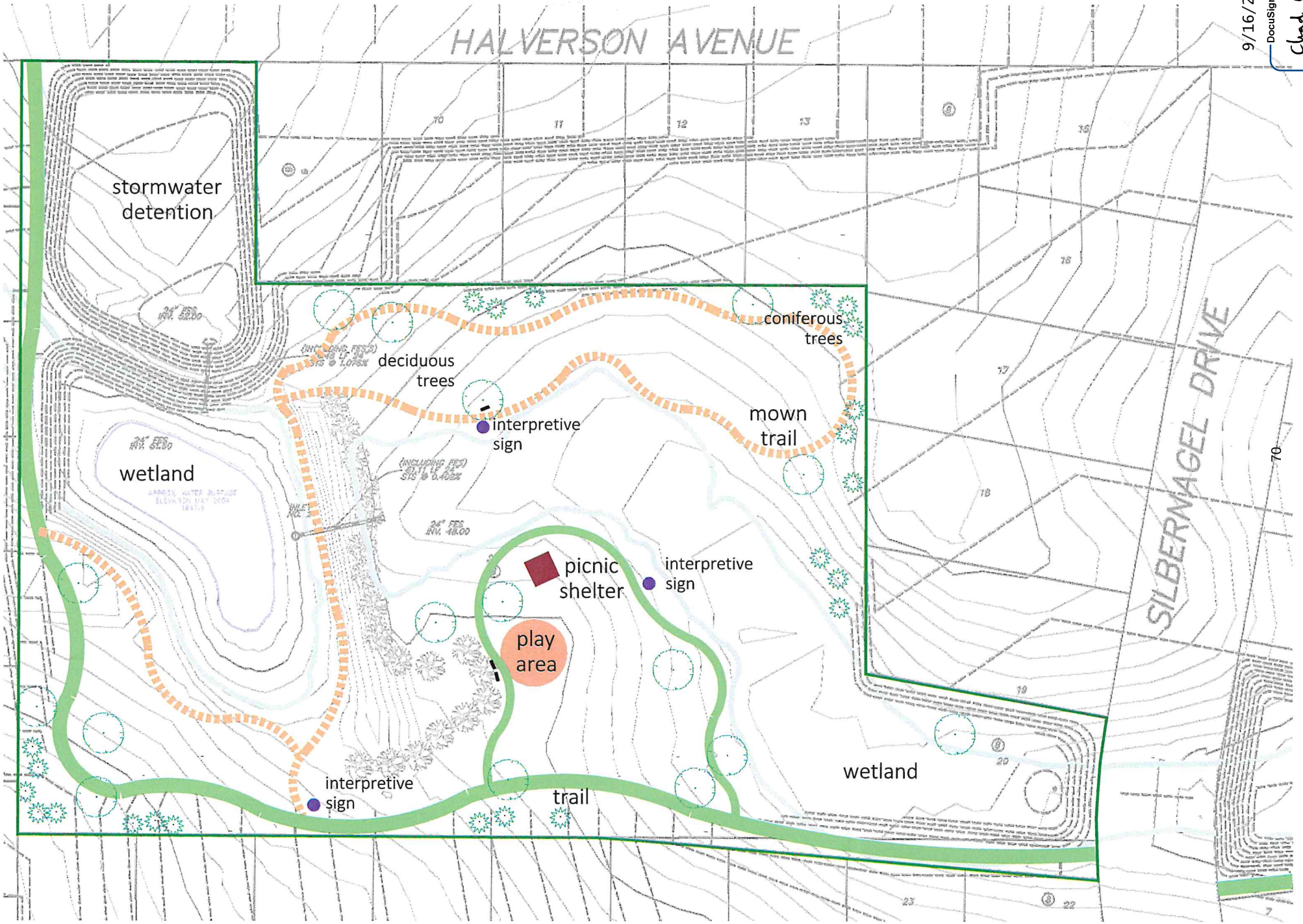
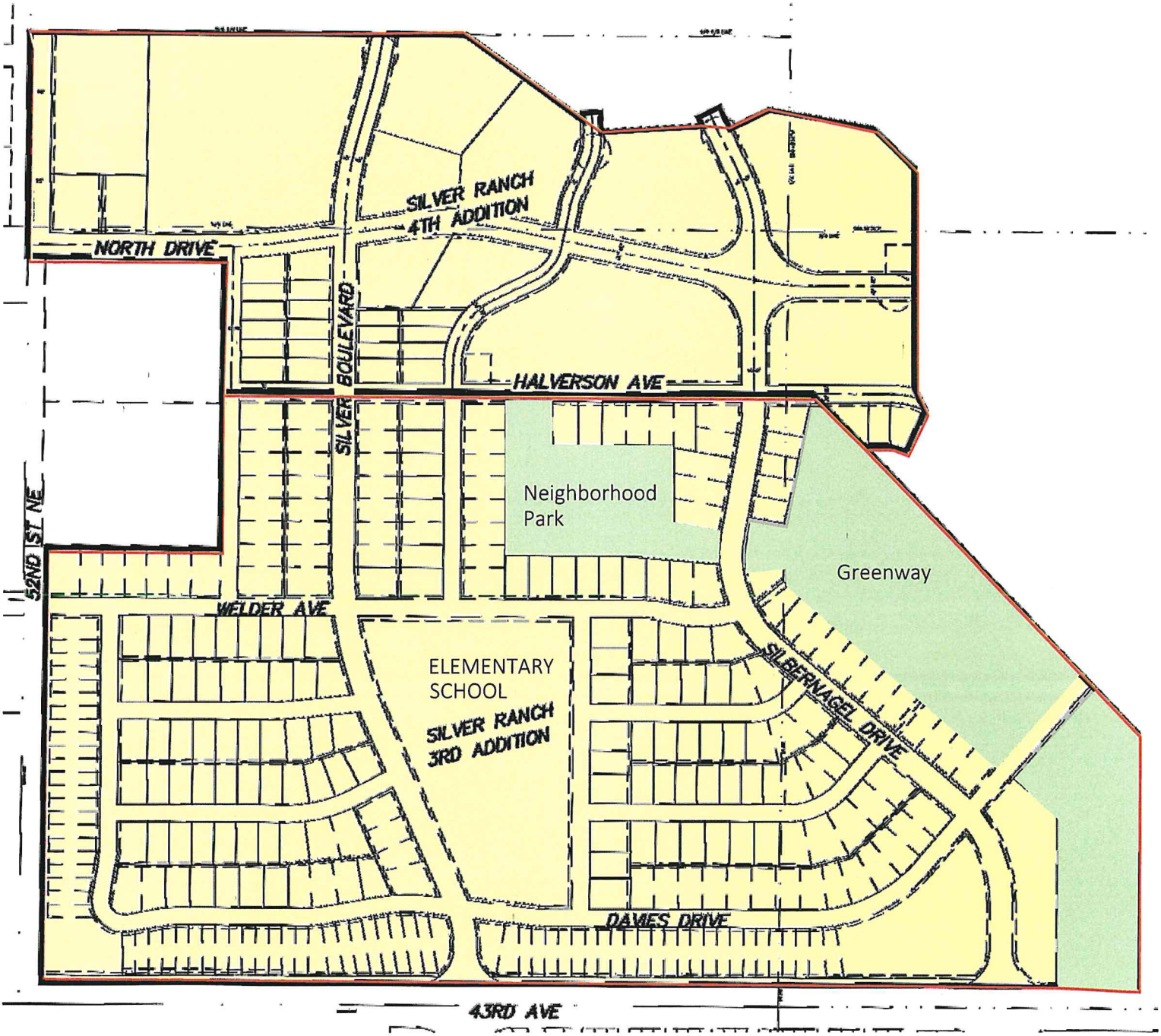



9/16/2022
DocuSigned by:
Chad Wachter
F90F484E78BC44A...

EXIBIT A-2 MAP OF BENEFITED AREA

# SILVER RANCH 3RD & 4TH ADDITION
# BISMARCK, NORTH DAKOTA




9/16/2022

DocuSigned by:
Chad Wachter
F90F484E78BC44A...

| Silver Ranch 3-4 Neighborhood Park & Greenway | | | | | |
|---|---|---|---|---|---|
| Preliminary Opinion of Cost | | | | | 7/12/2022 |
| Item | Description | Quantity | Unit | Unit Price | Total |
| 1 | Mobilization | 1 | EA | $ 35,600.00 | $ 35,600.00 |
| 2 | Contract Bond | 1 | EA | $ 5,900.00 | $ 5,900.00 |
| 3 | Irrigation | 1 | LS | $ 55,000.00 | $ 55,000.00 |
| 4 | Erosion Control, Permitting, St Water | 1 | LS | $ 5,000.00 | $ 5,000.00 |
| 5 | Earthwork, general grading, topsoil | 1 | LS | $ 35,000.00 | $ 35,000.00 |
| 6 | Asphalt Shared-use Trail - Park Area | 11730 | SF | $ 4.50 | $ 52,785.00 |
| 7 | Asphalt Shared-use Trail - Greenway | 13980 | SF | $ 4.50 | $ 62,910.00 |
| 8 | 4" Concrete Sidewalk (Play Access Path) | 2808 | SF | $ 7.00 | $ 19,656.00 |
| 9 | Concrete Play Curb | 300 | LF | $ 42.00 | $ 12,600.00 |
| 10 | Concrete Play Ramps | 1 | LS | $ 42.00 | $ 42.00 |
| 11 | Engineered Wood Fiber Surfacing | 1 | LS | $ 6,500.00 | $ 6,500.00 |
| 12 | Play Structure | 1 | EA | $ 60,000.00 | $ 60,000.00 |
| 13 | Bench | 3 | EA | $ 2,500.00 | $ 7,500.00 |
| 14 | Picnic Tables | 2 | EA | $ 2,500.00 | $ 5,000.00 |
| 15 | Metal Shelter | 1 | EA | $ 45,000.00 | $ 45,000.00 |
| 16 | Interpretive Signs | 3 | EA | $ 1,200.00 | $ 3,600.00 |
| 17 | Coniferous Trees | 23 | EA | $ 650.00 | $ 14,950.00 |
| 18 | Shade Trees | 16 | EA | $ 650.00 | $ 10,400.00 |
| 19 | Lawn Seed | 5.7 | ACRE | $ 5,000.00 | $ 28,500.00 |
| | | | | Subtotal | $ 465,943.00 |
| | | | | 10% Contingency | $ 46,594.30 |
| | | | | Consultant Fees (18%) | $ 83,869.74 |
| | | | | **Total** | **$ 596,407.04** |



9/16/2022
DocuSigned by:
Chad Wachter
F90F484E78BC44A...

Exhibit D – Petition for Park Improvements

## PETITION FOR PARK IMPROVEMENTS
## For lots zoned Residential

**DATE:** 9/16/2022

To the Honorable Board of City Commissioners
Bismarck, North Dakota

Commissioners:

The undersigned owners of the property liable to be assessed for the park/trail improvement respectfully petition your Honorable Board to have park improvements completed on (legal description of lots where park/trail is to be developed):

Park Area: Lot 20, Block 8 (5.7 acres) in Silver Ranch 3rd Addition
Greenway: Lot 6, Block 14 (13.1 acres) in Silver Ranch 3rd Addition

It is agreed that 100% of the costs of said park improvements shall be assessed to the benefited property according to Bismarck Parks and Recreation District's Basis of Special Assessment Policy.

**PROPERTY DESCRIPTION**

Lots 1-7, Block 1
Lots 1-43, 48, Block 2
Lots 1-25, Block 3
Lots 10-11, Block 4
Lots 1-18, Block 5
Lots 1-7, 10-16, Block 6
Lots 1-7, 10-16, Block 7
Lots 1-7, 16-25, Block 8
Lots 11-28, Block 10
Lots 4-28, Block 11
Lots 4-13, Block 13
Lots 2-19, Block 14
Lot 1, Block 15
All in Silver Ranch
3rd Addition

Lots 1-4, Block 1
Lots 1-3, Block 2
Lot 1, Block 3
Lot 1, Block 4
Lot 1, Block 5
Lot 1, Block 6
Lots 1-10, block 7
Lots 1-12, Block 8
Lots 1-3, Block 9
All in Silver Ranch
4th Addition

**SIGNATURE and ADDRESS (Property Owner)**

Investcore, Inc.
1601 North 12th Street, Suite 411
Bismarck, ND 58503

DocuSigned by:
Chad Wachter
590F4...
Chad Wachter, President and CEO

---

For City Engineer Use Only

Approved by Gabe Schell, P.E.
City Engineer, Bismarck, ND

Date

9/16/2022

DocuSigned by:
Chad Wachter
F90F484E78BC44A...

Bismarck COMMUNITY DEVELOPMENT

# STAFF REPORT

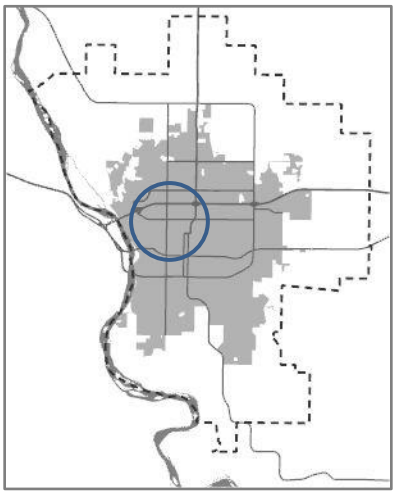
Agenda Item # 8
January 25, 2023

Application for: **Zoning Change**

Project ID: **ZC2022-021**

## Project Summary

| | |
|---|---|
| *Title:* | Lots 9, 10 and the South 25.4 feet of Lot 11, Block 7, Replat of Homan Acres |
| *Status:* | Planning & Zoning Commission – Public Hearing |
| *Owner(s):* | Gwen and Timothy Beckler (Lot 9)<br>John and Angela Glaser (Lot 10 and the South 25.4 feet of Lot 11) |
| *Project Contact:* | Jenny Wollmuth, AICP, CFM, Senior Planner |
| *Location:* | In central Bismarck, in the northeast quadrant of the intersection of West Central Avenue and North Kavaney Drive |
| *Project Size:* | 23,613 square feet |
| *Request:* | Rezone non-conforming property to bring property into conformance |



## Site Information

| Existing Conditions | | Proposed Conditions | |
|---|---|---|---|
| *Number of Lots:* | 2 parcels in 1 block | *Number of Lots:* | 2 parcels in 1 block |
| *Land Use:* | Single and two-family residential | *Land Use:* | Single and two-family residential |
| *Future Land Use:* | Neighborhood Mixed Use | *Future Land Use:* | Neighborhood Mixed Use |
| *Zoning:* | RT – Residential | *Zoning:* | R10 – Residential |
| *Uses Allowed:* | RT – Offices and multi-family residential | *Uses Allowed:* | R10 – Single and two-family residential |
| *Max Density:* | RT – 30 units / acre | *Max Density:* | R10 – 10 units / acre |

## Property History

| | | | | | |
|---|---|---|---|---|---|
| *Zoned:* | Pre-1980 | *Platted:* | 1961 | *Annexed:* | Pre-1980 |

*(continued)*

## Staff Analysis

On behalf of the property owners, the Community Development Department is initiating a zoning change from the RT – Residential zoning district to the R10 – Residential zoning district for Lots 9, 10 and the South 25.4 feet of Lot 11, Block 7, Replat of Homan Acres.

The proposed zoning change is being requested in order to bring the properties into conformance with the City's zoning code.

The Planning and Zoning Commission considered this request at their meeting of December 21, 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 January 13 and January 20 and 61 letters were mailed to owners of nearby properties on January 13, 2023.

Adjacent uses include commercial uses (Northbrook Mall) to the west across North Kavaney Drive, office and multifamily uses to the north, single-family residential to the east and south across West Central Avenue and Single and two-family residential to the southwest across West Central Avenue / North Kavaney Drive.

*Background information*

The Homan Acres area was developed in the early 1960s and both properties were constructed in 1964. Lot 9 was constructed as a single-family dwelling and Lot 10 and the South 25.4 feet of Lot 11 was constructed as a two-family dwelling. At the time of construction, both properties were zoned for single and two-family dwellings. It appears that the property was zoned RT – Residential in the 1980s, likely to encourage redevelopment of the area for office uses. Rezoning portions of the community to encourage redevelopment was a common practice during this time. Unfortunately, this created non-conforming properties. Single and two-family dwellings are not permitted within the current RT – Residential zoning district.

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

1. The proposed zoning change generally conforms to the Future Land Use Plan, in Together 2045;
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 zoning district to the R10 – Residential zoning district for Lots 9, 10 and the

*(continued)*

South 25.4 feet of Lot 11, Block 7, Replat of Homan Acres.

**Attachments**

1. Draft Zoning 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

# *CITY OF BISMARCK*
# *ORDINANCE NO. XXXX*

| | |
|---|---|
| *First Reading* | _____ |
| *Second Reading* | _____ |
| *Final Passage and Adoption* | _____ |
| *Publication Date* | _____ |

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.), 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 R10 – Residential zoning district:

Lots 9, 10 and the South 25.4 feet of Lot 11, Block 7, Replat of Homan Acres.

