



PLANNING AND ZONING COMMISSION

MEETING AGENDA February 22, 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 & 602HD, Radio Access 102.5 FM, FreeTV.org, RadioAccess.org, ROKU, Apple TV and Fire TV.
Item No.		Page No.

MINUTES

1. Consider approval of the minutes of the January 25, 2023 meeting of the Bismarck Planning & Zoning Commission.

REGULAR AGENDA PUBLIC HEARINGS

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

2. **Lots 1-8, Block 1, Hay Creek Park Addition (DN).....5**

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

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



3. Daybreak Second Addition (JW) 12Special Use Permit (Filling Station and Car Wash) | SUP2023-001 | *Public Hearing*

Staff recommendation: approve

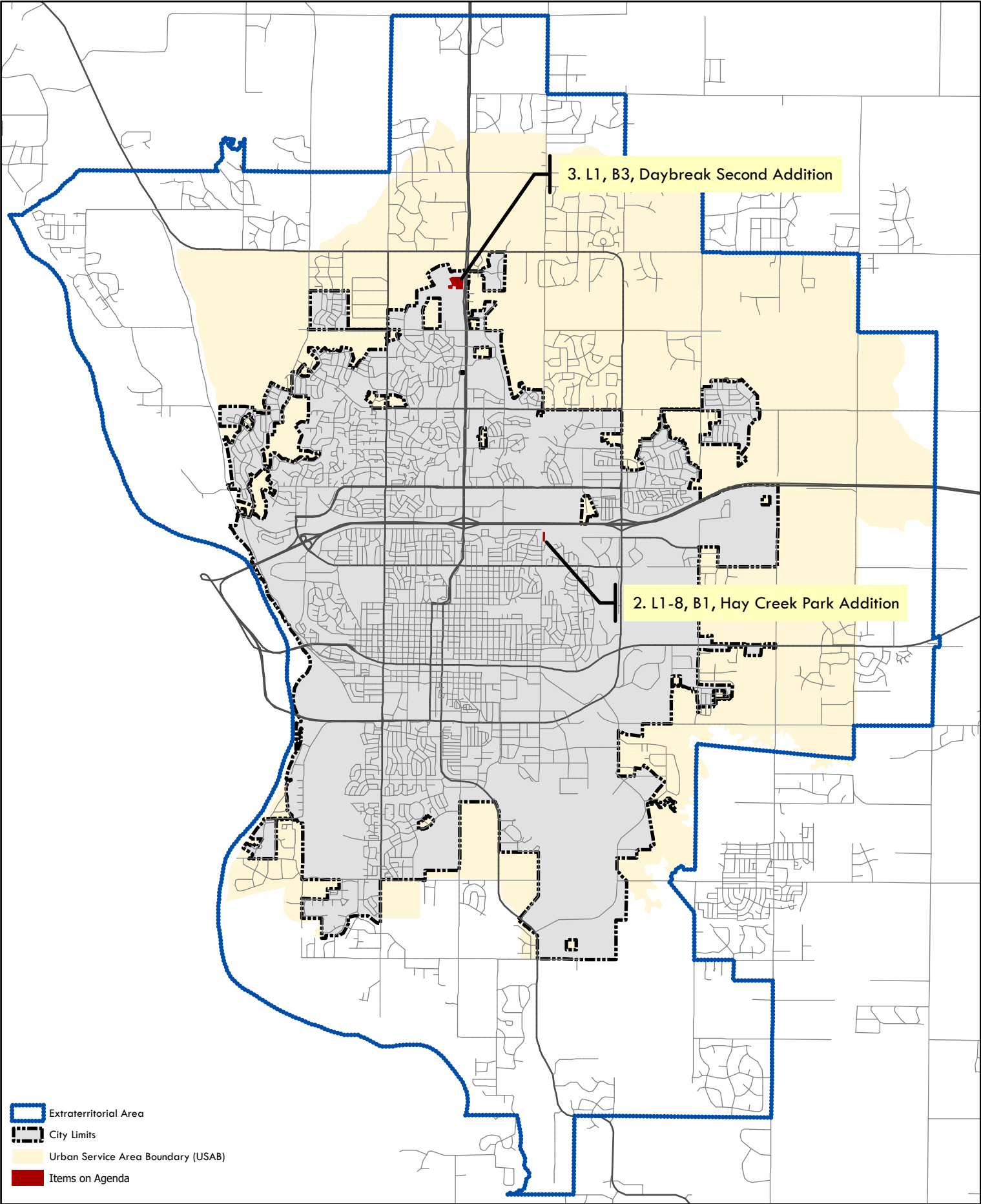
☐ approve☐ continue☐ table☐ deny**OTHER BUSINESS****ADJOURNMENT****4. Adjourn.** The next regular meeting date is scheduled for March 22, 2023.

Enclosures: Meeting Minutes of January 25, 2023
Building Permit Activity Month to Date Report for January 2023
Building Permit Activity Year to Date Report for January 2023

BISMARCK PLANNING AND ZONING COMMISSION PUBLIC HEARING PROCEDURE AND PROTOCOL

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

1. The Chair of the Planning and Zoning Commission will introduce the item on the agenda and ask staff to present the staff report.
2. The Planner assigned to the file will present the staff report on the item. The presentation will be an overview of the written staff report included in the agenda packet, which is posted on the City's website by the end of the day on the Friday before the meeting.
3. The members of the Planning and Zoning Commission may ask staff questions about the request itself or staff's recommendation, but they will not discuss the request prior to obtaining input from the public.
4. The Chair of the Planning and Zoning Commission will then open the public hearing on the request and ask if anyone would like to speak to the Commission.
5. The applicant or his or her designated agent is usually given the courtesy of speaking first to outline the proposal and/or clarify any information presented by staff. The applicant may speak at this time or wait until others have spoken.
6. The public hearing is then opened to the public to voice their support, opposition or to ask questions about the proposal. Please write your name and address on the sign-in sheet, step up to the podium, speak clearly, state both your first and last names and your address, then your comments. Speaking over the microphone rather than directly into it will provide the best audio quality. Also, please avoid tapping or banging the podium, as the microphone amplifies the sound. Your comments as well as any materials distributed to the Planning and Zoning Commissioners at this time will be made part of the public record. If you would prefer to provide written materials to staff at the beginning of the meeting, we will distribute the materials to the Commission for you.
7. Please be respectful of the Planning and Zoning Commissioners, staff and others speaking on the request. Personal attacks against the applicant or others, clapping/cheering or booing speakers is not acceptable. Staff and the applicant will only respond to questions from the Planning and Zoning Commissioners, not questions directly from those speaking at the public hearing.
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions of those speaking, but may also listen and deliberate after the hearing is closed.
9. After everyone in the audience wishing to speak has given his or her comments, the Chair will close the public hearing portion for the agenda item. No additional comments from the public are allowed after the hearing has been closed. At this point, the Chair will ask staff if they have any additional information or final comments.
10. The Planning and Zoning Commissioners will then discuss the proposal. They may ask staff or the applicant additional questions or for clarification of items stated during the public hearing. At the conclusion of the discussion, the Commission will make its recommendation or decision.

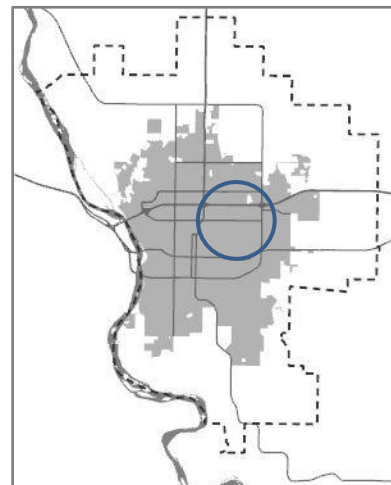


This map is for reference purpose only and is not intended as a survey or accurate representation of all map features.



Project Summary

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



Site Information

Existing Conditions

<i>Number of Lots:</i>	8 lots in 1 block
<i>Land Use:</i>	Undeveloped
<i>Future Land Use:</i>	Urban Neighborhood
<i>Zoning:</i>	P – Public Use
<i>Uses Allowed:</i>	R5 – Single-family residential
<i>Max Density:</i>	R5 – 5 units / acre

Proposed Conditions

<i>Number of Lots:</i>	8 lots in 1 block
<i>Land Use:</i>	Single-family residential
<i>Future Land Use:</i>	Urban Neighborhood
<i>Zoning:</i>	R5 – Residential
<i>Uses Allowed:</i>	R5 – Single-family residential
<i>Max Density:</i>	R5 – 5 units / acre

Property History

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

The Planning and Zoning Commission considered this request at their meeting of January 25, 2023 and called for a public hearing on the requested zoning map amendment.

(continued)

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on February 10 and February 17, and 35 letters were mailed to the owners of nearby properties on February 10, 2023.

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 across North 26th Street.