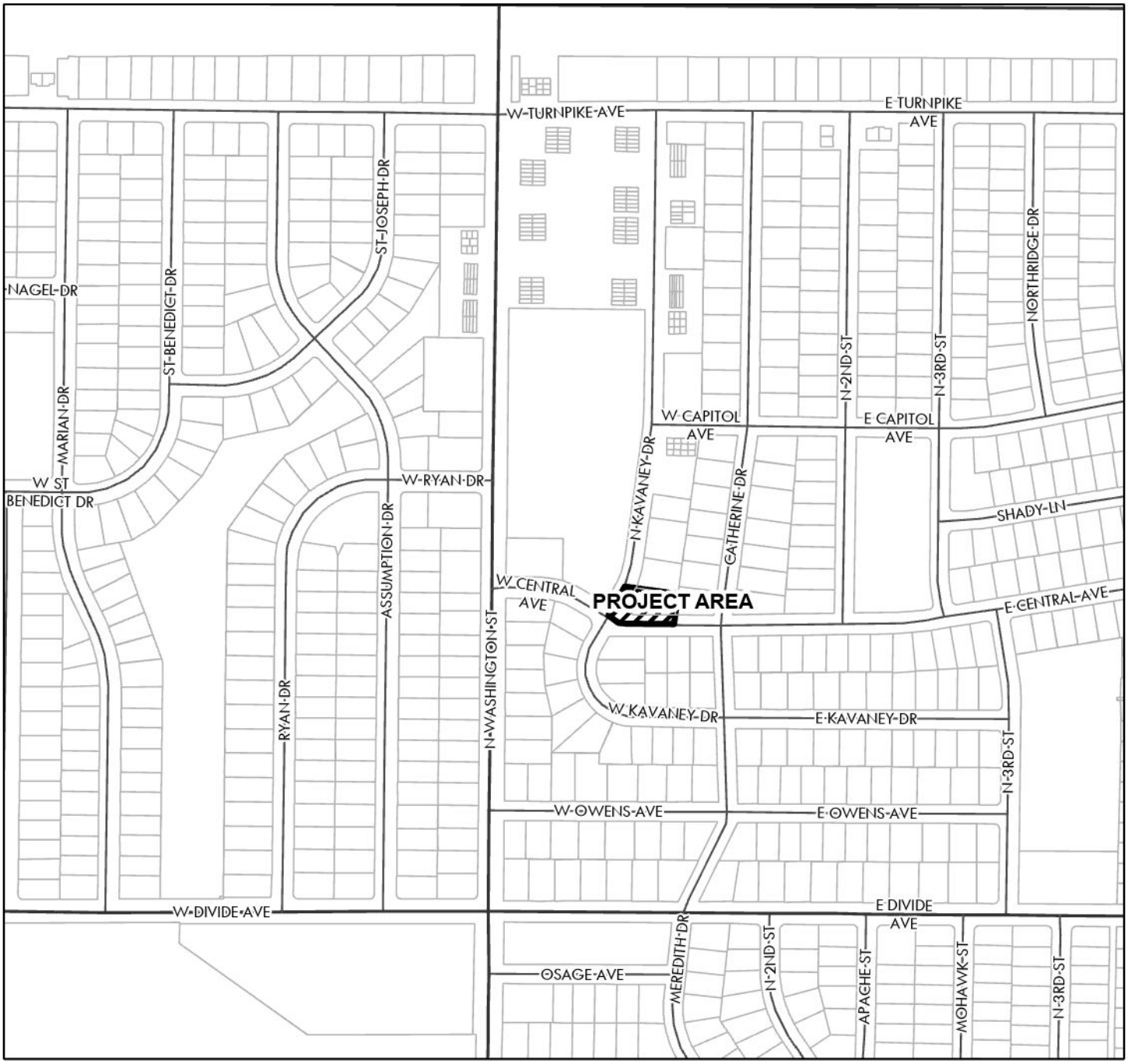
Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

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

# Location Map

ZC2022-021

REPLAT OF HOMAN ACRES, LOTS 9, 10 AND
THE SOUTH 25.4 FEET OF LOT 11, BLOCK 7

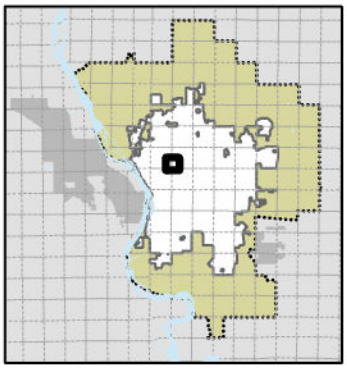



0 0.1 0.2 0.4 Miles

City Limits

Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*



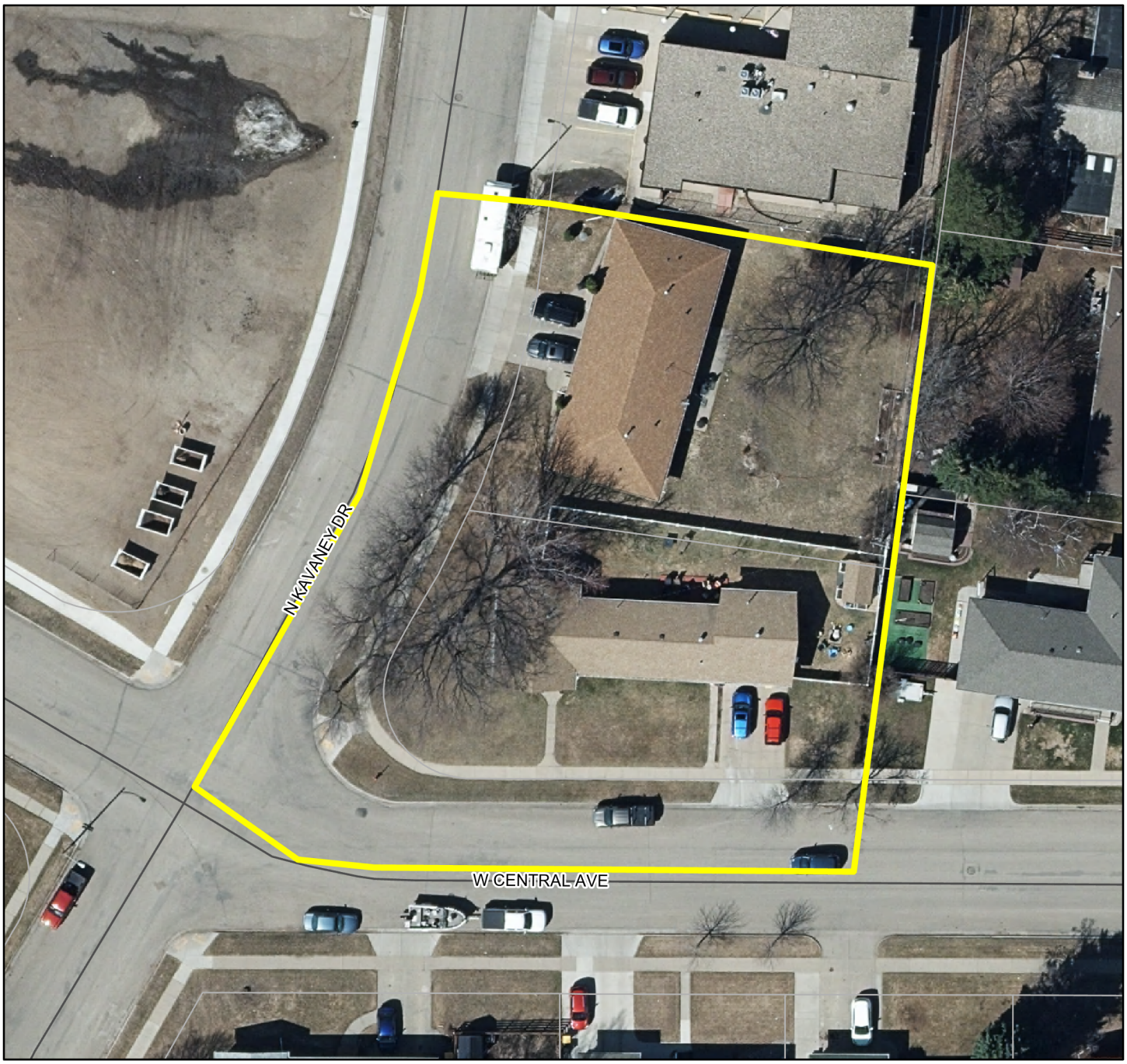
City of Bismarck
Community Development Department
Planning Division
November 21, 2022 (SF)

*This map is for representational use only and is not a survey. No liability is assume as to accuracy of the data shown hereon.*

# Aerial Map

ZC2022-021

REPLAT OF HOMAN ACRES, LOTS 9, 10 AND
THE SOUTH 25.4 FEET OF LOT 11, BLOCK 7

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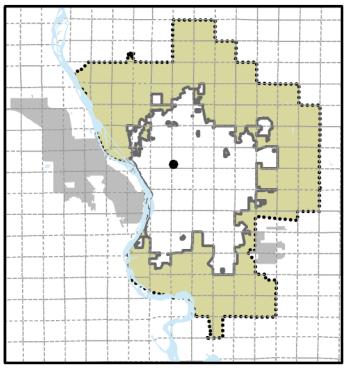
City Limits

Bismarck ETA Jurisdiction



City of Bismarck
Community Development Dept.
Planning Division
December 13, 2022

Aerial Imagery from April 2020

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

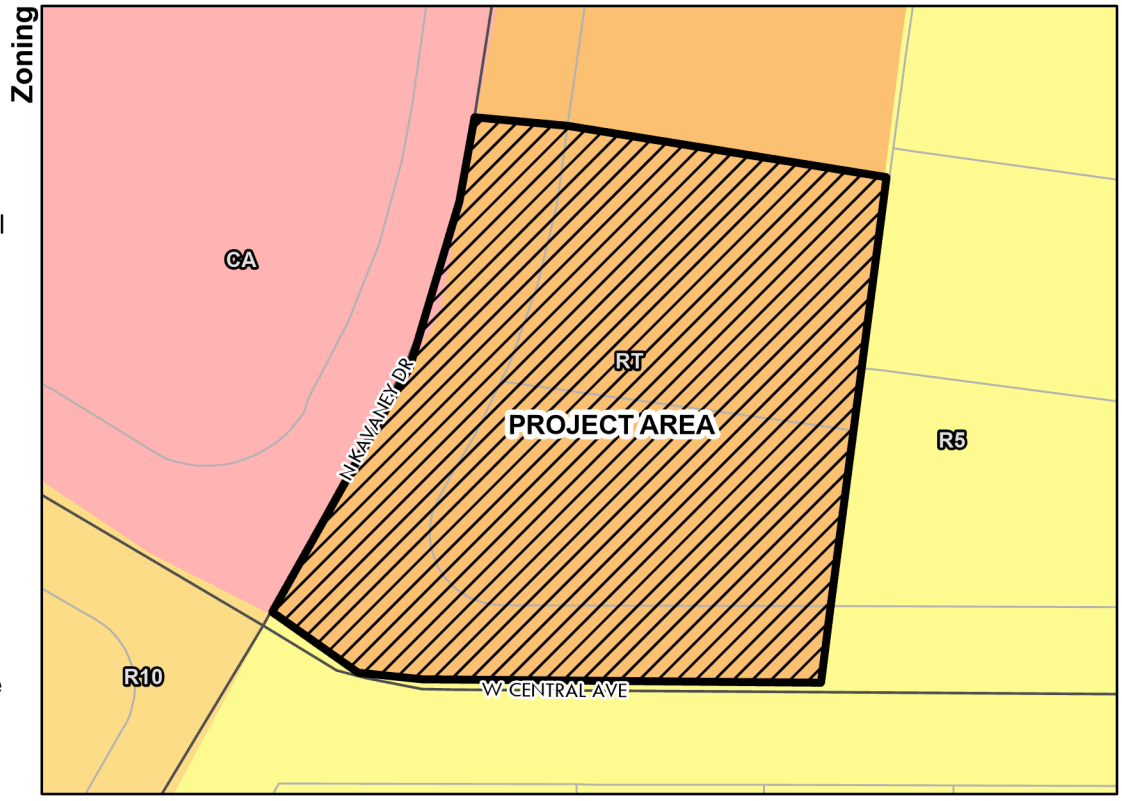
# Zoning and Plan Reference Map

ZC2022-021

REPLAT OF HOMAN ACRES, LOTS 9, 10 AND THE SOUTH 25.4 FEET OF LOT 11, BLOCK 7

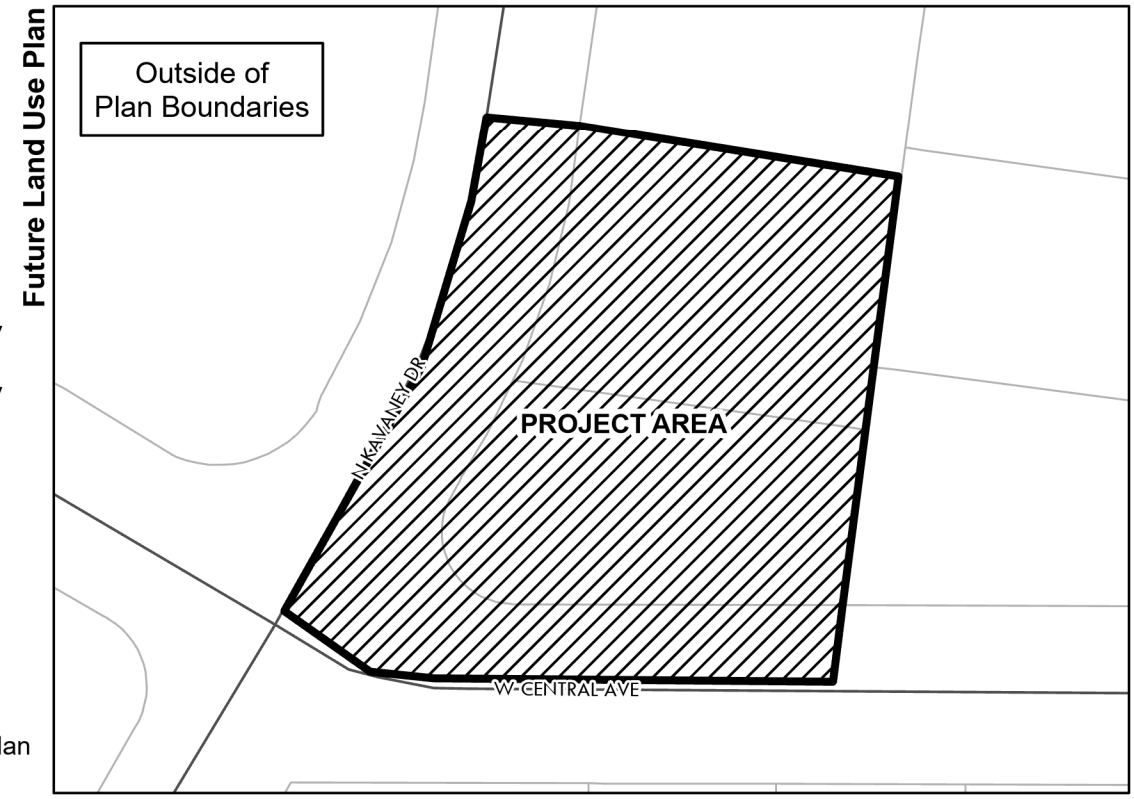
*Zoning Districts*

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




*Future Land Use Plan*

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




Fringe Area Road Master Plan

- Future Arterial Road
- Future Collector Road

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

0 0.01 0.03 0.05 Miles
80

City of Bismarck
Community Development Dept.
Planning Division
December 13, 2022

# Proposed Zoning Change

ZC2022-021

REPLAT OF HOMAN ACRES, LOTS 9, 10 AND
THE SOUTH 25.4 FEET OF LOT 11, BLOCK 7

**Proposed New Zoning Map**

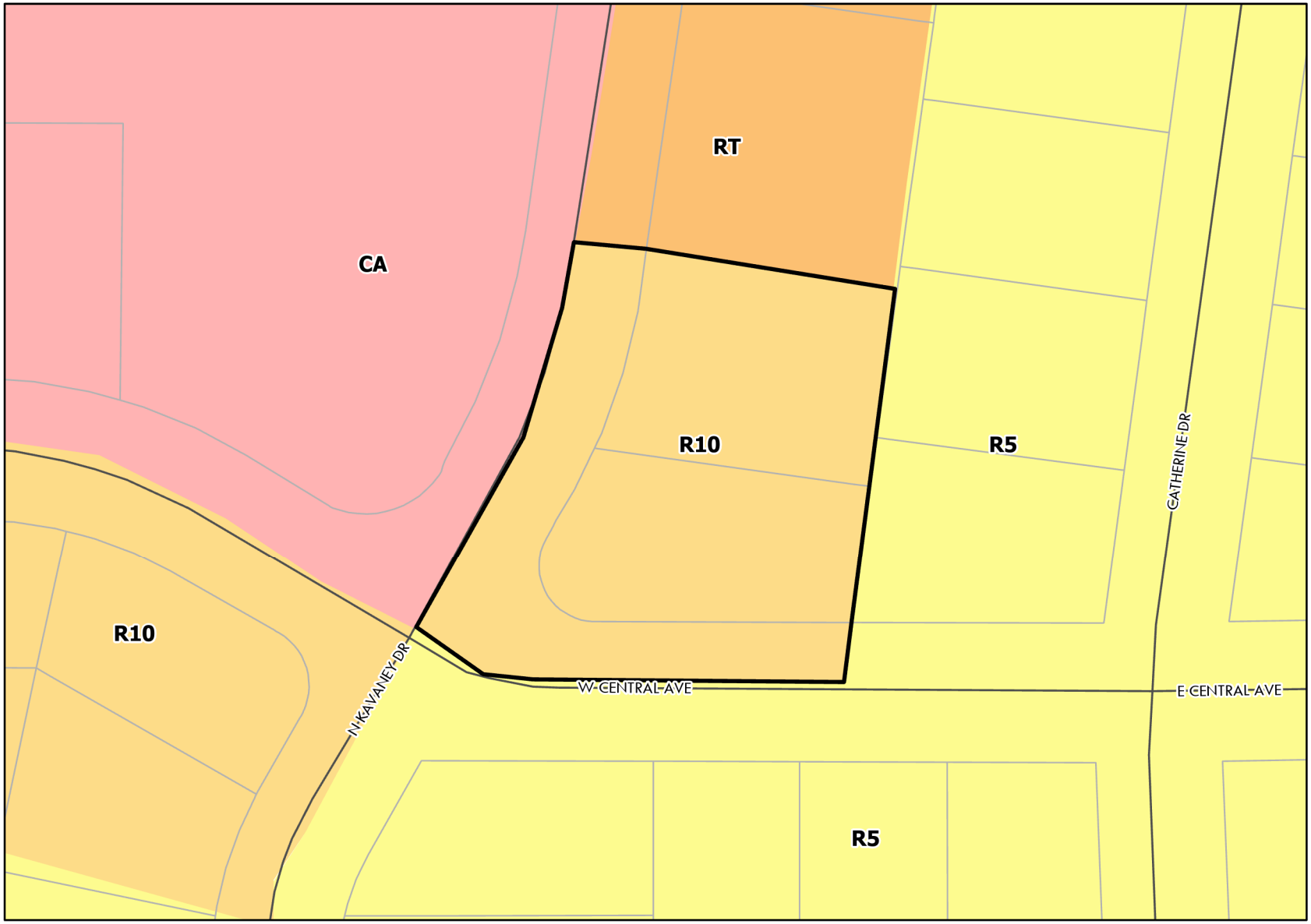
Project Area (zoning within is proposed)