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. In 2016, the lots were rezoned to P – Public. However, this segment of North 26th Street was then improved in 2022 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 approval of 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

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

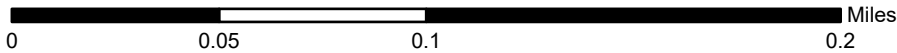
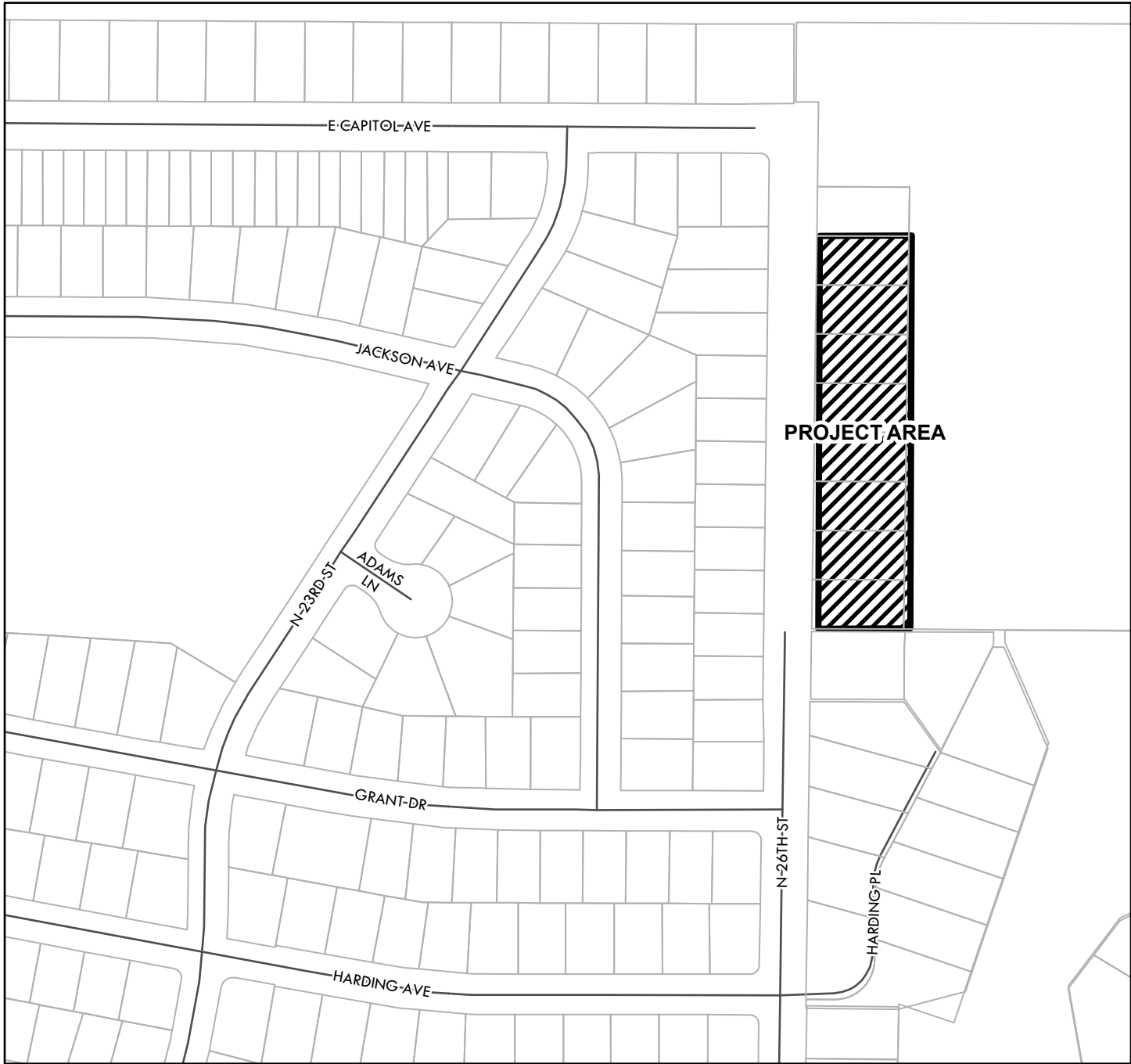
Section 2. Repeal. All ordinances or parts of ordinances in conflict with this ordinance area hereby repealed.

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

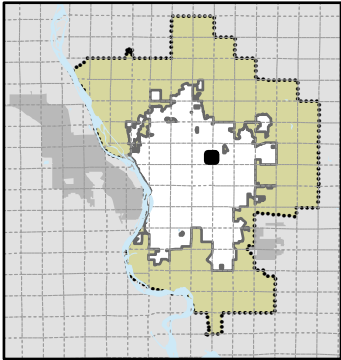


- City Limits
- Bismarck ETA Jurisdiction

Section, township, and range indicated in orange

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

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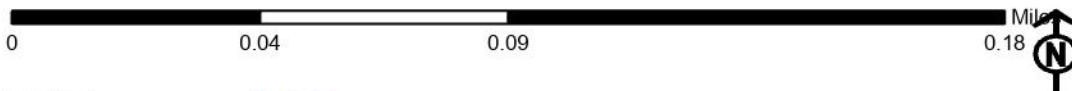
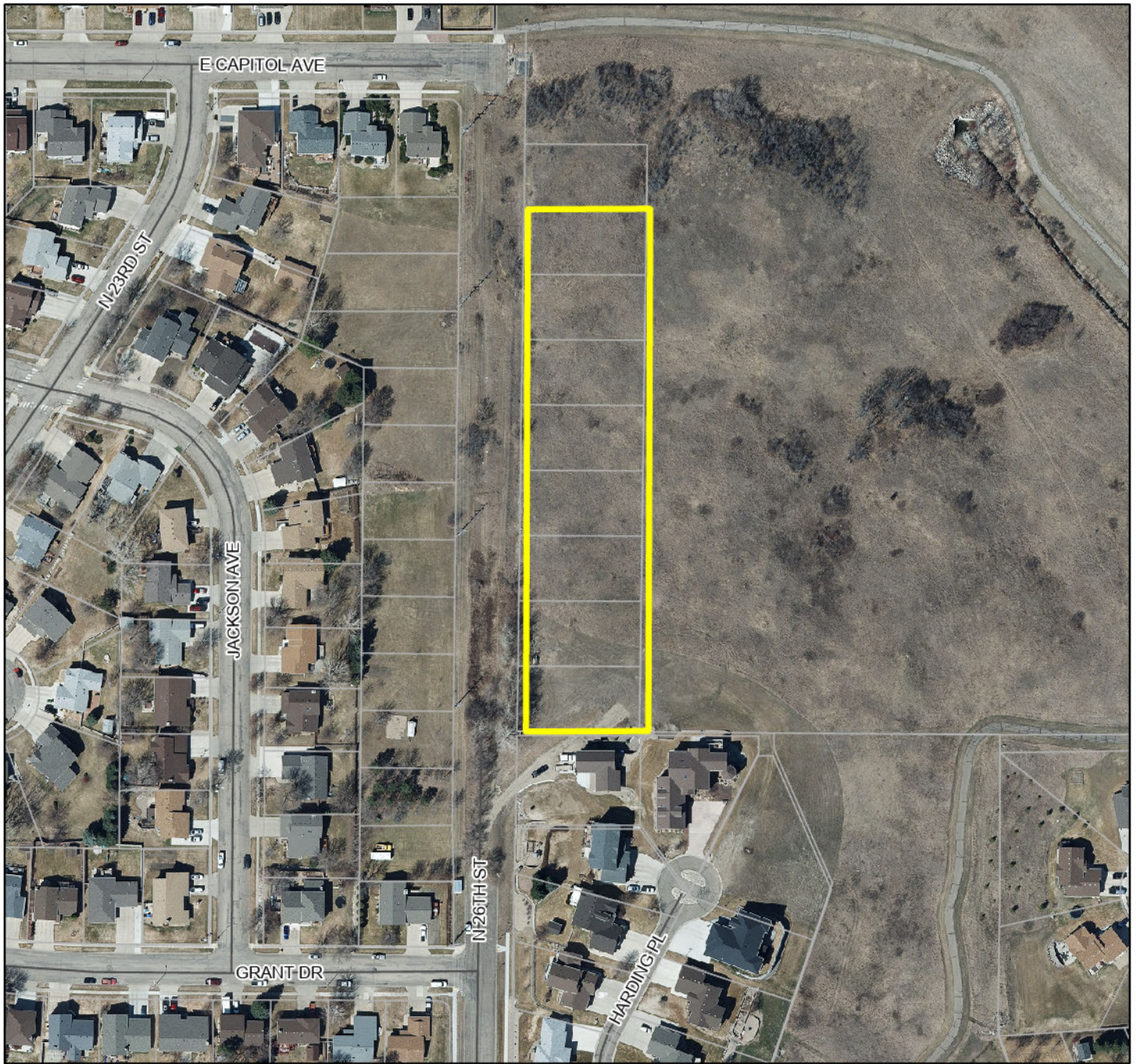




Aerial Map

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

ZC2022-026

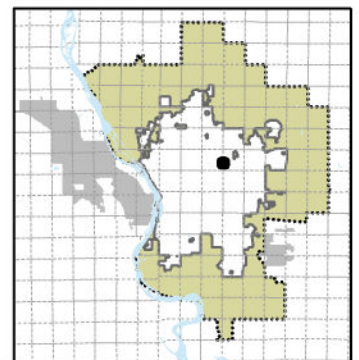


City Limits Bismarck ETA Jurisdiction

City of Bismarck
Community Development
Planning Division
January 19, 2023

Aerial Imagery from April 2020

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Zoning and Plan Reference Map

ZC2022-026

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

Zoning Districts

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

Future Land Use Plan

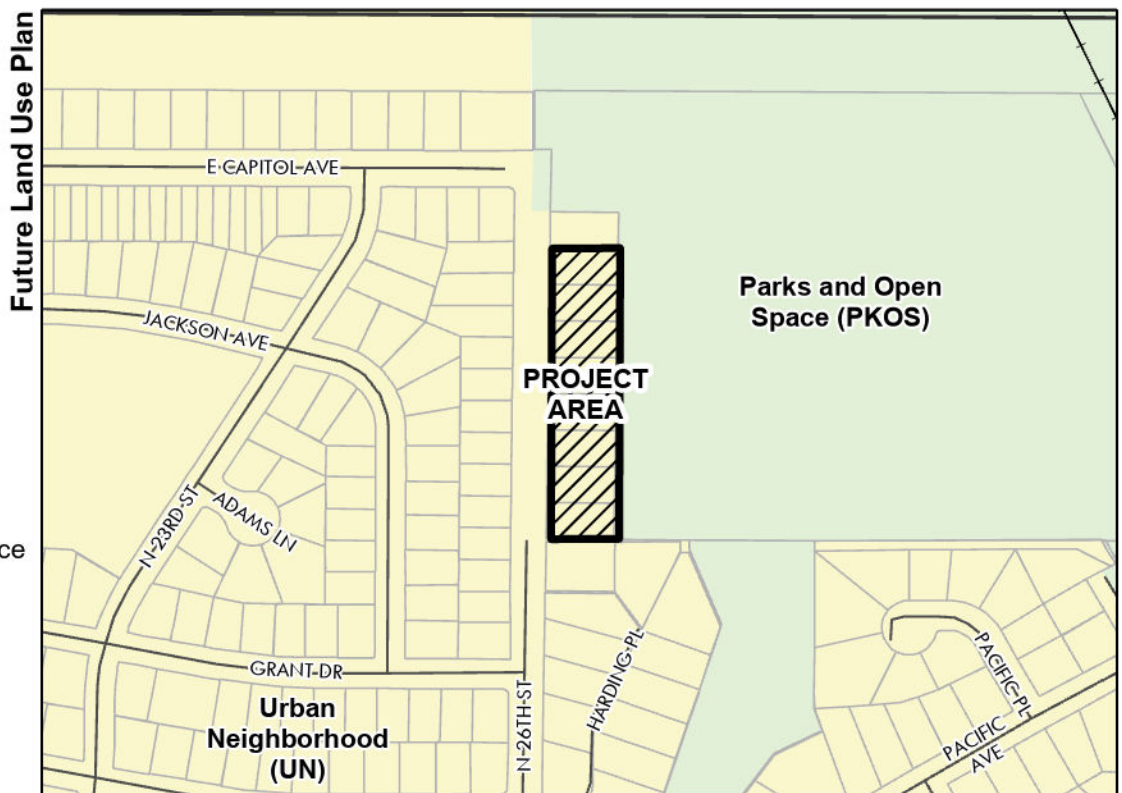
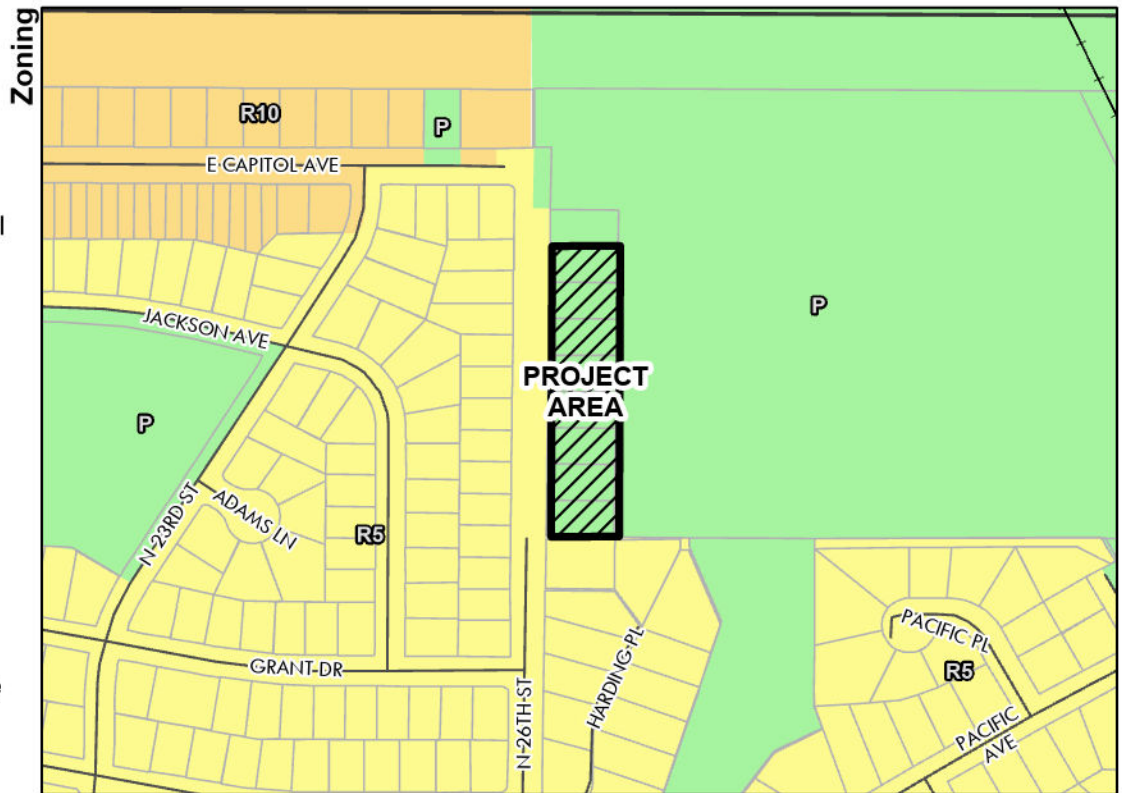
UN	Urban
NMU	Neighborhood Mixed Use
CMU	Community Mixed Use
DMU	Destination Mixed Use
DT	Downtown
IND	Industrial
IF	Industrial Flex
IMU	Industrial Mixed Use
INS	Institutional
RR	Rural
TR	Residential Transitional
PKOS	Parks/Open Space
URA/URB	Urban Reserve Mid/Long-Term

Major Street Plan

- Future Arterial
- Future Collector
- Future Interstate

Active Mobility Plan

- Future Shared Trail

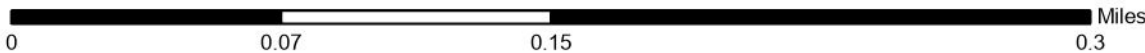
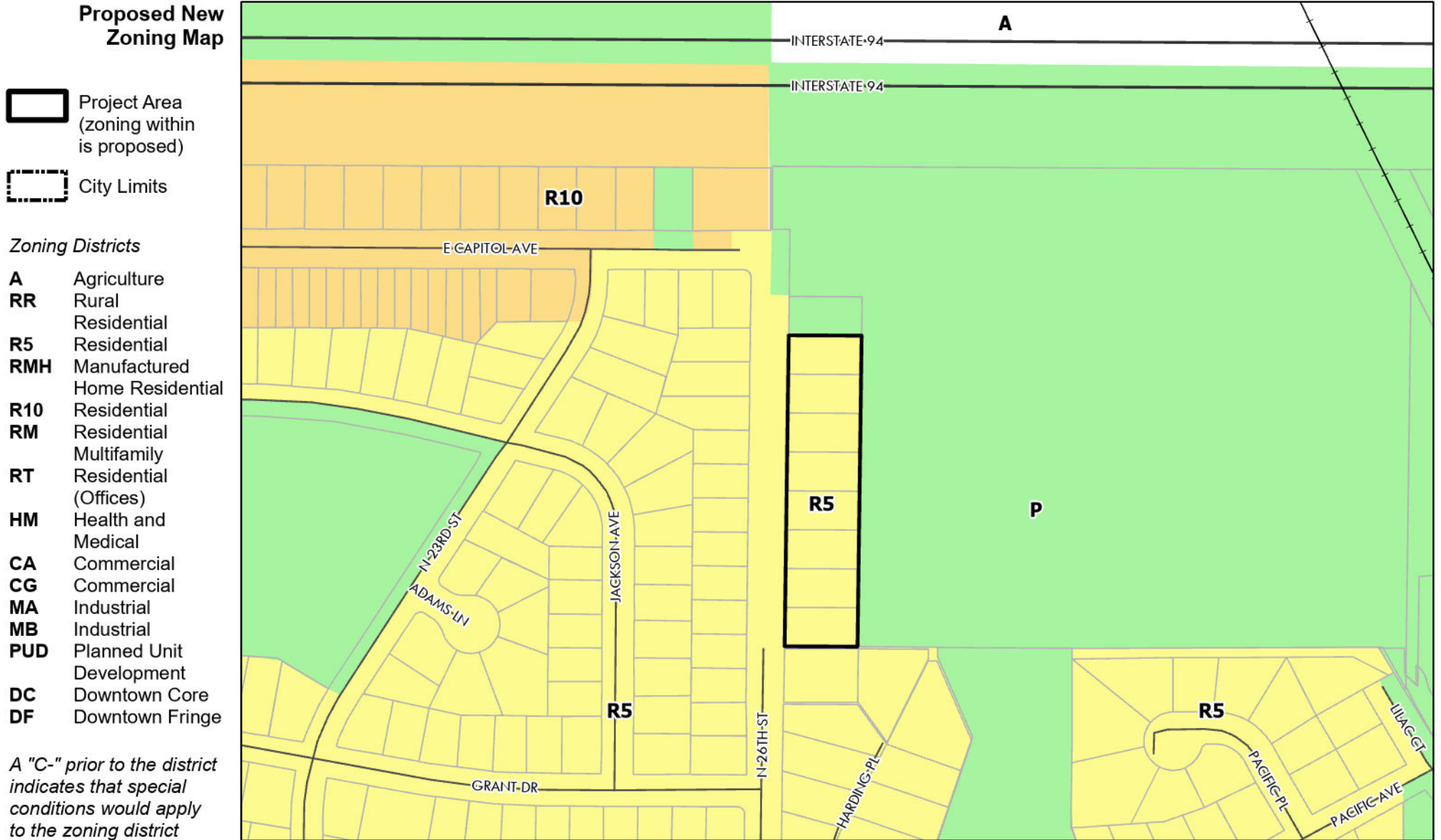