City Limits

*Zoning Districts*

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

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




0 0.02 0.04 0.09 Miles

City of Bismarck
Community Development Dept.
Planning Division
December 15, 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.*

Bismarck COMMUNITY DEVELOPMENT

# STAFF REPORT

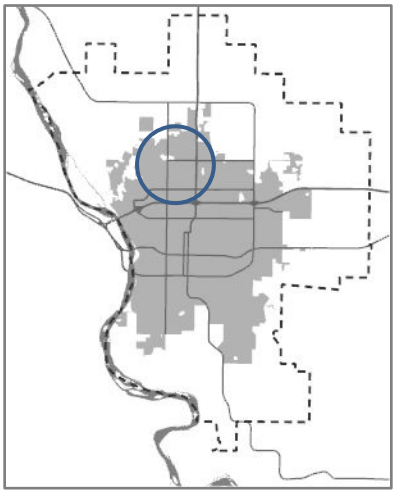
Agenda Item # 9
January 25, 2023

Application for: **Zoning Change**

Project ID: **ZC2022-023**

## Project Summary

| | |
|---|---|
| *Title:* | Lots 1 and 2, Block 1, Kilber North Addition First Replat |
| *Status:* | Planning & Zoning Commission – Public Hearing |
| *Owner(s):* | The Ridge, LLC |
| *Project Contact:* | Daniel Keith |
| *Location:* | In North Bismarck, east of North Washington Street on the south side of 43rd Avenue NE (4228 Boulder Ridge Road) |
| *Project Size:* | 1.24 Acres |
| *Request:* | Rezoning to allow limited commercial uses |



## Site Information

| Existing Conditions | | Proposed Conditions | |
|---|---|---|---|
| *Number of Lots:* | 2 Lots in 1 Block | *Number of Lots:* | 2 Lots in 1 Block |
| *Land Use:* | Undeveloped | *Land Use:* | Commercial center |
| *Future Land Use:* | Neighborhood Mixed Use | *Future Land Use:* | Neighborhood Mixed Use |
| *Zoning:* | RT – Residential | *Zoning:* | Condition CA – Commercial |
| *Uses Allowed:* | RT – Offices and multi-family residential | *Uses Allowed:* | CA – Neighborhood commercial |
| *Max Density:* | RT – 30 units / acre | *Max Density:* | CA – 30 units / acre |

## Property History

| | | | | | |
|---|---|---|---|---|---|
| *Zoned:* | 04/2014 (RT) | *Platted:* | 05/2012 | *Annexed:* | 05/2012 |

## Staff Analysis

The Ridge, LLC is requesting approval of a zoning change from the RT – Residential zoning district to the Conditional CA – Commercial zoning district for Lots 1 and 2, Block 1, Kilber North Addition First Replat.

The Planning and Zoning Commission considered this request at their meeting of December 21, 2022 and called for a public hearing on this zoning change.

*(continued)*

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on January 13 and January 20, and 27 letters were mailed to the owners of nearby properties on January 13, 2023.

*Background Information*

The applicant previously requested a change of zoning to CA – Commercial without any conditions, and the Planning and Zoning Commission denied this request on June 22, 2022. The City Commission denied an appeal of the Planning and Zoning Commission decision on July 12, 2022.

Planning staff have subsequently met with the property owner to discuss potential conditions to alleviate any concerns about impact of any development on nearby properties. Both parties have agreed to support the following conditions on a CA – Commercial zoning district:

1. No individual use within the Retail Group A, Service Group A, or Commercial Recreation use groups may exceed two thousand and five hundred (2,500) square feet in floor area.
2. No drive-through may be installed for any use

Adjacent uses include single and two-family residential and vacant property zoned CA – Commercial to the north across 43rd Avenue NE, office uses to the east across Boulder Ridge Road and to the south, and institutional and multifamily 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 of Together 2045.
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 zoning district to the Conditional CA – Commercial zoning district for Lots 1 and 2, Block 1, Kilber North Addition First Replat, as outlined in the attached draft zoning ordinance.

**Attachments**

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

*(continued)*

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

# *CITY OF BISMARCK*
# *ORDINANCE NO. XXXX*

| | |
|---|---|
| *First Reading* | _____ |
| *Second Reading* | _____ |
| *Final Passage and Adoption* | _____ |
| *Publication Date* | _____ |

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.), 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 Conditional CA – Commercial zoning district:

Lots 1-2, Block 1, Kilber North Addition First Replat

This Conditional CA – Commercial zoning district is subject to the following additional standards:

1. No individual use within the Retail Group A, Service Group A, or Commercial Recreation use groups may exceed two thousand and five hundred (2,500) square feet in floor area.

2. No drive-through may be installed for any use.

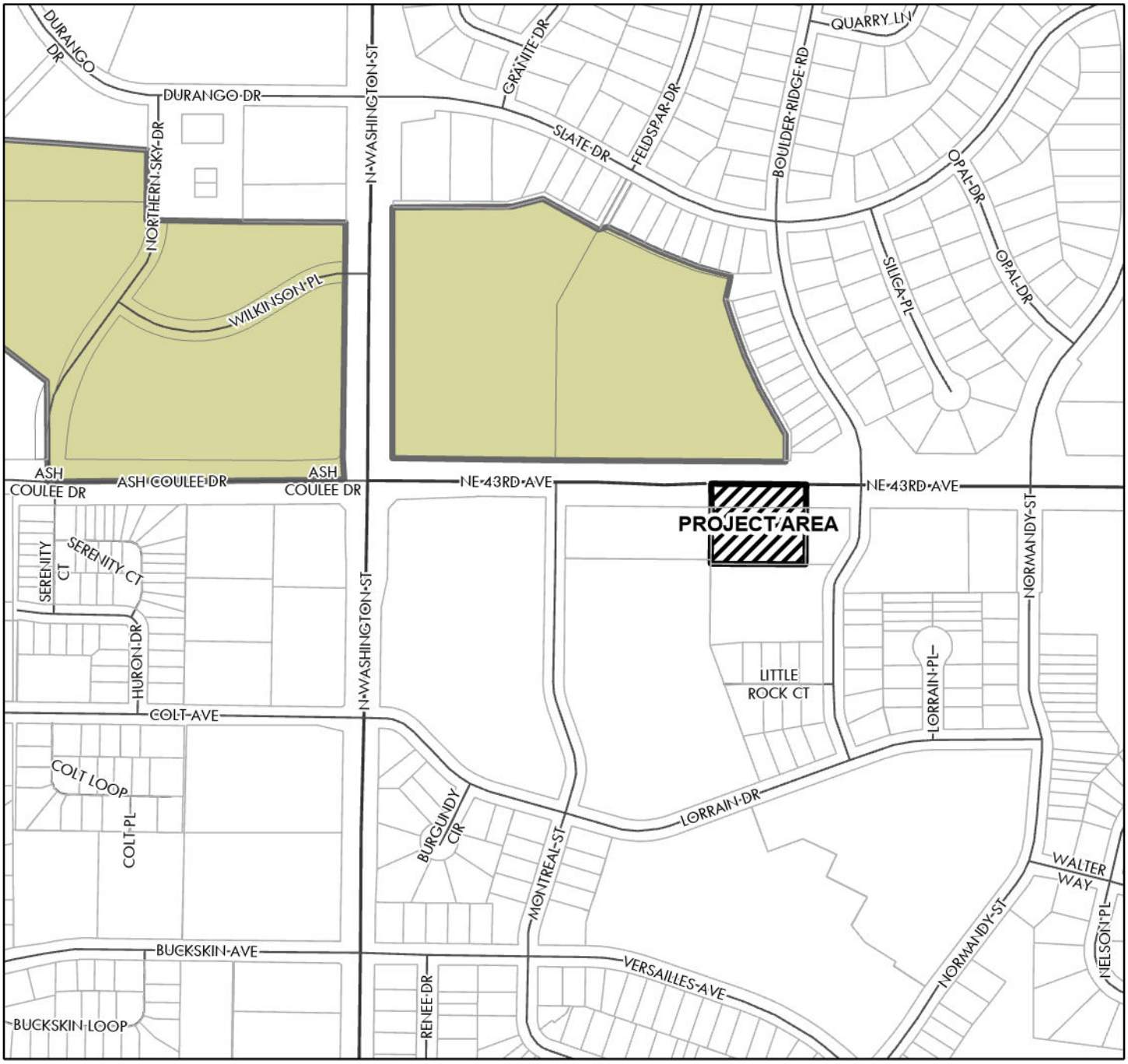
Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

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

# Location Map

ZC2022-023

KILBER NORTH ADDITION FIRST REPLAT L1-2, B1

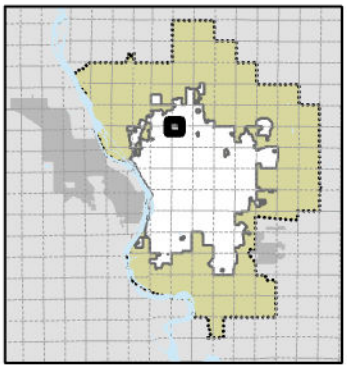



0 0.1 0.2 0.4 Miles

City Limits

Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*



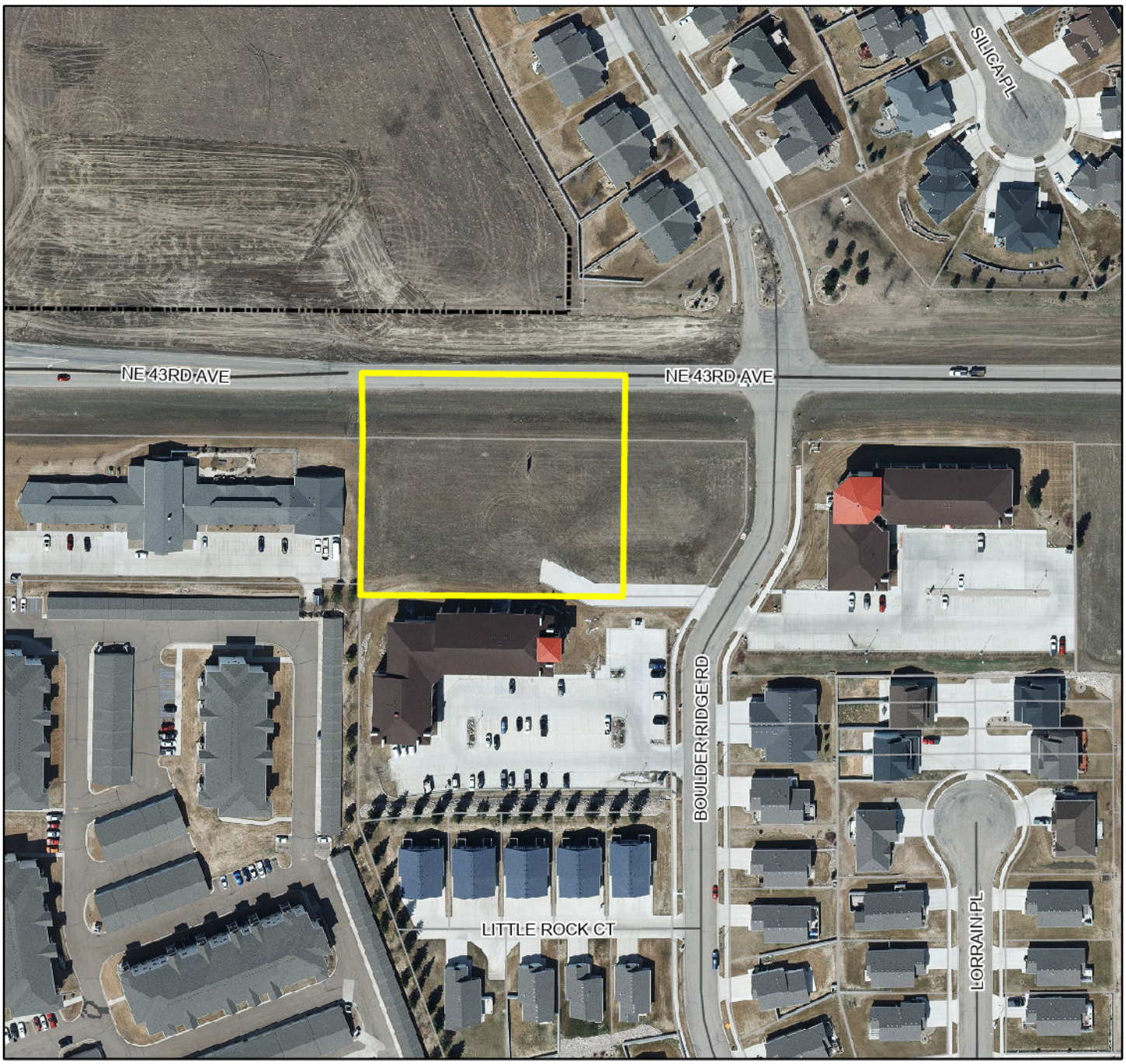
City of Bismarck
Community Development Department
Planning Division
November 28, 2022 (SF)

*This map is for representational use only and is not a survey. No liability is assume as to accuracy of the data shown hereon.*

# Aerial Map

KILBER NORTH ADDITION FIRST REPLAT L1-2, B1

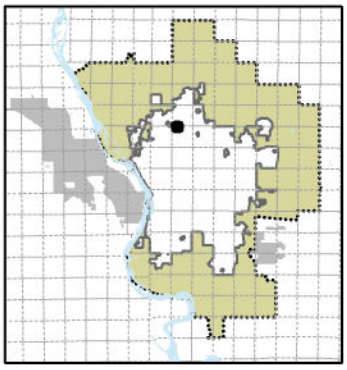
ZC2022-023




0 0.04 0.08 0.16 Miles

City Limits

Bismarck ETA Jurisdiction



City of Bismarck
Community Development Dept.
Planning Division
December 12, 2022

Aerial Imagery from April 2020

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

# Zoning and Plan Reference Map

KILBER NORTH ADDITION FIRST REPLAT L1-2, B1

ZC2022-023

*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*

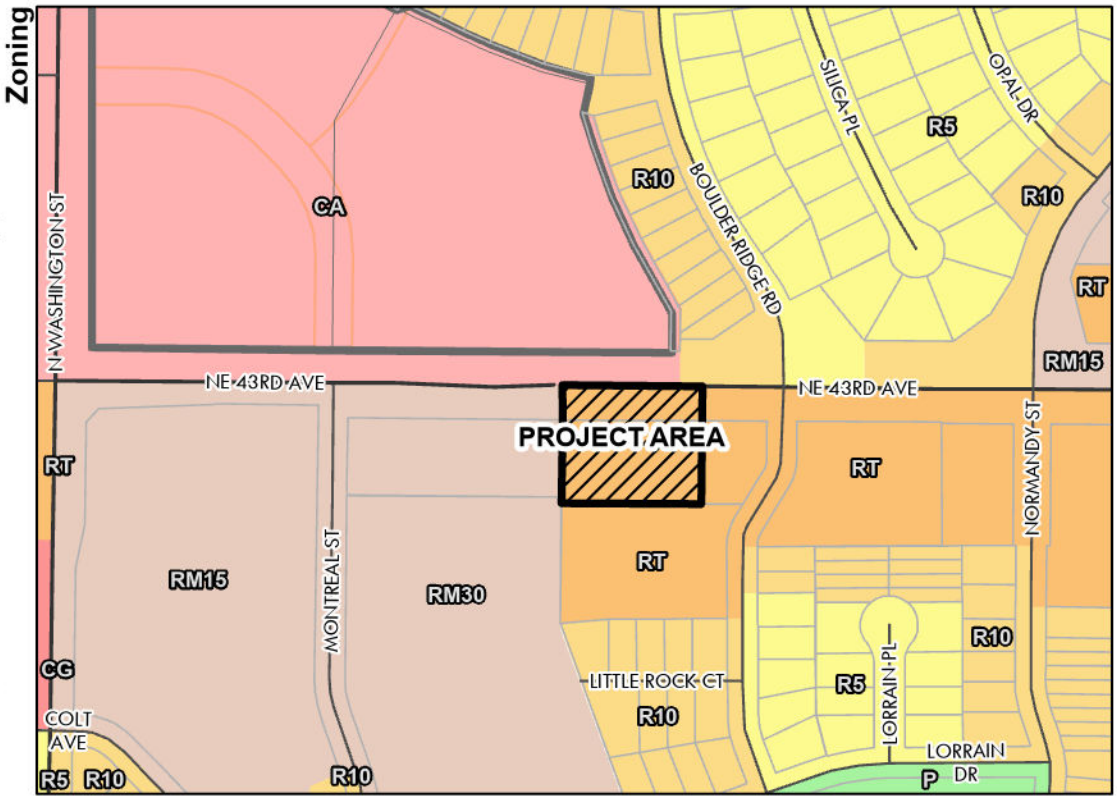
| | |
|---|---|
| **UN** | Urban Neighborhood |
| **NMU** | Neighborhood Mixed Use |
| **CMU** | Community Mixed Use |
| **DMU** | Destination Mixed Use |
| **DT** | Downtown |
| **IND** | Industrial |
| **IF** | Industrial Flex |
| **IMU** | Industrial Mixed Use |
| **INS** | Institutional |
| **RR** | Rural Residential |
| **TR** | Transitional Rural |
| **PKOS** | Parks/Open Space |
| **URA/ URB** | Urban Reserve Mid/Long-Term |

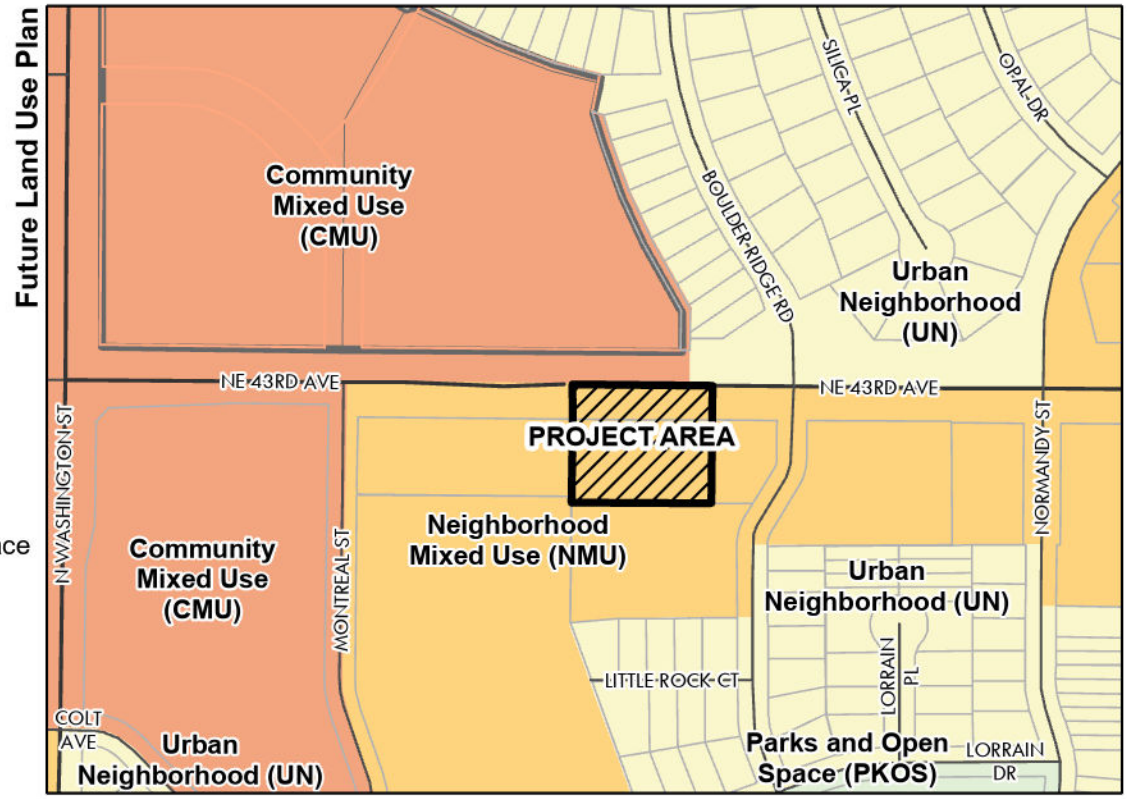
*Major Street Plan*

- Future Arterial
- Future Collector
- Future Interstate

*Active Mobility Plan*

- Future Shared Trail




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

0 300 600 1,200 Feet

N

City of Bismarck
Community Development
Planning Division
January 17, 2023

Bismarck COMMUNITY DEVELOPMENT

# STAFF REPORT

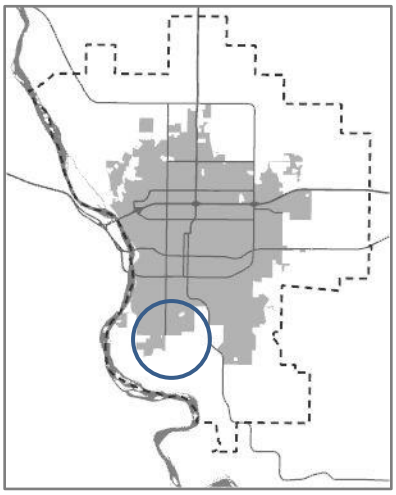
Agenda Item # 10
January 25, 2023

Application for: **Zoning Change**

Project ID: **ZC2022-024**

## Project Summary

| | |
|---|---|
| *Title:* | Part of the NW¼ of Section 21, T138N-R80W/Lincoln Township (being platted as Lot 1, Block 2, Paradise Valley Addition) |
| *Status:* | Planning & Zoning Commission – Public Hearing |
| *Owner(s):* | MBR Properties, LLC |
| *Project Contact:* | Hanna Peterson, EIT, Lowry Engineering |
| *Location:* | South central Bismarck, along the south side of East Burleigh Avenue east of South Washington Street |
| *Project Size:* | 14.33 acres |
| *Request:* | Rezone recently platted lot to increase the number of units that can be constructed on this lot |



## Site Information

| Existing Conditions | | Proposed Conditions | |
|---|---|---|---|
| *Number of Lots:* | 1 lot in 1 block | *Number of Lots:* | 1 lot in 1 block |
| *Land Use:* | Undeveloped | *Land Use:* | Multi-family residential |
| *Future Land Use:* | Neighborhood Mixed Use | *Future Land Use:* | Neighborhood Mixed Use |
| *Zoning:* | RM15 – Residential | *Zoning:* | RM30 – Residential |
| *Uses Allowed:* | RM15 – Multi-family residential | *Uses Allowed:* | RM30 – Multi-family residential |
| *Max Density:* | RM15 – 15 units / acre | *Max Density:* | RM30 – 30 units / acre |

## Property History

| | | | | | |
|---|---|---|---|---|---|
| *Zoned:* | N/A | *Platted:* | N/A | *Annexed:* | N/A |

## Staff Analysis

MBR Properties, LLC is requesting approval of a zoning change from the RM15 – Residential zoning district to the RM30 – Residential zoning district for part of the NW¼ of Section 21, T138N-R80W/Lincoln Township on a lot that is being platted as Lot 1, Block 2, Paradise Valley Addition.

*(continued)*

The Planning and Zoning Commission considered this request at their meeting of December 21, 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 January 13 and January 20 and 38 letters were mailed to owners of nearby properties on January 13, 2023.

Adjacent land uses include developed and developing mixed-density residential uses to the north across East Burleigh Avenue, agriculture and rural residential uses to the east, rural residential uses to the south, and two-family and multi-family residential to the west across South Washington Street.

The proposed increase in density from 15 units per acre to 30 units per acre would increase the total number of units on this 14.33 acre tract from 215 units to 430 units. This increased density could be accommodated with the municipal infrastructure anticipated to be installed in conjunction with development of the project.

**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 RM15 – Residential zoning district to the RM30 – Residential zoning district for the property being platted as Lot 1, Block 2, Paradise Valley Addition.

**Attachments**

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

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

# *CITY OF BISMARCK*
# *ORDINANCE NO. XXXX*

| | |
|---|---|
| *First Reading* | _____ |
| *Second Reading* | _____ |
| *Final Passage and Adoption* | _____ |
| *Publication Date* | _____ |

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.), 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 RM15 – Residential zoning district and included in the RM30 – Residential zoning district:

Lot 1, Block 2, Paradise Valley Addition

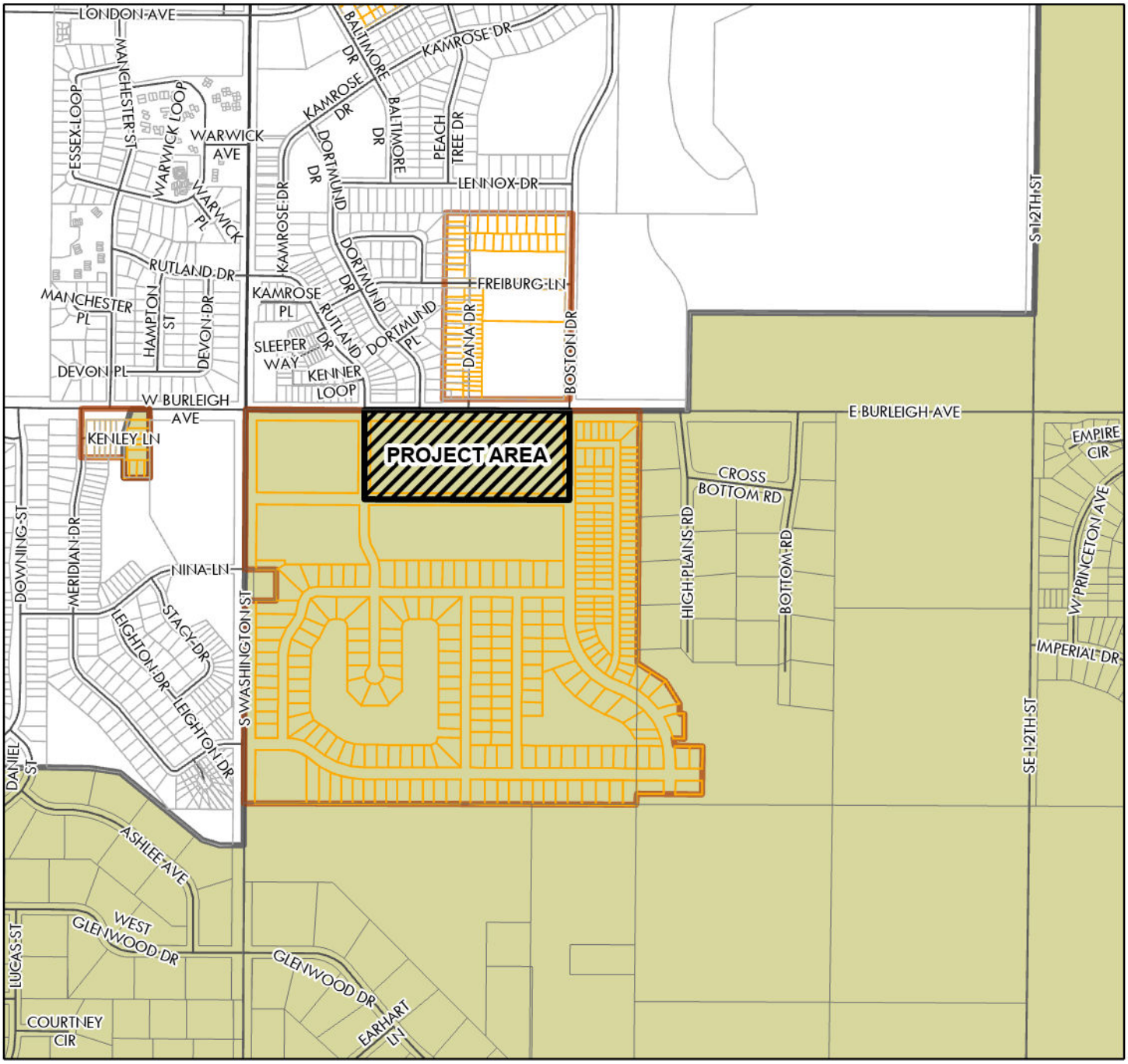
Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

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

# Location Map

PARADISE VALLEY, L1, B2

ZC2022-024




0 0.23 0.45 0.9 Miles

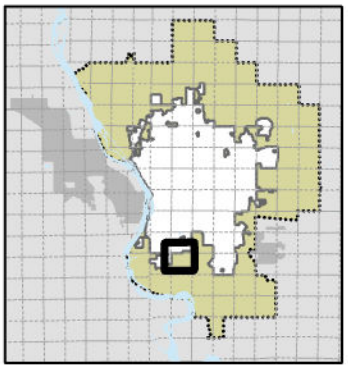
City Limits

Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*

City of Bismarck
Community Development Department
Planning Division
November 28, 2022 (SF)

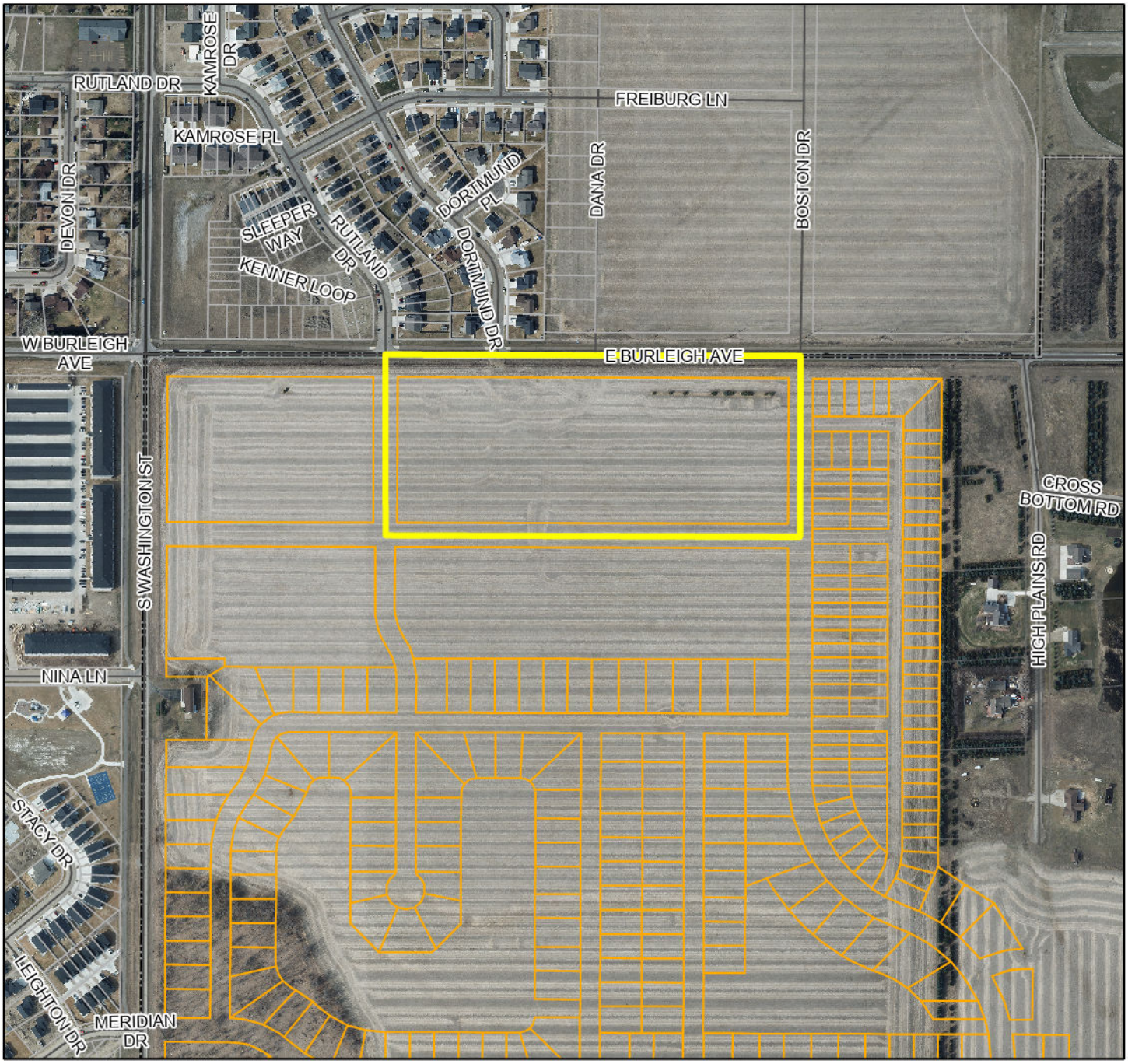
*This map is for representational use only and is not a survey. No liability is assume as to accuracy of the data shown hereon.*



# Aerial Map

PARADISE VALLEY, L1, B2

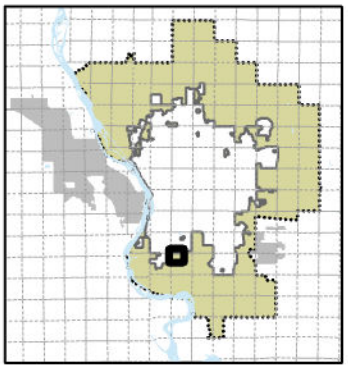
ZC2022-024




0 0.1 0.2 0.4 Miles

City Limits

Bismarck ETA Jurisdiction



City of Bismarck
Community Development Dept.
Planning Division
December 6, 2022

Aerial Imagery from April 2020

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

# Zoning and Plan Reference Map

PARADISE VALLEY, L1, B2

ZC2022-024

*Zoning Districts*

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

*Future Land Use Plan*

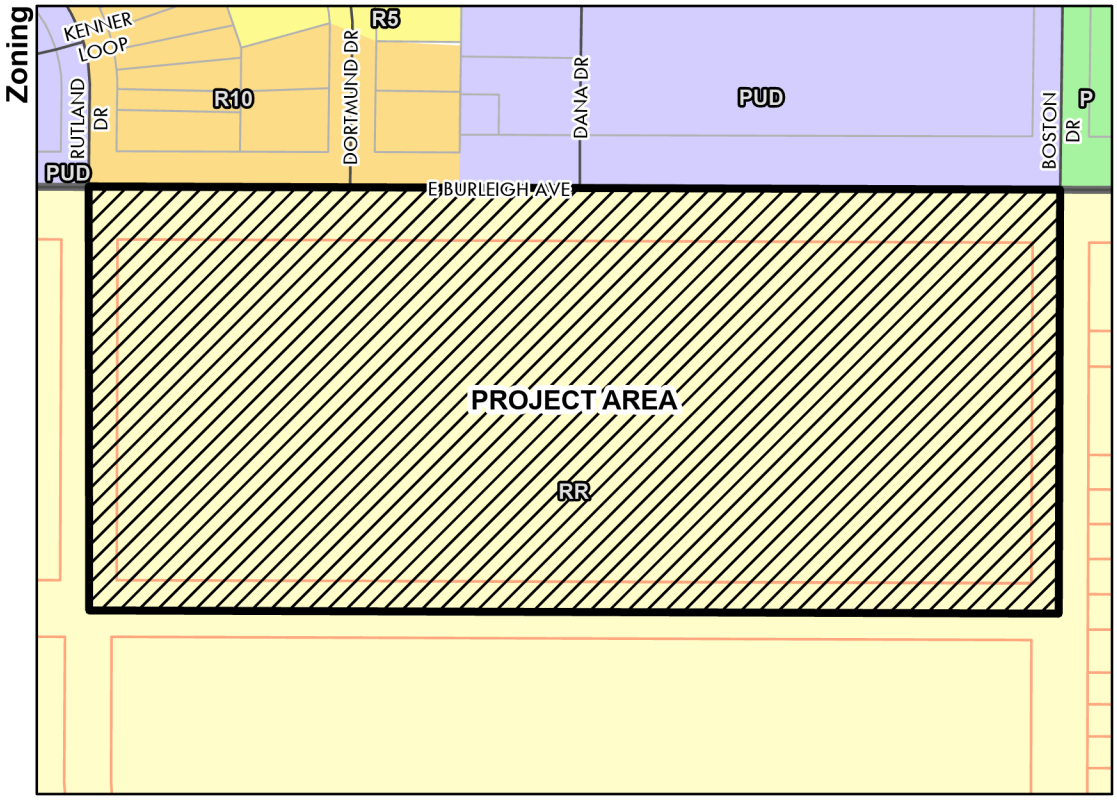
| | |
|---|---|
| **UN** | Urban Neighborhood |
| **NMU** | Neighborhood Mixed Use |
| **CMU** | Community Mixed Use |
| **DMU** | Destination Mixed Use |
| **DT** | Downtown |
| **IND** | Industrial |
| **IF** | Industrial Flex |
| **IMU** | Industrial Mixed Use |
| **INS** | Institutional |
| **RR** | Rural Residential |
| **TR** | Transitional Rural |
| **PKOS** | Parks/Open Space |
| **URA/ URB** | Urban Reserve Mid/Long-Term |