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City of Bismarck
Community Development
Planning Division
January 19, 2023



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City of Bismarck
Community Development
Planning Division
January 19, 2023

STAFF REPORT

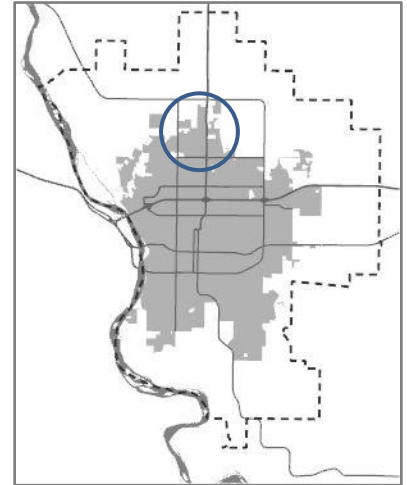
Application for: **Special Use Permit**

Agenda Item # 3
February 22, 2023

Project ID: **SUP2023-001**

Project Summary

<i>Title:</i>	Lot 1, Block 3, Daybreak Second Addition
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Fleet Farm Group, LLC
<i>Project Contact:</i>	Luke Wietgreffe, Lloyd Companies
<i>Location:</i>	In north Bismarck, between 57th Avenue NE and 71st Avenue NE / ND Highway 1804, along the west side of US Highway 83
<i>Project Size:</i>	15.9 acres
<i>Request:</i>	Allow construction and operation of a filling station and car wash/auto laundry in conjunction with retail facility



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	1 lot in 1 block	<i>Number of Lots:</i>	1 lot in 1 block
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Retail facility
<i>Future Land Use:</i>	Destination Mixed Use	<i>Future Land Use:</i>	Destination Mixed Use
<i>Zoning:</i>	CG – Commercial	<i>Zoning:</i>	CG – Commercial
<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices	<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices
<i>Max Density:</i>	CG – 42 units / acre	<i>Max Density:</i>	CG – 42 units / acre

Property History

<i>Zoned:</i>	11/2022	<i>Platted:</i>	11/2022	<i>Annexed:</i>	11/2022
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Staff Analysis

Fleet Farm Group LLC is requesting approval of a special use permit to allow the construction and operation of a filling station and a car wash/auto

laundry in conjunction with a retail facility on Lot 1, Block 3, Daybreak Second Addition.

(continued)

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on February 10 and 17, and 28 letters were mailed to the owners of nearby properties on February 10, 2023.

Adjacent uses include undeveloped A – Agriculture zoned property to the north and undeveloped CG – Commercial zoned property to the east across US Highway 83, south across 64th Avenue NE and west across Yukon Drive.

The property is located in the CG – Commercial zoning district. A filling station and carwash/auto laundry may be permitted as a special use in the CG – Commercial zoning district provided certain criteria are met.

The following criteria from Section 14-03-08(3)(e) of the City Code of Ordinances (Special Uses/Filling Stations) apply:

1. *“The minimum total area of the premises shall be at least twenty-one thousand (21,000) square feet with minimum lot dimensions of one hundred forty (140) feet in width and length.*

The minimum total area and minimum lot dimensions are greater than required.

2. *“Pump dispensers shall have a setback of at least fourteen (14) feet from the property line.”*

According to the site plan submitted with the application, this requirement would be met.

3. *“The Filling station building shall have a fifty (50) foot setback from the property lines adjacent to public streets.”*

According to the site plan submitted with the application, this requirement would be met.

4. *“A filling station may front on only one arterial or collector street and may also be adjacent to a local street.”*

According to the site plan submitted with the application, and based on the current and future functional classification of both US Highway 83 and 64th Avenue NE, this requirement would be met.

5. *“Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersection street corner of arterial or collector streets, and not less than forty (40) feet from intersecting street corner on local streets.”*

According to the site plan submitted with the application, this requirement would be met.

6. *“All repair areas, grease and wash racks shall be maintained within the principal building.”*

According to the site plan submitted with the application, this requirement would be met.

7. *“Rubbish bins and storage racks shall be maintained within a screened area only.”*

The site plan submitted with the application identifies a trash collection area in the south of the filling station building. Adequate screening and landscaping will be reviewed during the site plan review process and prior to issuing a building permit for the project.

8. *“Adequate off-street parking must be provided for all operator equipment and at least one space for each two employees and at least five (5) spaces for each service stall or bay on the premises.”*

According to the site plan submitted with the application, it appears this requirement would be met. The proposed building will not include a service stall or bay. The

(continued)

required parking is one space for each 300 square feet of retail area, which would require eight spaces, and one space for each two employees. The number of employees have not yet been determined; however, there would be 13 spaces adjacent to the filling station which likely will exceed these requirements.

9. *"No storing or parking of wrecked or partially disassembled automobiles or trucks for periods of greater than ninety-six (96) hours shall be allowed."*

According to the site plan submitted with the application, this requirement would be met.

10. *"Above-ground storage of petroleum products may be allowed only in MA – Industrial District subject to prior written approval of the Fire Department and adherence to the requirements of subsection p of this section."*

The provision does not apply as this property is not located within the MA – Industrial zoning district and no above ground storage of petroleum products is proposed.

The following criteria from Section 14-03-08(3)(m) of the City Code of Ordinances (Special Uses/Carwash / Auto Laundry) apply:

1. *"The lot area, lot width, front yards, side yard, rear yards, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located except that the minimum front yard setback shall be twenty-five (25) feet."*

The lot area, lot width, front yards, side yard, rear yard and height limit of the structure and its appurtenances appear to conform to the requirements of the

Conditional CG – Commercial zoning district.

2. *"Access to and egress from an auto laundry facility shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets. In addition, vehicle stacking spaces shall be provided on the premises in accordance with section 14-03-10 of this ordinance, in addition to all common ingress and egress areas provided."*

According to the site plan submitted with the application, this requirement would be met.

3. *"Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersection street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on local streets."*

According to the site plan submitted with the application, this requirement would be met.

4. *"An auto laundry-car wash may front on only one arterial or collector street and may also be adjacent to a local street."*

According to the site plan submitted with the application and based on the current and future functional classification of both US Highway 83 and 64th Avenue NE, this requirement would be met.

5. *"All access and egress driveways shall cross a sidewalk in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. All curb cuts, widths, and other specifications shall*

(continued)

comply with the standards established by the city engineer.”

According to the site plan submitted with the application, this requirement would be met.

6. *“No fence, wall, terrace, structure, shrubbery or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the front ten (10) feet of any lot except a sign pole as permitted in chapter 14-03.1 of the City Code of Ordinances.”*

According to the site plan submitted with the application, this requirement would be met.

Required Findings of Fact (relating to land use)

1. The proposed special uses comply with all applicable provisions of the zoning ordinance and are consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special uses are compatible with adjacent land uses and zoning;
3. The proposed special uses would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area;
4. Adequate public facilities and services are in place or would be provided at the time of development;

5. The proposed special 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 uses are 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 permits to allow the operation of a filling station and a car wash/auto laundry in conjunction with a retail facility on Lot 1, Block 3, Daybreak Second Addition.

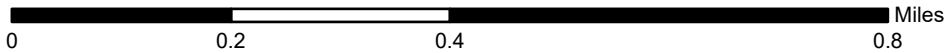
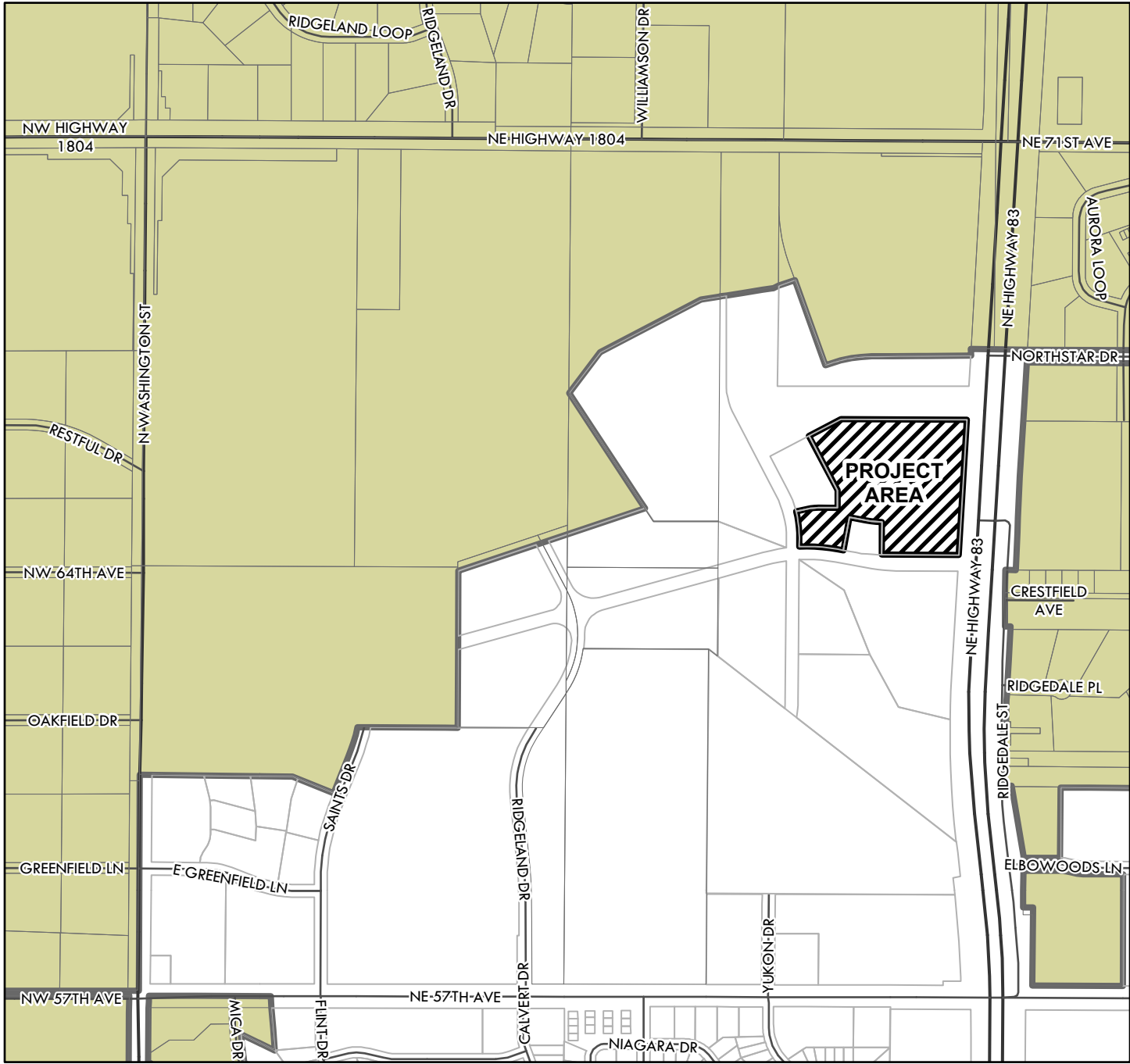
Attachments

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



Location Map
Gas Station and Car Wash

SUP2023-001

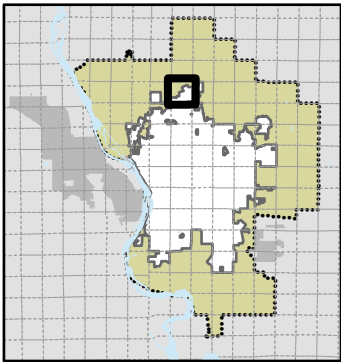


- City Limits
- Bismarck ETA Jurisdiction

Section, township, and range indicated in orange

City of Bismarck
Community Development Department
Planning Division
January 24, 2023 (SF)

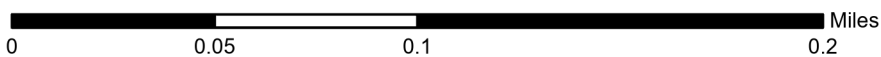
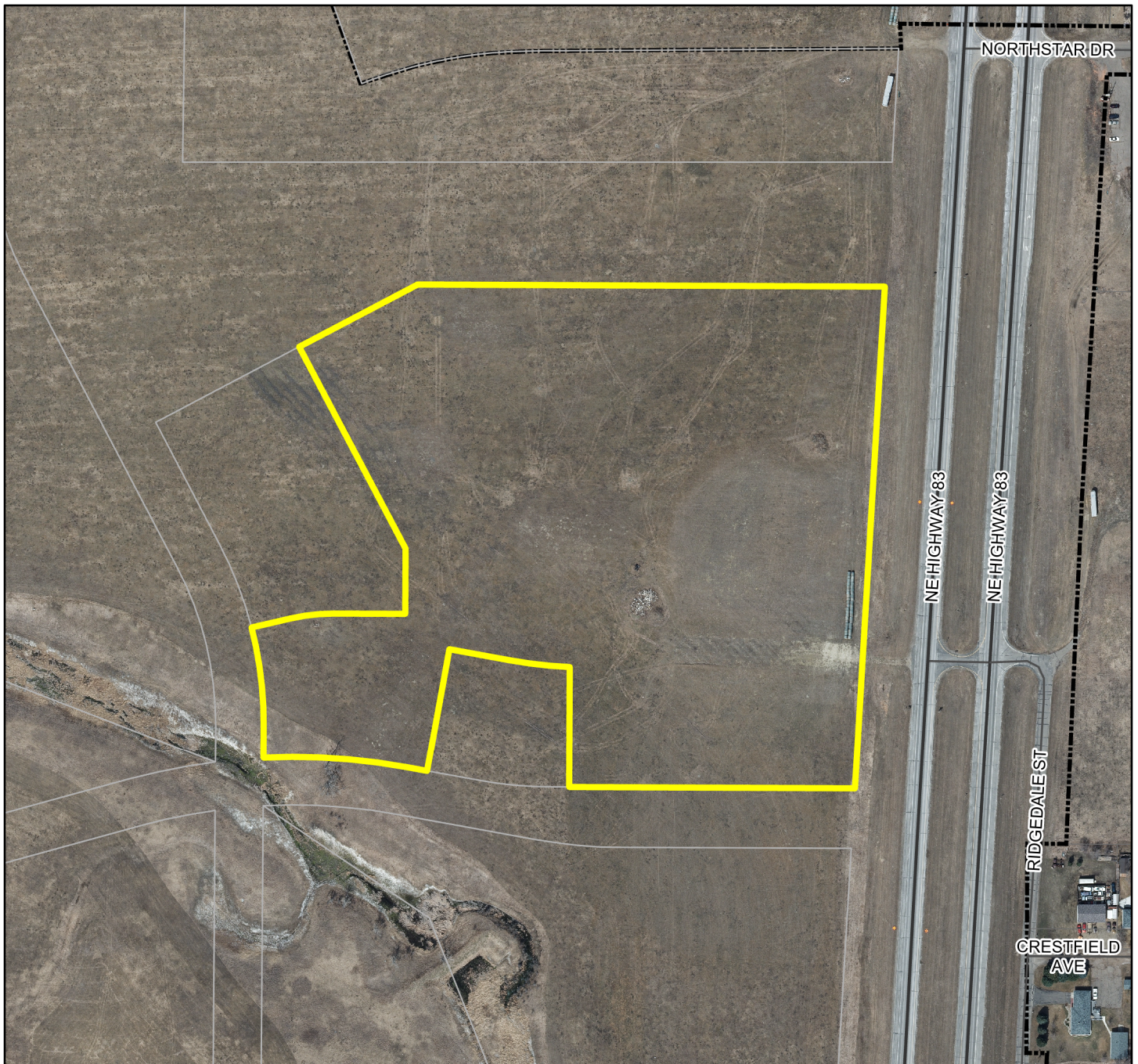
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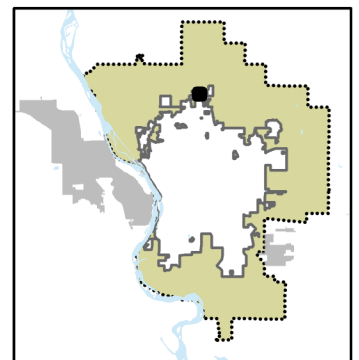


Aerial Map
DAYBREAK SECOND ADDITION, L1, B3

SUP2023-001



 City Limits  Bismarck ETA Jurisdiction



City of Bismarck
Community Development
Planning Division
February 1, 2023

Aerial Imagery from April 2020

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Zoning and Plan Reference Map