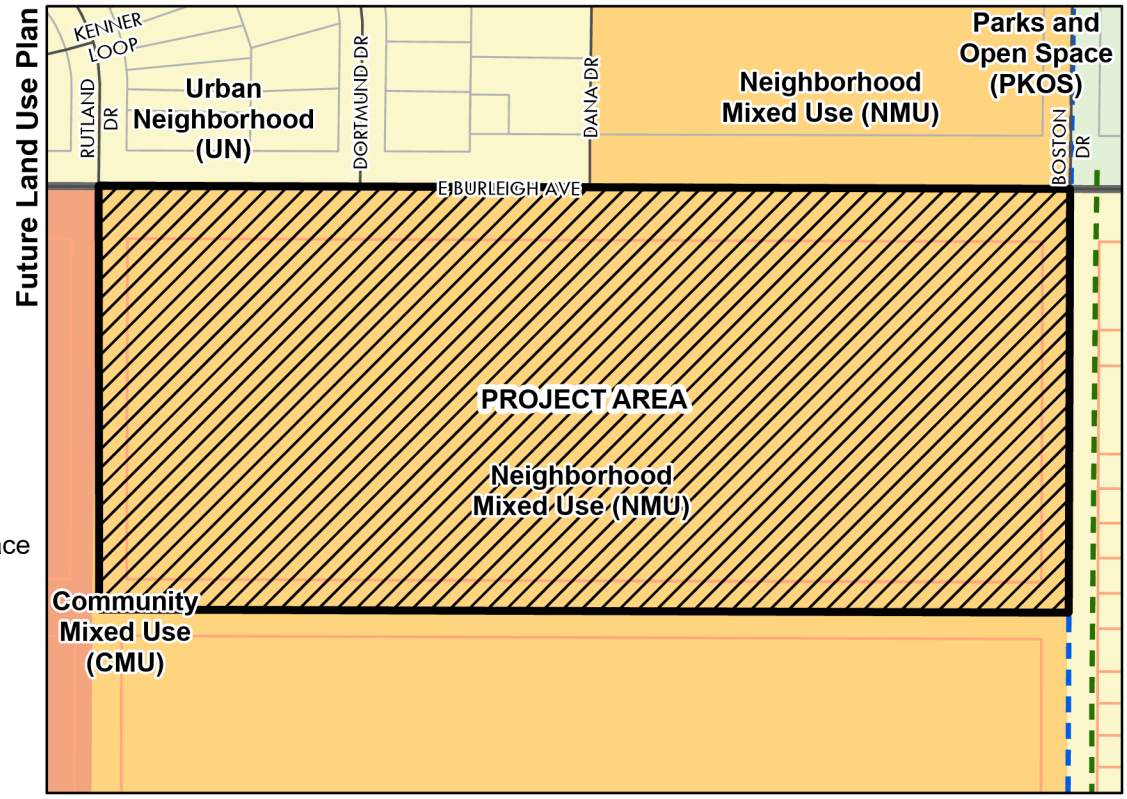
*Major Street Plan*

- Future Arterial
- Future Collector
- Future Interstate

*Active Mobility Plan*

- Future Shared Trail




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

0 200 400 800 Feet

N

City of Bismarck
Community Development
Planning Division
January 19, 2023

# Proposed Zoning Change

PARADISE VALLEY, L1, B2

ZC2022-024

**Proposed New Zoning Map**

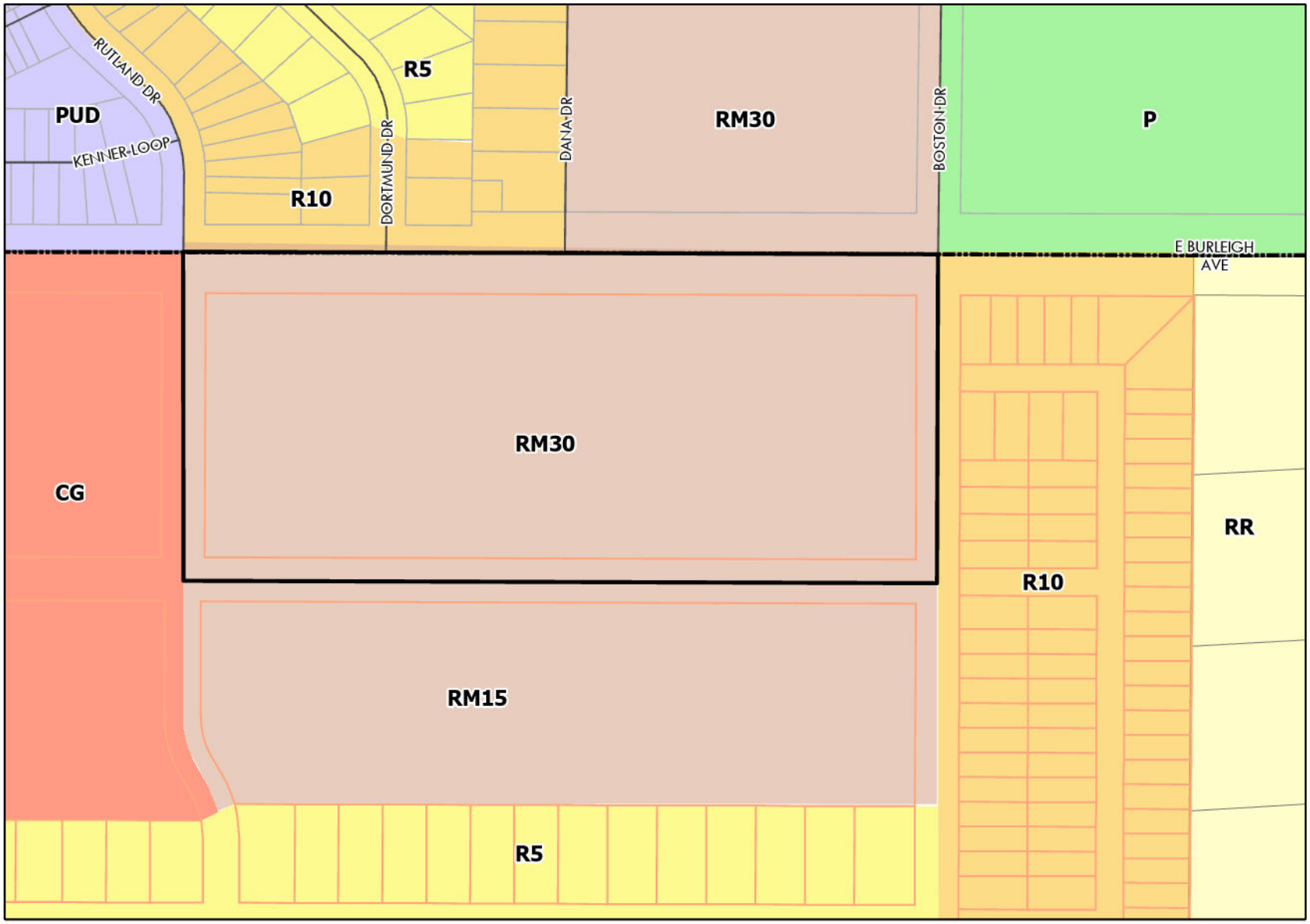
Project Area (zoning within is proposed)

City Limits

*Zoning Districts*

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

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




0 0.07 0.15 0.3 Miles

City of Bismarck
Community Development Dept.
Planning Division
December 6, 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.*

Bismarck COMMUNITY DEVELOPMENT

# STAFF REPORT

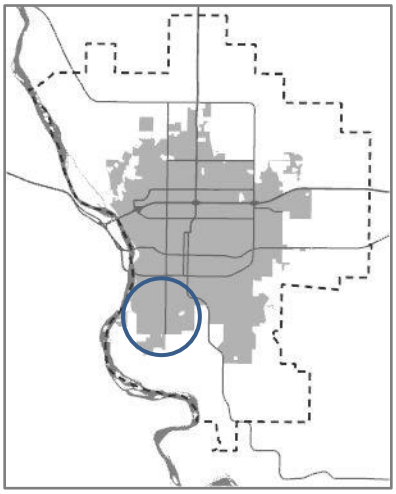
Agenda Item # 11
January 25, 2023

Application for: **Zoning Change**

Project ID: **ZC2022-025**

## Project Summary

| | |
|---|---|
| *Title:* | Lot 1, Block 3, Cottonwood Parkview Addition First Replat |
| *Status:* | Planning & Zoning Commission – Public Hearing |
| *Owner(s):* | EWR Bismarck Land South, LLC |
| *Project Contact:* | Danny Hanson |
| *Location:* | In south Bismarck, south of Santa Fe Avenue and east of South Washington, along the south side of Kamrose Drive and east side of Dortmund Drive |
| *Project Size:* | 4.55 acres |
| *Request:* | Rezone property for future multi-family development |



## Site Information

| Existing Conditions | | Proposed Conditions | |
|---|---|---|---|
| *Number of Lots:* | 1 lot in 1 block | *Number of Lots:* | 1 lot in 1 block |
| *Land Use:* | Undeveloped | *Land Use:* | Multi-family residential |
| *Future Land Use:* | Urban Neighborhood | *Future Land Use:* | Urban Neighborhood |
| *Zoning:* | RM15 – Residential | *Zoning:* | RM20 – Residential |
| *Uses Allowed:* | RM15 – Multi-family residential | *Uses Allowed:* | RM20 – Multi-family residential |
| *Max Density:* | RM15 – 15 units / acre | *Max Density:* | RM20 – 20 units / acre |

## Property History

| | | | | | |
|---|---|---|---|---|---|
| *Zoned:* | 06/2018 | *Platted:* | 06/2018 (Cottonwood Parkview Addition)<br>08/2022 (Cottonwood Parkview Addition First Replat) | *Annexed:* | 06/2018 |

*(continued)*

## Staff Analysis

EWR Bismarck Land South, LLC is requesting approval of a zoning change from the RM15 – Residential zoning district to the RM20 – Residential zoning district for Lot 1, Block 3, Cottonwood Parkview Addition First Replat.

The proposed zoning change is being requested to increase the allowable density of the property from 68 units to 90 units to allow for the construction of a multi-family housing development.

The Planning and Zoning Commission considered this request at their meeting of December 21, 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 January 13 and January 20 and 27 letters were mailed to owners of nearby properties on January 13, 2023.

Adjacent uses include undeveloped multi-family residential zoned property to the north across Kamrose Drive and to the west across Dortmund Drive and developing single and two-family residential zoned property to the south across Lennox Drive and to the east across Baltimore Drive.

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

1. The proposed zoning change generally conforms to the Future Land Use Plan in Together 2045;
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 RM15 – Residential zoning district to the RM20 – Residential zoning district for Lot 1, Block 3, Cottonwood Parkview Addition First Replat.

### Attachments

1. Draft Zoning 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

*(continued)*

701-355-1845 | jwollmuth@bismarcknd.gov

# *CITY OF BISMARCK*
# *ORDINANCE NO. XXXX*

| | |
|---|---|
| *First Reading* | _____ |
| *Second Reading* | _____ |
| *Final Passage and Adoption* | _____ |
| *Publication Date* | _____ |

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.), 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 RM15 – Residential zoning district and included in the RM20 – Residential zoning district:

Lot 1, Block 3, Cottonwood Parkview Addition First Replat

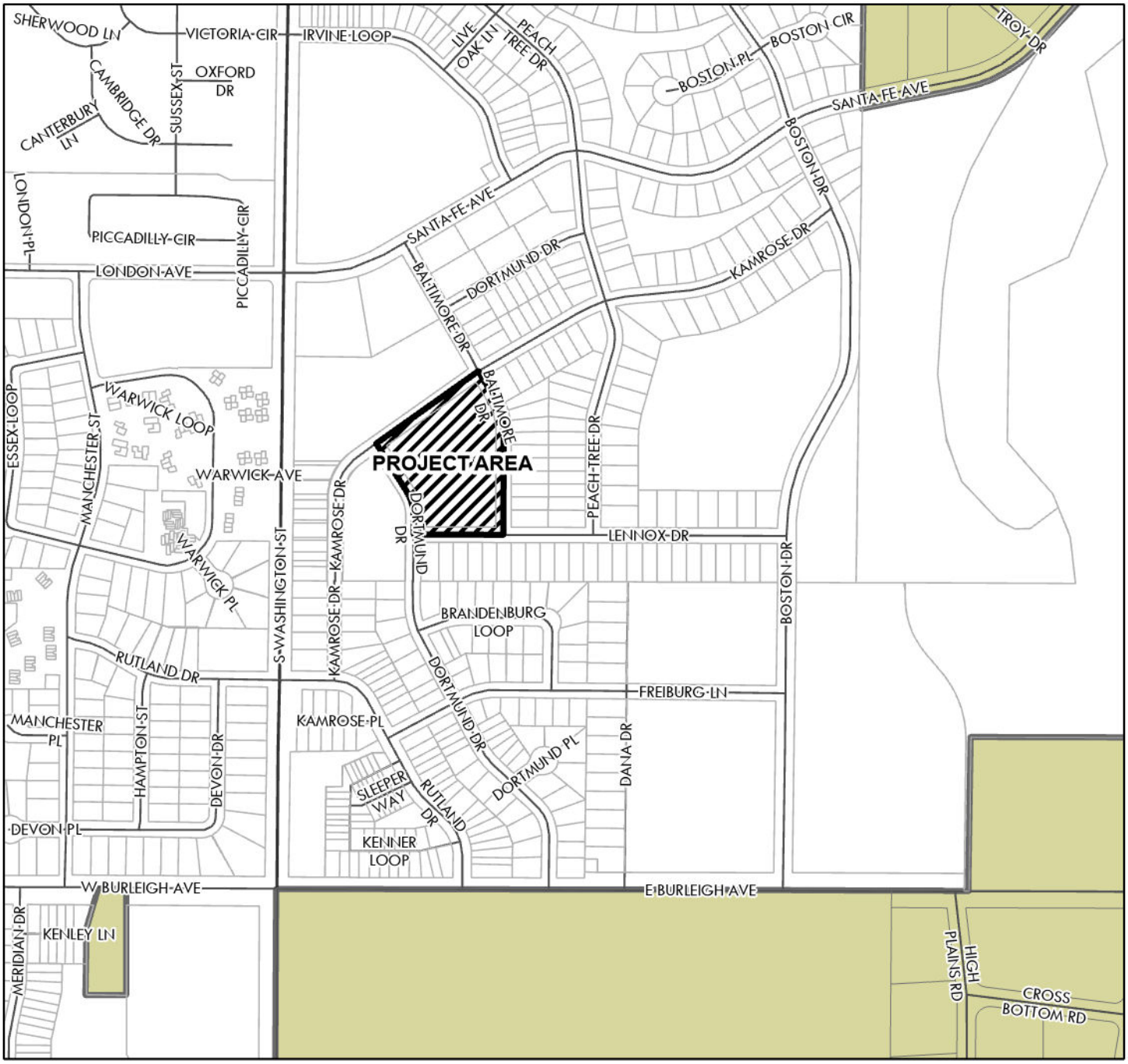
Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