DAYBREAK SECOND ADDITION, L1, B3

SUP2023-001

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

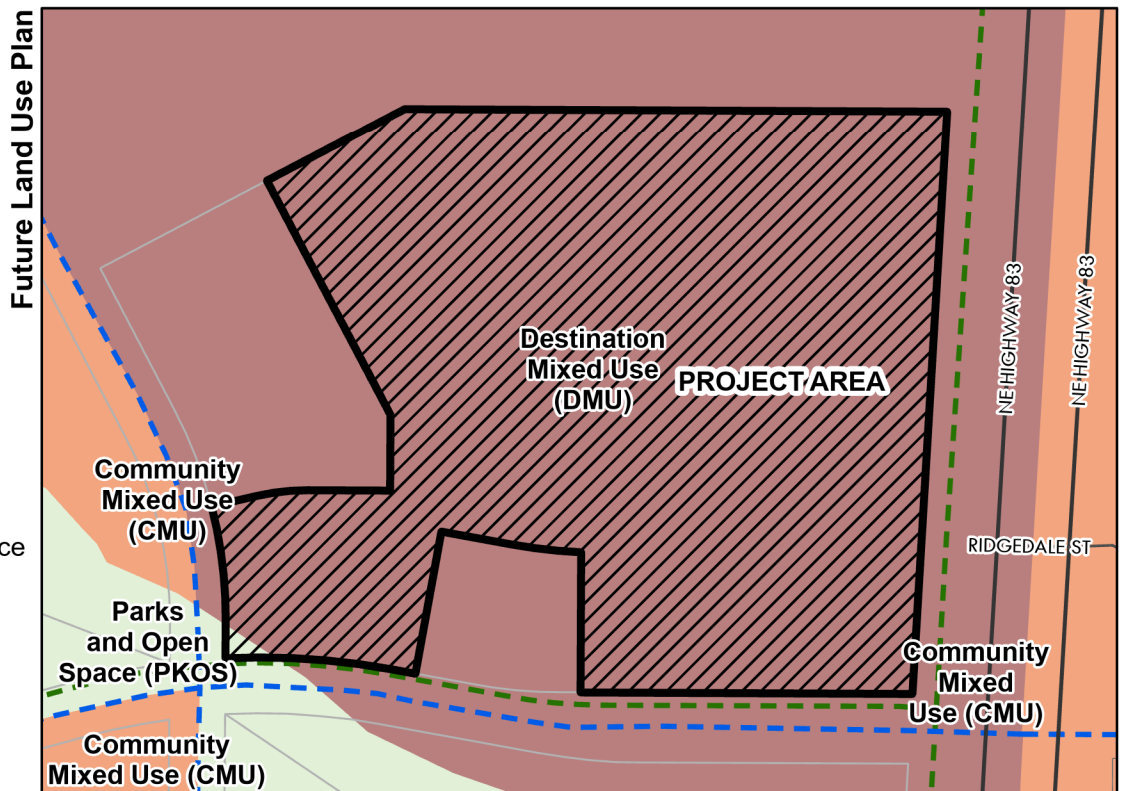
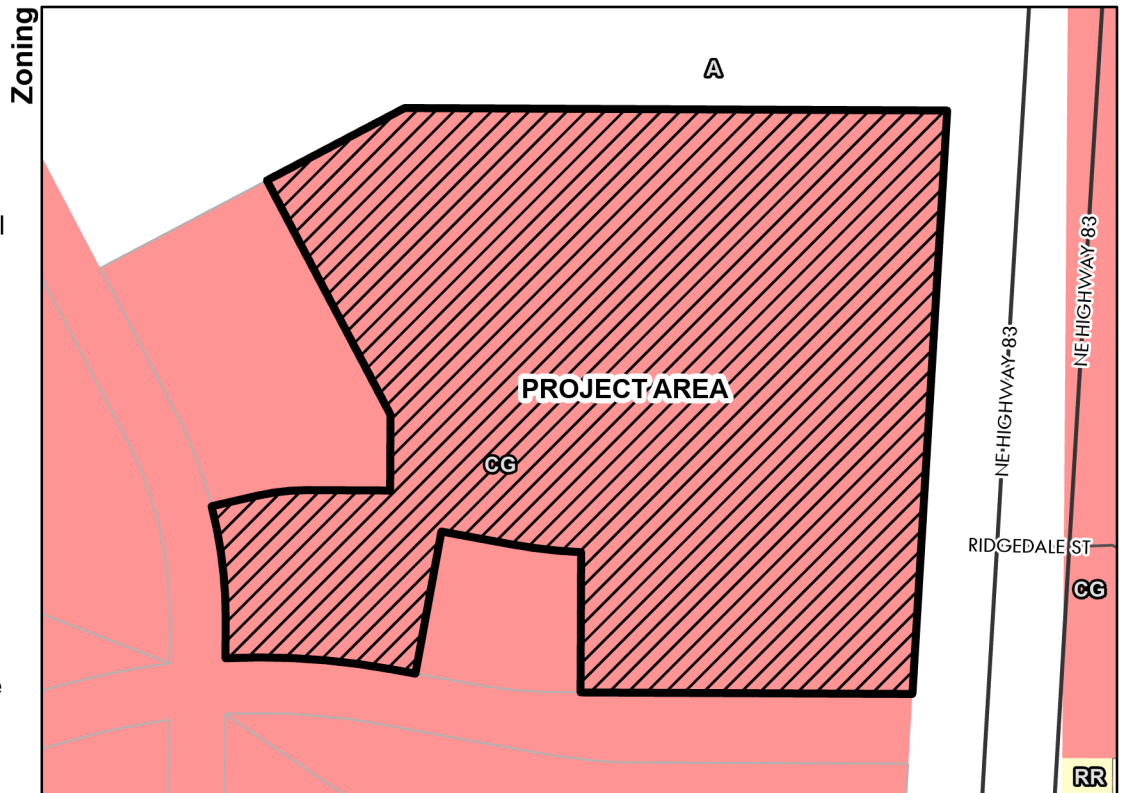
UN	Urban
NMU	Neighborhood Mixed Use
CMU	Community Mixed Use
DMU	Destination Mixed Use
DT	Downtown
IND	Industrial
IF	Industrial Flex
IMU	Industrial Mixed Use
INS	Institutional
RR	Rural
TR	Residential Transitional
PKOS	Parks/Open Space Urban Reserve
URA/	Mid/Long-Term
URB	

Major Street Plan

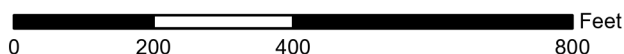
- Future Arterial
- Future Collector
- Future Interstate

Active Mobility Plan

- Future Shared Trail



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City of Bismarck
Community Development
Planning Division
February 16, 2023

FLEET FARM RETAIL STORE
64TH & YUKON DR., BISMARCK, ND

SWENSON, HAGEN & CO.
LANDSCAPE ARCHITECTS

ADDRESS: 800 BROAD AVENUE
BISMARCK, ND 58103
PHONE: 701-223-2620

CIVIL ENGINEER: CLAYTON KETZAN
EMAIL: CKETZAN@SWENSONHAGEN.COM

Albertson Engineering Inc.

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MECHANICAL ENGINEER: CONOR SWENSON
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ELECTRICAL ENGINEER: JONATHAN KENNEDY
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95% CONSTRUCTION
DOCUMENTS

No.	Description	Date
1	PROJECT NO.	18079
2	DATE	08/29/2022
3	DRAWN BY	Author
4	CHECKED BY	Checker
5	SHEET NAME	

LANDSCAPE PLAN
95% CD

SHEET NUMBER:
C6.0

DATE: NOV 29 2021
DECEMBER 1, 2022

GENERAL LANDSCAPING NOTES FOR ALL SHEETS

- ALL CONTRACTORS DESIRING TO SUBMIT BIDS FOR THIS LANDSCAPING PROJECT SHALL BE RESPONSIBLE FOR FIELD VERIFICATION OF ALL CONDITIONS.
- PROTECT THE IMPROVEMENTS ON SITE AND ON THE ADJOINING PROPERTIES. ANY DAMAGE TO EXISTING UTILITIES, STRUCTURES, OR LANDSCAPE NECESSARY TO PREVENT DAMAGE AND TO SAFEGUARD AGAINST INJURY TO EXISTING UTILITIES.
- DAMAGE THAT OCCURS TO PLANTS DURING TRANSPORTATION AND INSTALLATION WILL BE THE RESPONSIBILITY OF THE LANDSCAPE CONTRACTOR.
- ALL PLANTING BEDS SHALL BE INSTALLED WITH 3" OF 2" CRUSHED ROCK MULCH. LANDSCAPE FABRIC WITH A MINIMUM WEIGHT OF 4.0 OZ/YD AND WHENEVER NECESSARY, 6" ROUNDED IN PLACE CONCRETE EDGING TO CONTAIN THE PLANTING BED.
- ALL LANDSCAPE PLANTINGS ARE TO BE WATERED BY THE LANDSCAPE CONTRACTOR FOR THE SAME DAILY FOR THE FIRST SEVEN DAYS AFTER IS NOT AVAILABLE AT THE BUILDING, THE LANDSCAPE CONTRACTOR SHALL PROVIDE ALTERNATIVE METHODS OF WATERING.
- SOLITARY TREES DO NOT NEED TO BE EDED AROUND, HOWEVER ORGANIC BARK MULCH SHALL BE PLACED AROUND THE TREE IN A MULTIPLE RING THAT CONFORMS TO THE FINAL PROVIDED FOR TREE PLANTINGS.
- CONTRACTOR SHALL PROVIDE WRITTEN WARRANTIES CONFIRMING THE FOLLOWING:
 - FURNISHED TREES GUARANTEED TO LIVE AND REMAIN STRONG, HEALTHY, AND IN A HEALTHY CONDITION FOR ONE YEAR MINIMUM FROM DATE LANDSCAPE INSTALLATION IS ACCEPTED AS COMPLETED.
 - LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR WATERING AND CARE FOR ALL PLANT MATERIAL AND OTHER LANDSCAPING IMPROVEMENTS UNTIL THE DATE OF FINAL INSPECTION AND APPROVAL.

TOPSOIL NOTES

- TOPSOIL IS STOCKPILED IN THE NORTHWEST CORNER OF THE PROJECT SITE AND WILL BE AVAILABLE FOR THE LANDSCAPE CONTRACTOR TO SPREAD AND FINISH GRASS. ALL PORTIONS OF THE SITE NOT RECEIVING CONCRETE, CURB & GUTTER OR OTHER IMPROVEMENTS SHALL BE COVERED WITH A MINIMUM OF 4" OF TOPSOIL AND SEEDS ACCORDING TO SPECIFICATIONS.
- TOPSOIL SHALL BE PLACED AND SEEDS AS SOON AS PRACTICAL TO MINIMIZE WIND AND WATER EROSION. BACKFILL BOUNDING CURB & GUTTERS AND SIDEWALKS AS SOON AS FEASIBLE TO PREVENT STANDING WATER AND PROTECT THE IMPROVEMENTS.