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

# Location Map

ZC2022-025

COTTONWOOD PARKVIEW ADDITION FIRST REPLAT, L1, B3

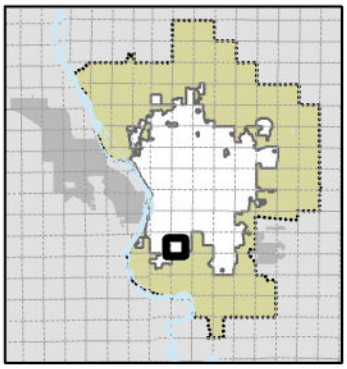



0 0.13 0.25 0.5 Miles

City Limits

Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*



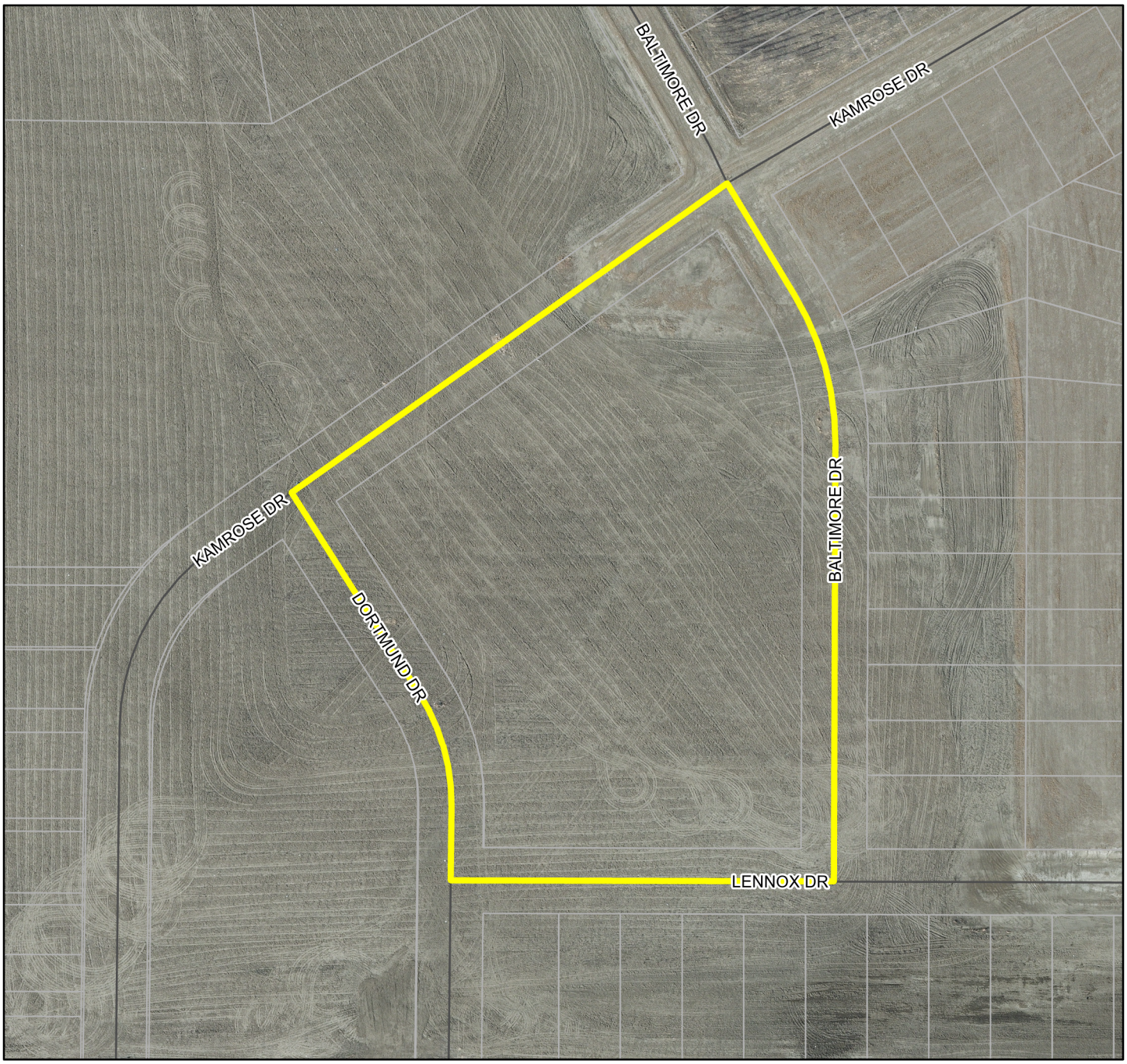
City of Bismarck
Community Development Department
Planning Division
November 28, 2022 (SF)

*This map is for representational use only and is not a survey. No liability is assume as to accuracy of the data shown hereon.*

# Aerial Map

ZC2022-025

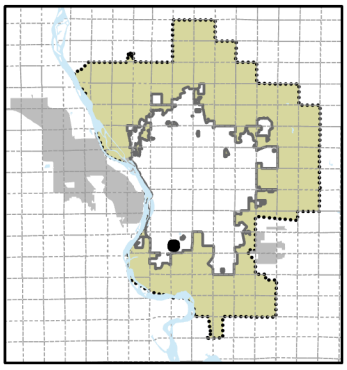
COTTONWOOD PARKVIEW ADDITION FIRST REPLAT, L1, B3




0 0.04 0.07 0.14 Miles

City Limits

Bismarck ETA Jurisdiction



City of Bismarck
Community Development Dept.
Planning Division
December 13, 2022

Aerial Imagery from April 2020

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

# Zoning and Plan Reference Map

COTTONWOOD PARKVIEW ADDITION FIRST REPLAT, L1, B3

ZC2022-025

*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*

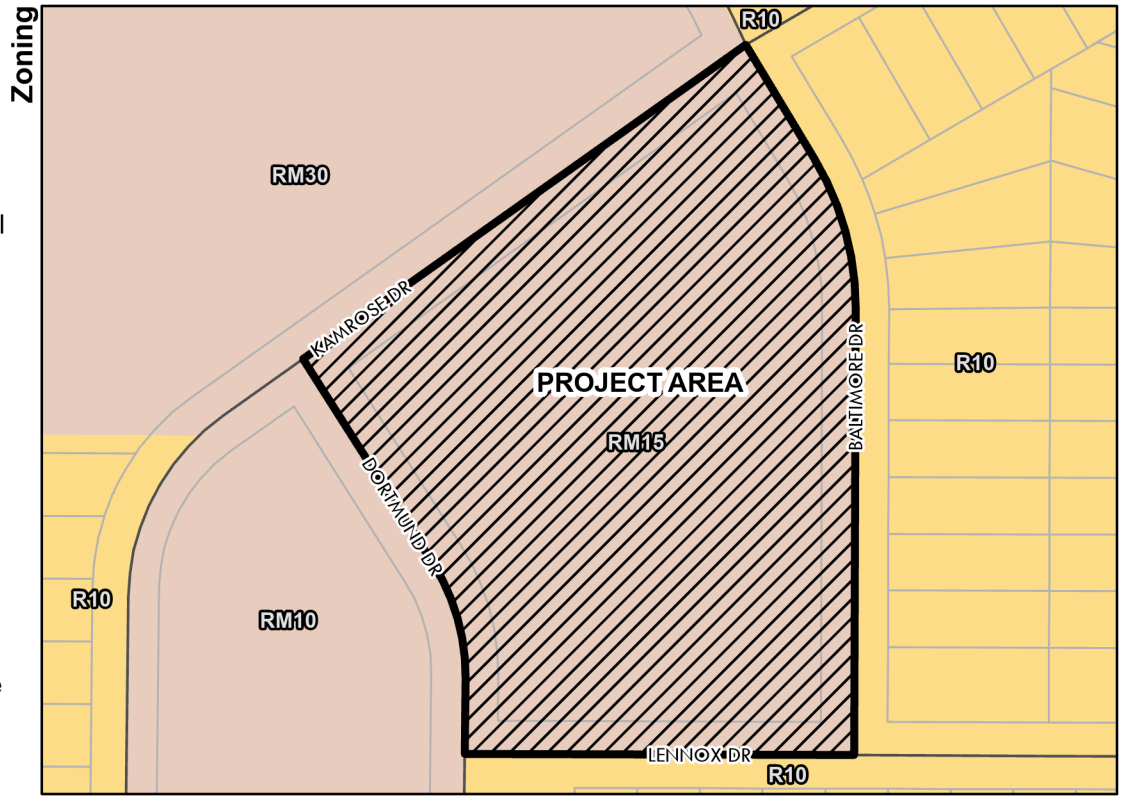
| | |
|---|---|
| **UN** | Urban Neighborhood |
| **NMU** | Neighborhood Mixed Use |
| **CMU** | Community Mixed Use |
| **DMU** | Destination Mixed Use |
| **DT** | Downtown |
| **IND** | Industrial |
| **IF** | Industrial Flex |
| **IMU** | Industrial Mixed Use |
| **INS** | Institutional |
| **RR** | Rural Residential |
| **TR** | Transitional Rural |
| **PKOS** | Parks/Open Space |
| | Urban Reserve |
| **URA/ URB** | Mid/Long-Term |

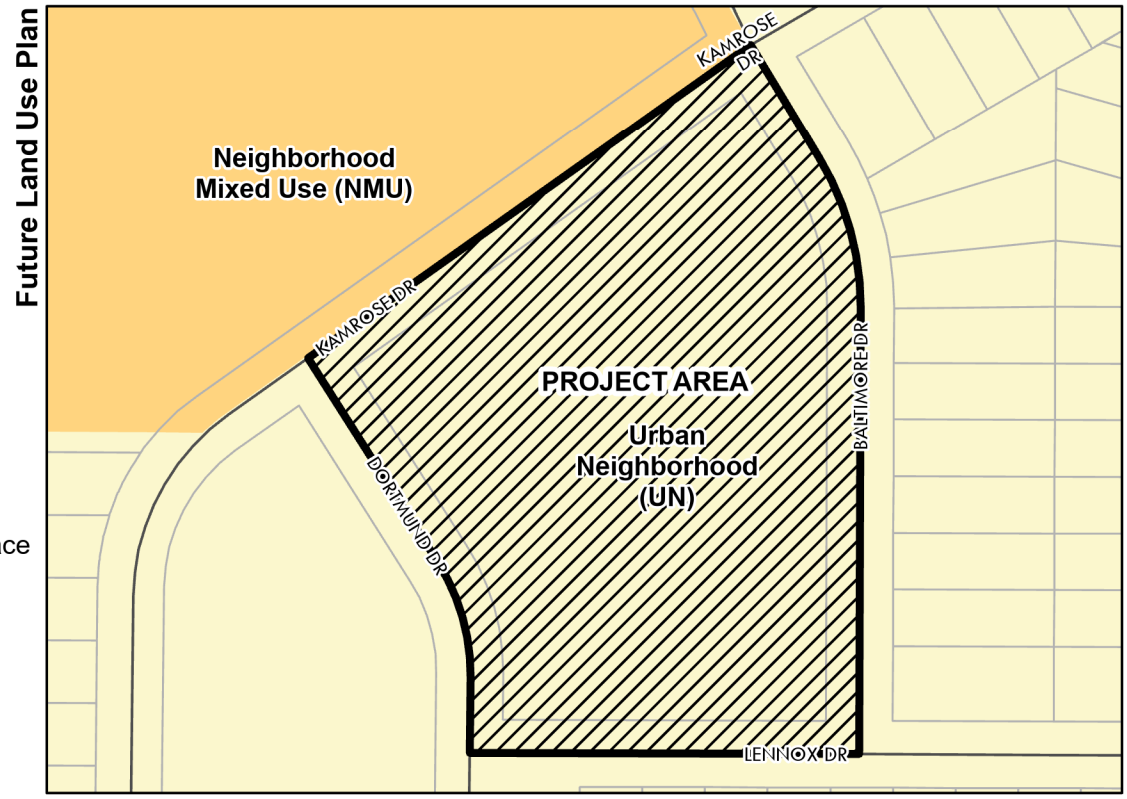
*Major Street Plan*

- Future Arterial
- Future Collector
- Future Interstate

*Active Mobility Plan*

- Future Shared Trail




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

0 137.5 275 550 Feet

N

City of Bismarck
Community Development
Planning Division
January 18, 2023

# Proposed Zoning Change

COTTONWOOD PARKVIEW ADDITION FIRST REPLAT, L1, B3

ZC2022-025

**Proposed New Zoning Map**

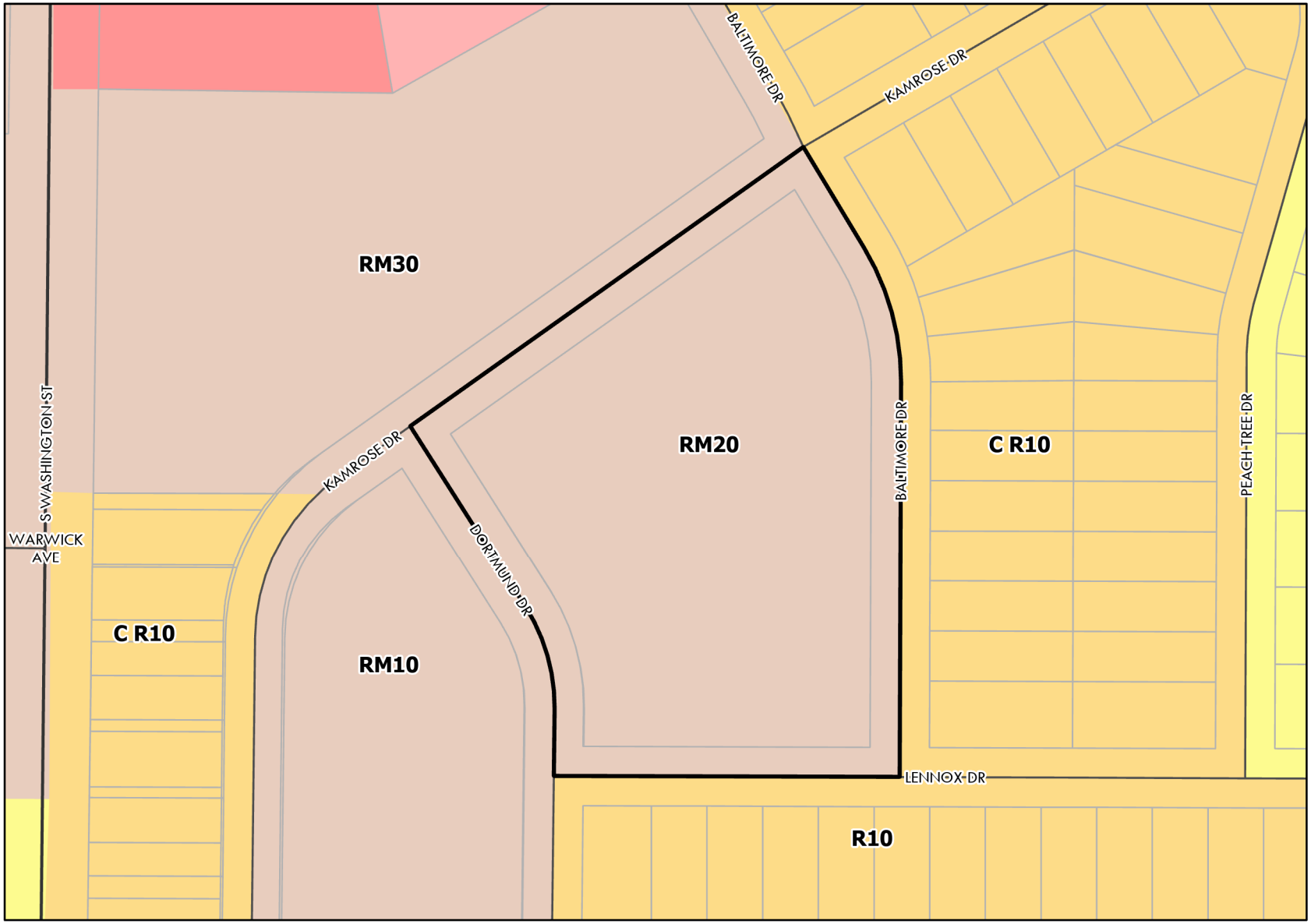
Project Area (zoning within is proposed)

City Limits

*Zoning Districts*

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

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




0 0.05 0.1 0.2 Miles

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City of Bismarck
Community Development Dept.
Planning Division
December 13, 2022

Bismarck COMMUNITY DEVELOPMENT

# STAFF REPORT

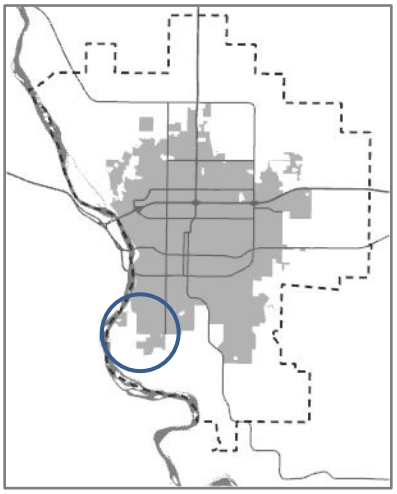
Agenda Item # 12
January 25, 2023

Application for: **Special Use Permit**

Project ID: **SUP2022-023**

## Project Summary

| | |
|---|---|
| *Title:* | Lot 1, Block 1, Missouri Meadows Subdivision |
| *Status:* | Planning & Zoning Commission – Public Hearing |
| *Owner(s):* | Steve and Michelle Mariner |
| *Project Contact:* | Sarah Bryson, Diversity Homes |
| *Location:* | In south Bismarck, west of South Washington Street on the south side of West Burleigh Avenue (815 W Burleigh Ave) |
| *Project Size:* | 800 SF dwelling unit |
| *Request:* | Include an internal accessory dwelling unit within a new single-family residence |



## Site Information

| Existing Conditions | | Proposed Conditions | |
|---|---|---|---|
| *Number of Lots:* | 1 lot in 1 block | *Number of Lots:* | 1 lot in 1 block |
| *Land Use:* | Undeveloped | *Land Use:* | Single-family residences with accessory dwelling unit |
| *Future Land Use:* | Urban Neighborhood | *Future Land Use:* | Urban Neighborhood |
| *Zoning:* | RR – Residential | *Zoning:* | RR – Residential |
| *Uses Allowed:* | RR – Large lot single-family residential and limited agriculture | *Uses Allowed:* | RR – Large lot single-family residential and limited agriculture |
| *Max Density:* | RR – 1 unit per 65,000 square feet | *Max Density:* | RR – 1 unit per 65,000 square feet |

## Property History

| | | | | | |
|---|---|---|---|---|---|
| *Zoned:* | 04/2012 | *Platted:* | 04/2012<br>06/2021 | *Annexed:* | N/A |

*(continued)*

**Staff Analysis**

Steve and Michelle Mariner are requesting approval of a special use permit to construct an internal accessory dwelling unit on Lot 1, Block 1, Missouri Meadows Subdivision.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on January 13 and January 20, and 40 letters were mailed to the owners of nearby properties on January 13, 2023.

Adjacent uses include undeveloped public land to the north across West Burleigh Avenue, a rural residence to the east, townhomes to the south, and a rural residence to the west.

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

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

   The proposed single-family dwelling includes one internal accessory dwelling unit. No external accessory dwelling units are proposed.

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

   The proposed unit is contained within the primary structure.

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

   The applicant is aware of the owner-occupancy requirement.

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

   Sufficient parking for the single-family home and accessory dwelling unit will be provided on site.

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

   The accessory dwelling unit includes one bedroom

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

   The proposed accessory dwelling until will be 800 square feet, as shown on a floorplan submitted with the application.

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

   The accessory dwelling unit will utilize the same utilities provided to the primary residence.

*(continued)*

**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 for an accessory dwelling unit on Lot 1, Block 1, Missouri Meadows Subdivision.

**Attachments**

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

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

# Location Map

Missouri Meadows, L1, B1

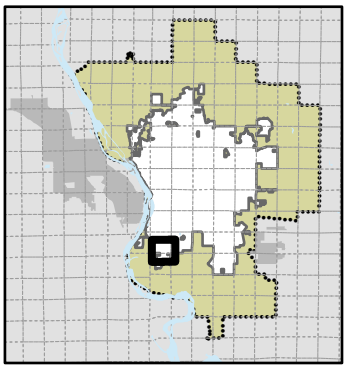
SUP2022-023
PLMD2022-021

0 0.17 0.35 0.7 Miles

City Limits

Bismarck ETA Jurisdiction

*Section, township, and range indicated in orange*



City of Bismarck
Community Development Department
Planning Division
January 3, 2023 (SF)

*This map is for representational use only and is not a survey. No liability is assume as to accuracy of the data shown hereon.*

# Aerial Map

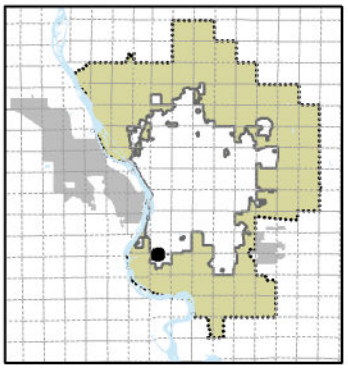
MISSOURI MEADOWS, L1, B1

SUP2022-023

0 0.05 0.1 0.2 Miles

City Limits

Bismarck ETA Jurisdiction



City of Bismarck
Community Development
Planning Division
January 17, 2023

Aerial Imagery from April 2020

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# Zoning and Plan Reference Map

MISSOURI MEADOWS, L1, B1

SUP2022-023

*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*

| | |
|---|---|
| **UN** | Urban Neighborhood |
| **NMU** | Neighborhood Mixed Use |
| **CMU** | Community Mixed Use |
| **DMU** | Destination Mixed Use |
| **DT** | Downtown |
| **IND** | Industrial |
| **IF** | Industrial Flex |
| **IMU** | Industrial Mixed Use |
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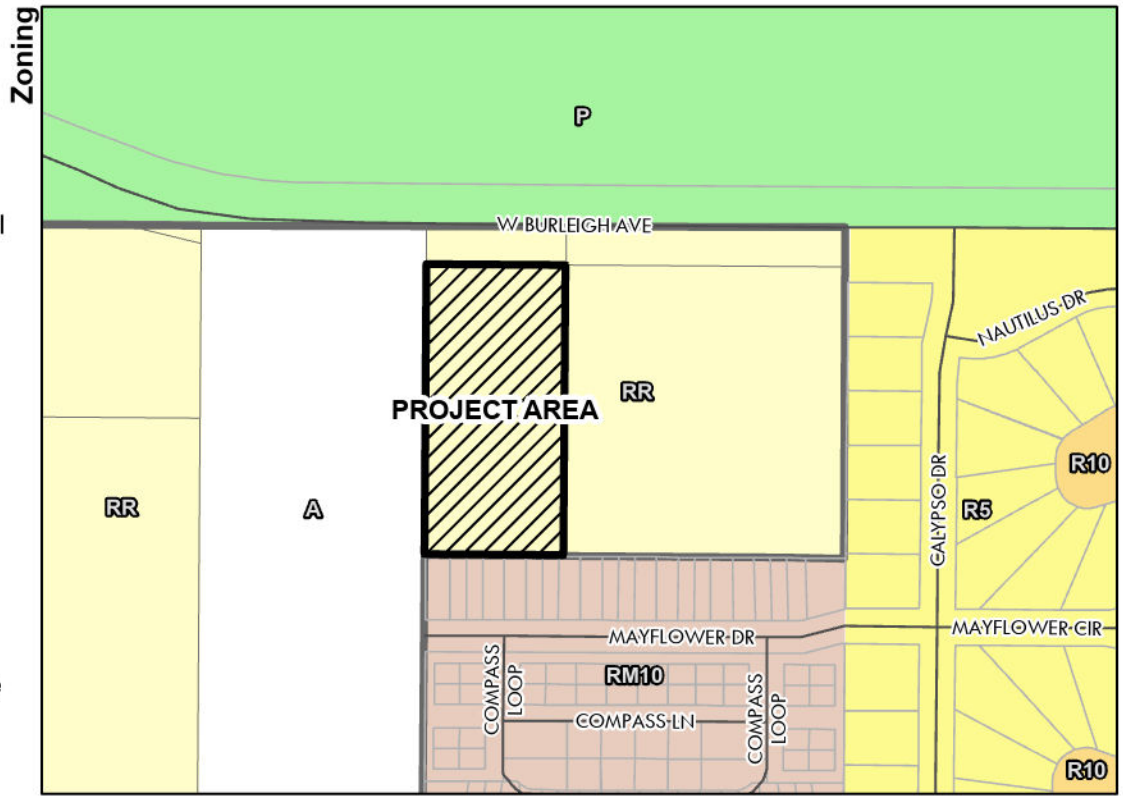
| **RR** | Rural Residential |
| **TR** | Transitional Rural |
| **PKOS** | Parks/Open Space Urban Reserve |
| **URA/ URB** | Mid/Long-Term |

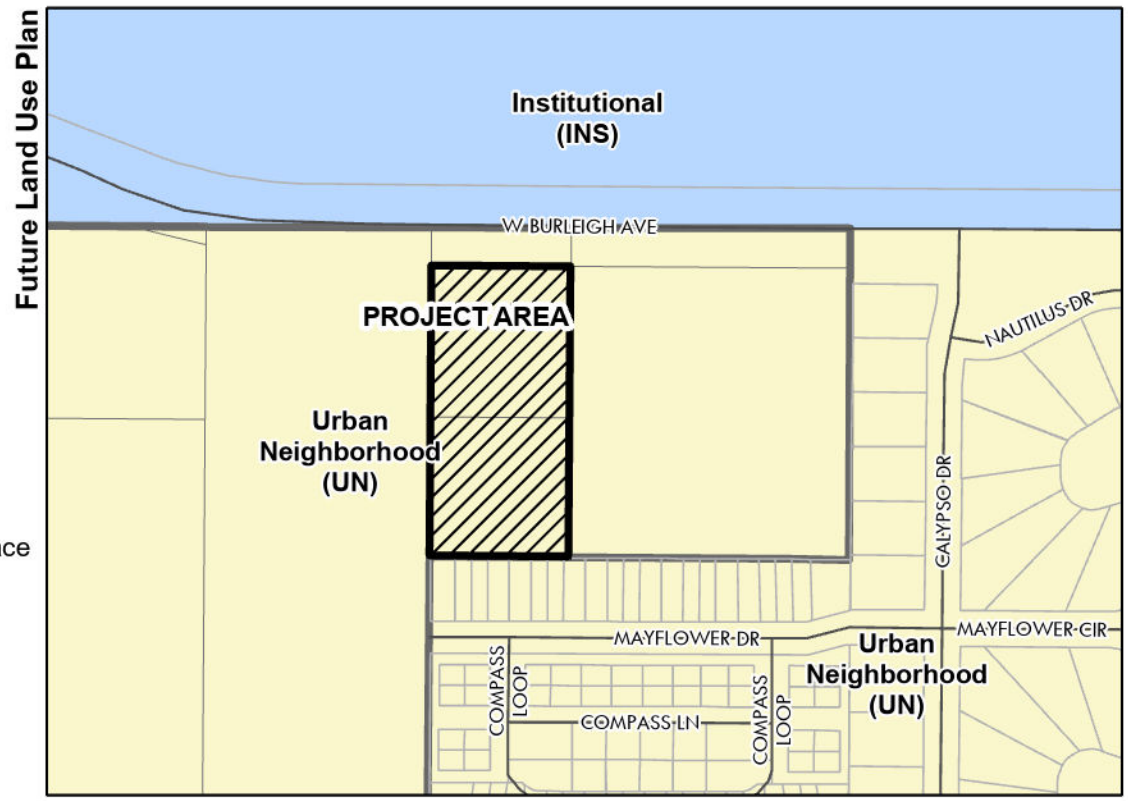
*Major Street Plan*

- Future Arterial
- Future Collector
- Future Interstate

*Active Mobility Plan*

- Future Shared Trail

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0 260 520 1,040 Feet

City of Bismarck
Community Development
Planning Division
January 17, 2023

**BISMARCK PLANNING & ZONING COMMISSION**
**MEETING MINUTES**
**December 21, 2022**

The Bismarck Planning & Zoning Commission met on December 21, 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 Laning presided and was present in the Tom Baker Meeting Room.

Commissioners present were Brian Bitner, Cole Johnson, Vernon Laning, Paul Levchak, Kevin Martin, Gabe Schell, Mike Schmitz, Wendy Van Duyne, Trent Wangen, and Paul Zent.

Commissioners Chair Mike Schwartz was absent.

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

Vice Chair Laning called the meeting to order and Community Development Senior Administrative Assistant Sarah Fricke took roll call.

## MINUTES

Vice Chair Laning called for consideration of the minutes of the November 16, 2022 meeting.

**MOTION:** Commissioner Zent made a motion to approve the minutes of the November 16, 2022 meeting, as presented. Commissioner Wangen seconded the motion, and it was unanimously approved with Commissioners Bitner, Johnson, Laning, Levchak, Martin, Schell, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion.

## CONSIDERATION

2. **LOTS 9, 10 AND THE SOUTH 25.4 FEET OF 11, BLOCK 7, REPLAT OF HOMAN ACRES – ZONING CHANGE**
3. **LOTS 1 & 2, BLOCK 1, KILBER NORTH ADDITION FIRST REPLAT – ZONING CHANGE**
4. **PT NW1/4 OF SECTION 21, T138N-R80W/LINCOLN TWP (BEING PLATTED AS L1, B2, PARADISE VALLEY ADDITION) – ZONING CHANGE**
5. **LOT 1, BLOCK 3, COTTONWOOD PARKVIEW ADDITION FIRST REPLAT – ZONING CHANGE**

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

**FINAL CONSIDERATION – ANNEXATION**
**PART OF CLEAR SKY ADDITION**

Vice Chair Laning called for the final consideration on the annexation of Lot 12, Block 3; Lots 9-15, Block 4; Lot 16, Block 7; Lots 1-7, Block 8, Clear Sky Addition and a portion of Hermanson Drive adjacent to Lot 12, Block 3; Lot 15, Block 4; Lots 14-16, Block 7; and Lot 1 and Lot 21, Block 8; and a portion of Holmes Drive adjacent to Lot 12, Block 3; Lots 9-15, Block 4; Lot 16, Block 7; and Lots 1-7, Block 8, Clear Sky Addition. The property is located east of Bismarck, between East Main Avenue/County Highway 10 and Apple Creek Road, along the east side of 52nd Street SE.

Ms. Wollmuth 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.

Ms. Wollmuth said, based on these findings, staff recommends approval of the annexation of Lot 12, Block 3; Lots 9-15, Block 4; Lot 16, Block 7; Lots 1-7, Block 8, Clear Sky Addition and a portion of Hermanson Drive adjacent to Lot 12, Block 3; Lot 15, Block 4; Lots 14-16, Block 7; and Lot 1 and Lot 21, Block 8; and a portion of Holmes Drive adjacent to Lot 12, Block 3; Lots 9-15, Block 4; Lot 16, Block 7; and Lots 1-7, Block 8, Clear Sky Addition.

**MOTION:** Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the annexation of Lot 12, Block 3; Lots 9-15, Block 4; Lot 16, Block 7; Lots 1-7, Block 8, Clear Sky Addition and a portion of Hermanson Drive adjacent to Lot 12, Block 3; Lot 15, Block 4; Lots 14-16, Block 7; and Lot 1 and Lot 21, Block 8; and a portion of Holmes Drive adjacent to Lot 12, Block 3; Lots 9-15, Block 4; Lot 16, Block 7; and Lots 1-7, Block 8, Clear Sky Addition. Commissioner Martin seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Laning, Levchak, Martin, Schell, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion.

**FINAL CONSIDERATION – ANNEXATION**
**PUBLIC HEARING – MAJOR SUBDIVISION FINAL PLAT**
**BOULDER RIDGE FIRST ADDITION FIRST REPLAT**

Vice Chair Laning called for the public hearing of the major subdivision final plat and annexation of Boulder Ride First Addition First Replat. The property is located in north Bismarck, along the north side of 43rd Avenue NE and the east side of North Washington Street (a replat of Lots 13A, 14, 16, 17A, 26 and 27, Block 1, Boulder Ridge First Addition).

Ms. Wollmuth gave an overview of the request, including 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.

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

1. All technical requirements for approval of a 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.

Ms. Wollmuth said, based on these findings, staff recommends approval of the annexation and major subdivision final plat for Boulder Ridge First Addition First Replat.

Vice Chair Laning opened the public hearing.

Lon Romsaas with Swenson Hagen and Co. came forward to respond to any questions or concerns. He stated the reason for proposed plat is there is a tentative purchaser for Lot 2, Block 1.

Commissioner Johnson questioned access points from Washington Street not aligning with the other access points and whether the median will be an issue. Mr. Romsaas indicated it will not be an issue because they would not be full access points.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the major subdivision final plat and annexation of Boulder Ridge First Addition First Replat. Commissioner Wangen seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Laning, Levchak, Martin, Schell, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE**
**MAJOR SUBDIVISION FINAL PLAT**
**TNK RANCH SUBDIVISION**

Vice Chair Laning called for the public hearing on a major subdivision final plat and zoning change for TNK Ranch Subdivision. The property is located northeast of Bismarck, north of 57th Avenue NE and east of 66th Street NE on the west side of TJ Lane (6504 TJ Lane).

Mr. Nairn 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 Gibbs Township Board of Supervisors will be notified prior to the public hearing for a final plat;

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.

Mr. Nairn then gave an overview of 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) with written concurrence from the County Engineer;

5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts;

6. Gibbs Township Board of Supervisors has been notified of 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 consistent with the general intent and purpose of the zoning ordinance;

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

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

Mr. Nairn said, based on these findings, staff recommends approval of a zoning change from the A – Agricultural zoning district to the RR – Residential zoning district and approval of the major subdivision final plat for TNK Ranch Subdivision, waiving ordinance requirements applicable to plats within the Urban Service Area Boundary.

Staff received a resolution from Gibbs Township recommending denial of these requests due to an ownership dispute over the driveway from the subdivision to TJ Lane.

Mr. Nairn pointed out the driveway that is under dispute and explained that an easement exists and is shown on the plat. The dimensions of the easement are in question.

Vice Chair Laning opened the public hearing.

Commissioner Laning questioned whether the current buildings would be included in the plat. Mr. Nairn stated all of the existing buildings would be within the platted area. If approved the owners would legally be allowed to build a second home on the remaining agricultural tract but they have no intention of doing so.

Tom Weigel with Holly Beck Surveying came forward to answer any questions. Mr. Weigel stated the access easement dimensions were based on an older property survey which explains why the dimensions are not the same as what is shown on the plat. He then stated the intention of the easement is to allow access to the property from TJ Lane.

Commissioner Levchak asked Mr. Weigel if he had explained the easement to the Gibbs Township commissioners. Mr. Weigel said he was not made aware of the meeting held by Gibbs Township when the recommendation was made.

Gerald Miller with Gibbs Township came forward to speak about the legality of the right-of-way on the road that leads to the property. Commissioner Zent asked about the condition of the road going west to 66th Street NE. Mr. Miller responded that it is not a road or trail, just a field. Mr. Miller suggests the resolution to the dispute between the two property owners is for the Fettigs to build a new driveway to 66th Street NE.

Property owner Kim Fettig came forward to address Mr. Miller's concerns. Ms. Fettig stated the driveway is part of their property and was included in the deed that transferred the land from the previous owners to her and her husband. She then stated building a road to 66th Street is not feasible. Ms. Fettig stated legal counsel has been retained for the dispute then showed an area picture of the driveway in question. Commissioner Levchak asked if the responsibility for maintenance of the road is that of the county or the township. Commissioner Bitner responded that the road is not public and therefore not the responsibility of the county.

Commissioner Martin asked if the easement in question was recorded on the deed for the property to the north and if not, it may have been vacated at some point. Ms. Fettig stated that the recorder's office was contacted and the easement is still valid, and there is no record of any vacation.

Commissioner Zent stated to Ms. Fettig that the township was not the only entity notified and that notification is standard practice.

Adjacent property owner Heidi Schirado came forward and stated they were not aware of the public road easement. Ms. Schirado then stated concerns about the possibility of a second home being built causing additional traffic and ingress and egress requirements. She stated she does not believe intent can be determined on the easement as it was written in 1975. Commissioner Laning stated that only one additional house on the property would be allowed.

Kim Fettig came forward again to make a statement that if, in the future, a second home is built on the property it would be much closer to 66th Street and would access the property from there. Ms. Fettig then stated that her attorney would be available for the January meeting.

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

Commissioner Bitner made statements regarding the easement and the option to move the driveway onto the platted property.

Commissioner Schell then made a statement that he would defer to the licensed surveyor's interpretation of the location of the easement.

**MOTION:** Commissioner Levchak made a motion to continue the public hearing on the major subdivision final plat for TNK Ranch Subdivision until the Planning and Zoning Commission's regular meeting in January. Commissioner Schmitz seconded the motion, and the motion to continue the public hearing was unanimously approved with Commissioners Bitner, Johnson, Laning, Levchak, Martin, Schell, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion.