SEEDING NOTES

- SEEDING OR SOILING SHALL BE PERFORMED IN ACCORDANCE WITH THE MOST RECENT CITY OF BISMARCK CONSTRUCTION SPECIFICATION FOR MUNICIPAL PUBLIC WORKS IMPROVEMENTS EXCEPT WHERE MODIFIED BELOW. THE SPECIFICATIONS FOR SEEDING AND SOILING ARE WITHIN SECTION 1200 AND 1201 RESPECTIVELY.
- SOIL OR SEED SHALL BE USED AS SPECIFIED ON PLANS AND IS WITHIN ALL IRRIGATED AREAS. THE "PRIME MIX" SHALL BE USED ON ALL DISTURBED AREAS NOT REQUIRING IRRIGATION OR OTHER IMPROVEMENTS.
- "PRIME MIX" SHALL BE COUNTRY LAMB MIX AS DISTRIBUTED BY CHEASER SEED HOUSE OR APPROVED EQUIVALENT. OTHER EQUIVALENTS MUST BE APPROVED BY THE CITY OF BISMARCK. SEED SHALL BE INSTALLED AT A RATE OF 25 LBS./ACRE.
- ALL AREAS SEEDING ON SLOPES 4:1 OR GREATER SHALL HAVE EROSION CONTROL. BLANKET TYPE 1 AND ALL AREAS LESS THAN 4:1 SHALL BE EROSION CONTROLLED. EROSION CONTROL BLANKET AND HYDRO-MULCH SHALL BE PERFORMED IN ACCORDANCE WITH THE MOST RECENT CITY OF BISMARCK CONSTRUCTION SPECIFICATION FOR MUNICIPAL PUBLIC WORKS IMPROVEMENTS.
- CLEAR AND GRUB SITE BEFORE SEEDING ENSURING THAT THE SITE IS IN A SMOOTH CONDITION WITH NO DEBRIS OR ROCKS LARGER THAN 3" IN DIAMETER.
- FERTILIZER SOIL DURING THE SEEDING PROCESS USING AN APPROPRIATE APPLICATION PROCESS. FERTILIZER SHALL BE 10-10-10 AND APPLIED AT A RATE OF 4 LBS. PER 1000 SQUARE FEET.
- SEED SHALL BE DRILL SEEDING TO A DEPTH OF 1/4" TO 1/2" AND SHALL BE EVENLY SPACED. IF TOP SOIL IS NOT AVAILABLE, THE SOIL SHALL BE REWORKED. NO SEED SHALL BE PLACED ON DAYS WHERE THE SOIL IS TOO MOIST TO PREVENT IT FROM BEING PROPERLY MIXED INTO THE SOIL.
- SEED SHALL BE COVERED WITH A DEPTH OF 2" TO 3" IN SEEDING PER SQUARE FOOT. BEFORE ACCEPTANCE, ALL SEEDS. THE CONTRACTOR SHALL FURNISH AND MAINTAIN SUFFICIENT COVERAGE MATERIALS. ANY SEED FOR AREAS THAT HAVE NOT GERMINATED HAVE DIED OR ARE DAMAGED TO THE EXTENT THAT ACCEPTANCE IS REQUIRED TO CONFORM TO THE REQUIREMENTS OUTLINED ABOVE, THE CONTRACT WARRANTY PERIOD SHALL ALSO APPLY TO THIS ITEM.
- CONTRACTOR SHALL BE RESPONSIBLE TO REPAIR ANY EROSION SCARS OR WEEDS UNTIL THE DATE THAT FINAL SEED STAND IS ACCEPTED. SEE EROSION CONTROL PLAN FOR EROSION CONTROL METHODS.

Proposed Filling Station and Car Wash / Auto Laundry

LANDSCAPING REQUIREMENTS

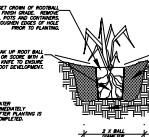
- REQUIRED INTERIOR LANDSCAPING:
 - 74 SHRUBS
 - 24 TREES
- REQUIRED STREET TREES:
 - 64TH AVENUE - 74 TREES
 - 3 PER 100 FEET = 23 TREES
 - YUKON DRIVE - 219 LF
 - 3 PER 100 FEET = 7 TREES
- REQUIRED PERIMETER PARKING:
 - GREATER THAN 20 FEET SPACE 20 FOOT WIDE
 - 64TH AVENUE - TREES AND SHRUBS
 - YUKON DRIVE - N/A
- REQUIRED LANDSCAPE BUFFER YARD:
 - N/A
- PROVIDED INTERIOR LANDSCAPING:
 - 74 SHRUBS
 - 24 TREES
- PROVIDED STREET TREES:
 - 23 TREES
- 7 TREES
- PROVIDED PERIMETER PARKING:
 - 20 FOOT WIDE
- PROVIDED LANDSCAPE BUFFER YARD:
 - N/A

PLANT PALETTE

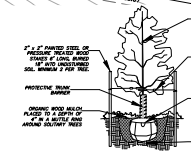
SYN.	COMMON NAME	SCIENTIFIC NAME	SIZE	QTY/
1P	PRINCE OF ORANGE	Alnus Prunifolia	1-1/2" Cal	8
2A	JAPANESE LILAC	Syringae Mollis	1-1/2" Cal	6
3A	PRINCE OF ORANGE	Alnus Prunifolia	1-1/2" Cal	11
4B	BUR OAK	Quercus macrocarpa	1-1/2" Cal	22
5C	TRIUMPH ELM	Ulmus 'Morton Clancy'	1-1/2" Cal	23
6D	GOLDENROD SPIRUE	Spiraea japonica 'Goldmound'	2 Gallon	45
7E	MARSH CANYON SPIRUE	Spiraea japonica 'Morton Clancy'	2 Gallon	45
8F	SHAW'S GLOVE BLUE SPIRUE	Philadelphus 'Shaw's Glove'	2 Gallon	49



REVISIONS TO CONSTRUCTION
REVISIONS TO CONSTRUCTION



SHRUB/PERENNIAL PLANTING DETAIL
TYPICAL FOR ALL SHRUBS AND PERENNIALS

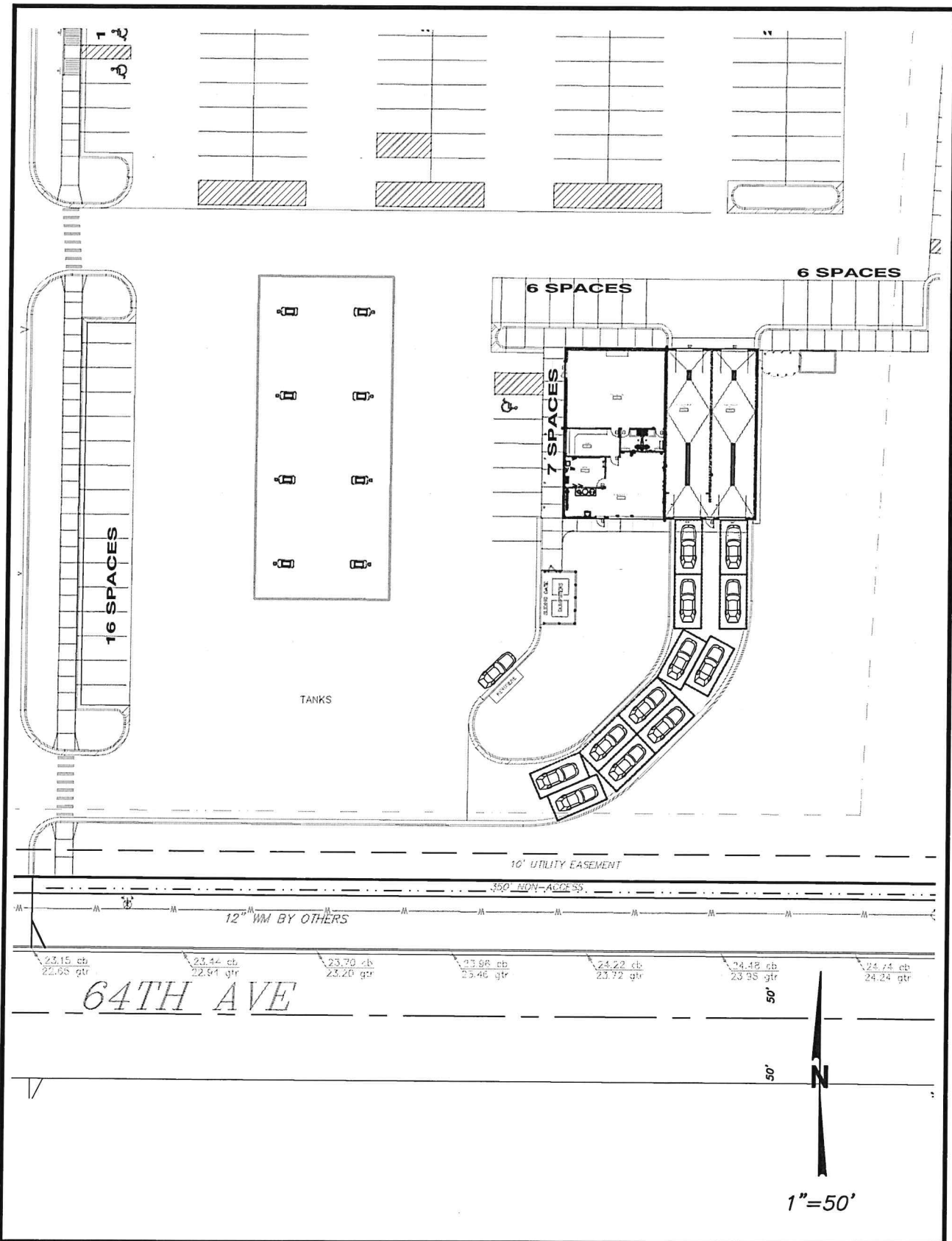


TREE PLANTING DETAIL
TYPICAL FOR ALL DECIDUOUS, SINGLE-TRUNK TREES

WARRANTY / DISCLAIMER
The designer warrants to the owner that the design is based on the information provided by the owner and is not to be construed as a guarantee of performance. The designer shall not be responsible for any damage to property or persons resulting from the use of the design. The owner shall be responsible for the construction of the project in accordance with the design. The designer shall not be responsible for any damage to property or persons resulting from the use of the design. The owner shall be responsible for the construction of the project in accordance with the design.