**PUBLIC HEARING – MAJOR SUBDIVISION FINAL PLAT**
**TECHNOLOGY HILL ADDITION**

Vice Chair Laning called for the public hearing on a major subdivision final plat for Technology Hill Addition.

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

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

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

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

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

5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts;

6. The 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;

7. 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;

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

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

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

Ms. Wollmuth said, based on these findings, staff recommends approval of the major subdivision final plat for Technology Hill Addition.

Commissioner Levchak questioned the two buildings on the northern portion of the property to which Ms. Wollmuth stated they are storage buildings used by Bismarck State College and the armory. Commissioner Martin then asked about slope stability, and whether it had been considered. Ms. Wollmuth replied that the southwestern portion of the plat is encumbered by a large water reservoir and drainage easement. Commissioner Johnson stated no new easements exist on adjacent properties and questioned the access easement on Schafer Street. Jannelle Combs came forward and stated Schafer Street is a private road at this time, but the title merger of the property will extinguish the access easement and slope preservation is a condition of the transfer.

Vice Chair Laning opened the public hearing.

Chris Nyhus came forward as an adjacent property owner to request access easements from Schafer Street to adjacent lots to the east within Highland Acres, as the property owners currently use the area for access, recreation, and storage. Mr. Nyhus also noted that adjacent property owners would like to see the property not needed for BSC projects remain open space or be part of Bismarck Parks and Recreation district property.

Commissioner Levchak discussed the layout with Mr. Nyhus and determined that the adjacent property owners do not have access to Schafer Street. Commissioner Schell commented that the north and south portions of Schafer Street are outside of the proposed plat and that if access was granted to adjacent property owners in this location, they wouldn't have access from the north or south. Vice Chair Laning explained that the Planning and Zoning Commission does not issue access easements outside of approving plats and thanked Mr. Nyhus for his comments.

Commissioner Zent spoke about letters sent to property owners by the National Guard notifying them of an encroachment within the easement for Schafer Street.

Lon Romsaas with Swenson Hagen & Co came forward to explain that the southern portion of Schafer Street and the walkways are owned by the State of North Dakota. He then mentioned a concern for liability with the neighbors' current encroachment within the property.

Commissioner Schmitz questioned whether the sloped area to the south was buildable. Mr. Romsaas stated nothing will be built in that area. Commissioner Johnson mentioned that he is concerned with the rush to develop this property as it is a prime piece of property and that the City could have address adjacent land owner concerns specifically Shafer Street access and green space within the area differently.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Schmitz made a motion to recommend approval of a major subdivision final plat for Technology Hill Addition. Commissioner Van Duyne seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Laning, Levchak, Martin, Schell, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion.

**PUBLIC HEARING – MAJOR SUBDIVISION FINAL PLAT**
**NORBS SUBDIVISION**

Vice Chair Laning called for the public hearing of the major subdivision final plat for Norbs Subdivision. The property is located East of Bismarck, east of 52nd street SE and south of East Main Avenue/County Highway 10, along the west side of Mulberry Lane (a replat of part of Lot 11, Block 1, Barbies Neighborhood Subdivision).

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

1. All technical requirements for approval of a 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.

Ms. Wollmuth said, based on these findings, staff recommends approval of the major subdivision final plat for Norbs Subdivision including granting a waiver for the use and excessive length of a cul-de-sac (Mulberry Circle), with the following condition:

1. A gated secondary access point with knox box is installed and maintained by the property owner(s) within Norbs Subdivision at the intersection of 52nd Street SE and Southview Lane.

Commissioner Zent questioned the number of lots required for secondary access and Ms. Wollmuth answered the requirement is 16 and roughly 39 exist now.

Landon Niemiller with Swenson Hagen and Co. came forward with a request to remove the stipulation that the applicant be responsible to install and maintain a secondary access and mentioned the maintenance burden the secondary access would be to county staff.

Commissioner Levchak asked if Mr. Niemiller's contention is whether the secondary access is needed or to whom the financial responsibility goes. Mr. Niemiller stated that he is contesting both.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Zent made a motion to recommend approval of the major subdivision final plat for Norbs Subdivision with the waiver for the use and excessive length of a cul-de-sac and the condition that a gated secondary access point with knox box is installed and maintained by the property owner(s) within Norbs Subdivision at the intersection of 52nd Street SE and Southview Lane. Commissioner Wangen seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Laning, Levchak, Martin, Schell, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion.

**PUBLIC HEARING - SPECIAL USE PERMIT (CHILDCARE CENTER)**
**LOT 2, BLOCK 1, CAPITAL ELECTRIC HEADQUARTERS ADDITION**

Vice Chair Laning called for a public hearing on a special use permit for a childcare center to be located on Lot 2, Block 1, Capital Electric Headquarters Addition. The property is located in north Bismarck, in the southeast quadrant of the intersection of State Street/US Highway 83 and 43rd Avenue NE along the east side of a frontage road.

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

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

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

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

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

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

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

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

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

Based on the findings, staff recommends approval of the special use permit to allow a childcare center on Lot 2, Block 1, Capital Electric Headquarters Addition with the condition that all building code requirements are met prior to issuance of a building permit. The

applicant is also requesting the completion of the required fenced outdoor play area be delayed until July 31, 2023.

Commissioner Schell asked if the building and fire code requirements are based on the number of children or the square footage of the facility. Mr. Nairn said the requirements are based on the occupancy numbers and are stricter than normal due to the age of the children.

Commissioner Levchak questioned whether the secured entryway to the west was separated from the offices that shared the building. The applicant, participating virtually, stated the door to the play area would be accessed through a hallway and is securely separate from the offices.

Commissioner Laning made a comment that the play area is currently a parking lot. Mr. Nairn replied that off-street parking requirements would still be met even with this loss of parking.

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

**MOTION:** Based on the findings contained in the staff report, Commissioner Van Duyne made a motion to recommend approval of the special use permit for Lot 1, Block 2, Capital Electric Headquarters Addition. Commissioner Johnson seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Laning, Levchak, Martin, Schell, Schmitz, Van Duyne, Wangen, and Zent voting in favor of the motion.

**OTHER BUSINESS**

As this is their last meeting, Mr. Ehreth came forward to thank Vice Chairman Laning and Commissioner Martin on behalf of staff for their years of service on the commission.

**ADJOURNMENT**

There being no further business, Vice Chair Laning declared the Bismarck Planning & Zoning Commission adjourned at 6:50 p.m. to meet again on January 25, 2023.

Respectfully submitted,

_____
Sarah S. Fricke
Recording Secretary

_____
Vernon Laning
Vice Chair

**PERMIT ACTIVITY REPORT - MTD**
**DATE SELECTION 12/2022**

| | *******************City******************* | | | | *******************ETA******************* | | | |
|---|---|---|---|---|---|---|---|---|
| | **12/2022** | | **12/2021** | | **12/2022** | | **12/2021** | |
| **Census Code** | **Permits** | **Valuations** | **Permits** | **Valuations** | **Permits** | **Valuations** | **Permits** | **Valuations** |
| SINGLE FAMILY DETACHED | 0 | $0.00 | 6 | $2,077,396.25 | 1 | $349,308.25 | 0 | $0.00 |
| ROWHOUSE (2) 1-HR FIRE SEPARATION | 0 | $0.00 | 14 | $1,824,229.92 | 0 | $0.00 | 0 | $0.00 |
| DETACHED GARAGE | 1 | $0.00 | 0 | $0.00 | 2 | $96,000.00 | 1 | $30,000.00 |
| DECKS\PORCHES & COVERED PORCHES | 0 | $0.00 | 2 | $18,417.75 | 0 | $0.00 | 0 | $0.00 |
| RESIDENTIAL ALTERATION/OTHER | 1 | $15,000.00 | 0 | $0.00 | 0 | $0.00 | 0 | $0.00 |
| HOME OCCUPATION | 0 | $0.00 | 1 | $0.00 | 1 | $0.00 | 0 | $0.00 |
| BASEMENT FINISH | 4 | $85,914.00 | 7 | $154,671.00 | 0 | $0.00 | 1 | $28,380.00 |
| FIREWORKS SALES | 0 | $0.00 | 0 | $0.00 | 1 | $0.00 | 2 | $0.00 |
| NEW SIGN PERMITS | 2 | $3,900.00 | 14 | $169,710.00 | 0 | $0.00 | 0 | $0.00 |
| SIGN ALTERATION | 0 | $0.00 | 1 | $14,025.00 | 0 | $0.00 | 0 | $0.00 |
| COMMERCIAL NEW CONSTRUCTION | 3 | $9,040,000.00 | 3 | $2,315,000.00 | 0 | $0.00 | 0 | $0.00 |
| COMMERCIAL ADDITION | 1 | $15,769,130.00 | 0 | $0.00 | 0 | $0.00 | 0 | $0.00 |
| COMMERCIAL ALTERATION | 6 | $7,434,690.00 | 10 | $3,276,265.44 | 0 | $0.00 | 0 | $0.00 |
| **Total** | **18** | **$32,348,634.00** | **58** | **$9,849,715.36** | **5** | **$445,308.25** | **4** | **$58,380.00** |

**PERMIT ACTIVITY REPORT - MTD**
**DATE SELECTION 12/2022**

| | *******************City******************* | | | | *******************ETA******************* | | | |
|---|---|---|---|---|---|---|---|---|
| | **12/2022** | | **12/2021** | | **12/2022** | | **12/2021** | |
| **Trade Permit Type** | **Permits** | **Valuations** | **Permits** | **Valuations** | **Permits** | **Valuations** | **Permits** | **Valuations** |
| BUILDING ELECTRIC | 50 | $0.00 | 85 | $17,510.00 | 0 | $0.00 | 0 | $0.00 |
| BUILDING MECHANICAL | 142 | $1,022,719.69 | 197 | $4,643,751.00 | 4 | $38,301.34 | 24 | $217,790.00 |
| BUILDING PLUMBING | 7 | $206,100.00 | 15 | $280,760.00 | 1 | $10,000.00 | 3 | $42,500.00 |
| BUILDING SEPTIC | 0 | $0.00 | 0 | $0.00 | 0 | $0.00 | 2 | $0.00 |
| **Total** | **199** | **$1,228,819.69** | **297** | **$4,942,021.00** | **5** | **$48,301.34** | **29** | **$260,290.00** |

**PERMIT ACTIVITY REPORT - MTD**
**DATE SELECTION 12/2022**

| | *******************City******************* | | *******************ETA******************* | |
|---|---|---|---|---|
| | **12/2022** | **12/2021** | **12/2022** | **12/2021** |
| **Living Units** | **Units** | **Units** | **Units** | **Units** |
| BASEMENT FINISH | 0 | 0 | 0 | 0 |
| DECKS\PORCHES & COVERED PORCHES | 0 | 0 | 0 | 0 |
| DETACHED GARAGE | 0 | 0 | 0 | 0 |
| RESIDENTIAL ALTERATION/OTHER | 0 | 0 | 0 | 0 |
| ROWHOUSE (2) 1-HR FIRE SEPARATION | 0 | 16 | 0 | 0 |
| SINGLE FAMILY DETACHED | 0 | 5 | 0 | 0 |
| **Total** | **0** | **21** | **0** | **0** |

**PERMIT ACTIVITY REPORT - YTD**
**DATE SELECTION 12/2022**

| | **********City********** | | | | **********ETA********** | | | |
|---|---|---|---|---|---|---|---|---|
| | **12/2022** | | **12/2021** | | **12/2022** | | **12/2021** | |
| **Census Code** | **Permits** | **Valuations** | **Permits** | **Valuations** | **Permits** | **Valuations** | **Permits** | **Valuations** |
| SINGLE FAMILY DETACHED | 156 | $45,966,681.94 | 196 | $55,154,545.99 | 30 | $11,390,853.69 | 51 | $18,384,082.48 |
| ROWHOUSE (2) 1-HR FIRE SEPARATION | 120 | $24,744,144.52 | 179 | $36,790,652.77 | 0 | $0.00 | 6 | $1,640,576.50 |
| MULTI FAMILY RESIDENTIAL | 1 | $49,929.00 | 1 | $191,457.83 | 0 | $0.00 | 0 | $0.00 |
| MANUFACTURED HOMES | 7 | $0.00 | 25 | $0.00 | 0 | $0.00 | 0 | $0.00 |
| RESIDENTIAL ADDITION | 12 | $412,624.96 | 23 | $1,256,567.17 | 10 | $1,156,033.10 | 12 | $808,522.68 |
| DETACHED GARAGE | 28 | $329,333.75 | 31 | $406,150.00 | 48 | $2,141,677.91 | 62 | $2,462,940.00 |
| DECKS\PORCHES & COVERED PORCHES | 77 | $246,560.53 | 112 | $858,029.83 | 9 | $252,803.45 | 11 | $53,544.00 |
| SWIMMING POOLS | 13 | $1,103,017.00 | 15 | $1,226,584.00 | 7 | $714,601.00 | 7 | $585,849.00 |
| RESIDENTIAL ALTERATION/OTHER | 38 | $1,453,058.85 | 63 | $1,960,406.73 | 10 | $506,459.22 | 3 | $144,025.77 |
| HOME OCCUPATION | 4 | $0.00 | 6 | $0.00 | 1 | $0.00 | 2 | $0.00 |
| STORAGE SHED | 9 | $30,955.00 | 18 | $56,680.00 | 2 | $12,000.00 | 1 | $2,880.00 |
| BASEMENT FINISH | 45 | $1,170,125.00 | 88 | $1,981,576.00 | 11 | $250,151.50 | 10 | $229,491.00 |
| RESIDENTIAL | 2 | $0.00 | 10 | $0.00 | 0 | $0.00 | 0 | $0.00 |
| COMMERCIAL | 2 | $0.00 | 0 | $0.00 | 0 | $0.00 | 0 | $0.00 |
| FIREWORKS SALES | 0 | $0.00 | 0 | $0.00 | 9 | $0.00 | 9 | $0.00 |
| NURSERY STOCK SALES | 4 | $0.00 | 5 | $0.00 | 0 | $0.00 | 0 | $0.00 |
| MISC TEMPORARY STRUCTURES | 3 | $0.00 | 4 | $0.00 | 0 | $0.00 | 0 | $0.00 |
| NEW SIGN PERMITS | 67 | $569,866.00 | 124 | $1,896,409.46 | 3 | $46,866.00 | 0 | $0.00 |
| SIGN ALTERATION | 2 | $36,000.00 | 15 | $259,722.00 | 0 | $0.00 | 0 | $0.00 |
| ELECTRONIC MESSAGE CENTER | 0 | $0.00 | 2 | $255,000.00 | 0 | $0.00 | 0 | $0.00 |
| COMMERCIAL NEW CONSTRUCTION | 109 | $114,199,385.51 | 74 | $58,160,157.21 | 22 | $8,921,426.00 | 32 | $16,678,813.00 |
| COMMERCIAL ADDITION | 8 | $32,382,517.00 | 7 | $5,362,176.00 | 2 | $7,118,268.00 | 2 | $2,800,000.00 |
| COMMERCIAL ALTERATION | 73 | $28,623,839.88 | 98 | $33,166,451.30 | 3 | $3,780,000.00 | 5 | $5,246,745.00 |
| **Total** | **780** | **$251,318,038.94** | **1096** | **$198,982,566.29** | **167** | **$36,291,139.87** | **213** | **$49,037,469.43** |

**PERMIT ACTIVITY REPORT - YTD**
**DATE SELECTION 12/2022**

| | *******************City******************* | | | | *******************ETA******************* | | | |
|---|---|---|---|---|---|---|---|---|
| | **12/2022** | | **12/2021** | | **12/2022** | | **12/2021** | |
| **Permit Type** | **Permits** | **Valuations** | **Permits** | **Valuations** | **Permits** | **Valuations** | **Permits** | **Valuations** |
| BUILDING ELECTRIC | 1005 | $203,000.00 | 1054 | $2,337,777.15 | 6 | $0.00 | 2 | $0.00 |
| BUILDING MECHANICAL | 1509 | $28,142,672.14 | 1556 | $15,539,306.40 | 272 | $2,497,591.25 | 298 | $5,743,896.14 |
| BUILDING PLUMBING | 450 | $13,310,427.92 | 473 | $13,384,398.63 | 89 | $1,345,064.00 | 107 | $2,850,956.00 |
| BUILDING SEPTIC | 0 | $0.00 | 0 | $0.00 | 30 | $2,000.00 | 46 | $52,500.00 |
| **Total** | **2964** | **$41,656,100.06** | **3083** | **$31,261,482.18** | **397** | **$3,844,655.25** | **453** | **$8,647,352.14** |

**PERMIT ACTIVITY REPORT - YTD**
**DATE SELECTION 12/2022**

| | *******************City******************* | | *******************ETA******************* | |
|---|---|---|---|---|
| | **12/2022** | **12/2021** | **12/2022** | **12/2021** |
| **Living Units** | **Units** | **Units** | **Units** | **Units** |
| DECKS\PORCHES & COVERED PORCHES | 0 | 133 | 0 | 0 |
| MULTI FAMILY RESIDENTIAL | 0 | 0 | 0 | 0 |
| MANUFACTURED HOMES | 5 | 17 | 0 | 0 |
| BASEMENT FINISH | 0 | 0 | 0 | 0 |
| DECKS\PORCHES & COVERED PORCHES | 0 | 0 | 0 | 0 |
| DETACHED GARAGE | 0 | 0 | 0 | 2 |
| RESIDENTIAL ADDITION | 0 | 1 | 0 | 0 |
| RESIDENTIAL ALTERATION/OTHER | 0 | 1 | 0 | 0 |
| ROWHOUSE (2) 1-HR FIRE SEPARATION | 113 | 151 | 0 | 4 |
| SINGLE FAMILY DETACHED | 151 | 174 | 24 | 44 |
| SWIMMING POOLS | 0 | 0 | 0 | 0 |
| **Total** | **269** | **477** | **24** | **50** |