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NORTH DAKOTA
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1-800-795-0585

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Civil Engineering
Landscape & Site Design
Construction Management

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**FLEET FARM
CONVENIENCE STORE CAR WASH
SPECIAL USE PERMIT**

BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
January 25, 2023

The Bismarck Planning & Zoning Commission met on January 25, 2023, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. The meeting was held in person and via Zoom. Chair Schwartz presided and was present in the Tom Baker Meeting Room.

Commissioners present were Brian Bitner, Cole Johnson, Paul Levchak, Dan Lukens, Gabe Schell, Mike Schmitz, Mike Schwartz, and Trent Wangen.

Commissioners Paul Zent and Wendy Van Duyne were 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.

TERMS AND OATHS OF OFFICE

Chairman Schwartz thanked current and previous Commissioners for their service in guiding decisions in city planning.

New oaths of office were shared with those Commissioners present at this time and notarized for filing with City Administration. Chair Schwartz welcomed commissioner Daniel Lukens to the Commission. Commissioner Lukens stated he moved to Bismarck in July of 2022 and wants to be more involved in the community.

MINUTES

Chair Schwartz called for consideration of the minutes of the December 21, 2022, meeting.

MOTION: Commissioner Schmitz made a motion to approve the minutes of the December 21, 2022, meeting, as presented. Commissioner Wangen seconded the motion, and it was unanimously approved with Commissioners Bitner, Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, and Wangen voting in favor of the motion.

CONSIDERATION

- 2. LOTS 1-8, BLOCK 1, HAY CREEK PARK ADDITION – ZONING CHANGE**
- 3. TALL PINES SUBDIVISION – ZONING CHANGE AND MAJOR SUBDIVISION PRELIMINARY PLAT**

MOTION: Based on the findings contained in the staff reports, Commissioner Wangen made a motion to approve consent agenda items 2 and 3, calling for public hearings and granting tentative approval on the items as recommended by staff. Commissioner Bitner seconded the motion and it was unanimously approved with Commissioners Bitner, Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, and Wangen voting in favor of the motion.

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

Chair Schwartz called for the continued public hearing on the zoning change and major subdivision final plat for TNK Ranch Subdivision. The proposed plat is two lots in one block on 40.17 acres and is located northeast of Bismarck, north of 43rd Avenue NE along the east side of 80th Street NE (NW¼ of the SW¼ of Section 16, T139-R79W/Gibbs Township).

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, 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.

Mr. Nairn 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) with written concurrence from the County Engineer.
3. The Gibbs Township Board of Supervisors has recommended tentative approval of the proposed plat.

4. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
5. 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.
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 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 general intent and purpose of the zoning ordinance.
11. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
12. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Nairn reminded the Commission that the placement of the driveway or the validity of an off-site access easement is not part of either of these requests and that, based on these findings, staff recommends approval of the zoning change and major subdivision final plat for TNK Ranch Subdivision.

Chair Schwartz asked if approving the plat would set a precedent. Mr. Nairn said it would not because the request meets all subdivision requirements.

Chair Schwartz opened the public hearing.

Holly Beck, Holly Beck Surveyors, came forward to address comments from the previous meeting. She said she is dual licensed as a surveyor and engineer and explained that a requirement of these licenses is to understand and follow the North Dakota Code of Ethics. Her company's duty is to serve the public, not the individual clients, without bias and a violation of the code would result in revocation of her license. She then stated that only a land surveyor can determine land boundaries. Ms. Beck then stated that a previous owner granted the public access easement, and it is valid.

Dave Tschider, attorney for the landowners, came forward and stated he listened to the December 21 meeting and stated the discussion of that meeting went off track as the neighbors were contesting the access easement, not the plat or the zoning change. He

stated the quit claim deed that transferred the property to the current owners is valid and the access easement has nothing to do with the platting process. He then stated concerns about the septic system have nothing to do with the requests and the suggestion of an alternative access from 66th Street is inappropriate. He then advised the Commission to approve the requests.

Commissioner Levchak asked to see exactly where the roadway crossed onto the adjacent property owner's land. (did someone point to where it was on the map?)

Gerald Miller, Gibbs Township Supervisor, came forward to say that Gibbs Township has decided to step back from this contention and provided a suggestion for an alternative access to the property in a letter to the Burleigh County Commission (attached as Exhibit A).

Commissioner Schell asked if both parties had agreed to the alternative access. Kim Fettig replied that they were seeing the letter to the County for the first time.

Mr. Tschider came forward to reiterate that the access proposal has nothing to do with the requests.

Ms. Beck came forward and stated that from an engineering standpoint, she questions the financial responsibility for moving the driveway.

Tracy Driscoll, a neighbor, came forward to state her concern about potential increased traffic, including farm vehicles operating on site. Commissioner Levchak questioned this concern as only one additional house would be allowed on the property and there are currently no plans to build.

Mr. Tschider stated this area has been used for farming and ranching activities for many years and that type of traffic would remain the same. Commissioner Levchak then made a statement agreeing that traffic conditions would not change as the proposed plat is 50 acres.

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

Commissioner Bitner stated the roadway location would have to be dealt with outside of the Planning and Zoning Commission.

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the zoning change from the A – Agricultural zoning district to the RR – Residential zoning district and the major subdivision final plat for TNK Ranch Subdivision. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, and Wangen voting in favor of the motion.

Commissioner Bitner departed the meeting.

**PUBLIC HEARING – ANNEXATION, ZONING CHANGE AND
MAJOR SUBDIVISION FINAL PLAT
SILVER RANCH FOURTH ADDITION**

Chair Schwartz called for the public hearing on the partial annexation of Silver Ranch Fourth Addition and Silver Ranch Third Addition, a zoning change from the A – Agricultural zoning district to the R10 – Residential, RM20 – Residential, CA – Commercial, and P – Public zoning districts for Silver Ranch Fourth Addition, and a major subdivision final plat for Silver Ranch Fourth Addition. The proposed plat is 35 lots in eight blocks on 67.9 acres and is located northwest of Bismarck, north of 43rd Avenue NE and west of 52nd Street NE along extensions of Silver Boulevard and Silbernagel Drive.

Mr. Nairn gave an overview of the requests, 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

Mr. Nairn then gave the findings related to land use for the 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.

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

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

Mr. Nairn said, based on these findings, staff recommends approval of the partial annexation for Silver Ranch Third Addition and Silver Ranch Fourth Addition as indicated on the attached draft ordinance; the zoning change from the A – Agricultural zoning district to the R10 – Residential, RM20 – Residential, CA – Commercial, and P – Public zoning districts for Silver Ranch Fourth Addition; , and 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.

Chair Schwartz opened the public hearing.

Commissioner Levchak asked about the R10 zoning district being zoned school use. Mr. Nairn said Bismarck Public Schools intends to purchase 10 acres on the north side of the R10 portion for a future career academy.

Landon Niemiller, Swenson, Hagen and Co., came forward to provide clarification on the R10 portion of the plat. He noted that if BPS does not purchase the land, the R10 zoning district would allow the property to be developed for single and two-family residential.

Commissioner Schell asked about the change from the preliminary plat and whether the stormwater easements on the intersection of Noble Drive and 52nd Street NE would allow for sanitary sewer service. Mr. Niemiller confirmed that the sanitary sewer plan was reviewed thoroughly and he can provide that information if requested.

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

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the partial annexation of Silver Ranch Third Addition and Silver Ranch Fourth Addition; the zoning change from the A – Agricultural zoning district to the R10 – Residential, RM20 – Residential, CA – Commercial, and P – Public zoning districts for Silver Ranch Fourth Addition; and the major subdivision final plat for Silver Ranch Fourth Addition, with the condition that 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. Commissioner Wangen seconded the motion, and the motion was unanimously approved with Commissioners Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, and Wangen voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE
REPLAT OF HOMAN ACRES
LOTS 9, 10 AND THE SOUTH 25.4 FEET OF LOT 11, BLOCK 7**

Chair Schwartz called for the public hearing on the 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 property is located in central Bismarck, in the northeast quadrant of the intersection of West Central Avenue and North Kavaney Drive.

Ms. Wollmuth gave an overview of the request, including the following findings related 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.

Ms. Wollmuth stated that the Homan Acres area was developed in the early 1960s and both residences were constructed in 1964. A single-family dwelling was constructed on Lot 9 and a two-family dwelling was constructed on Lot 10 and the South 25.4 feet of Lot 11. At the time of construction, both properties were zoned for single and two-family dwellings. She noted 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.

Ms. Wollmuth also noted that the property owner of Lot 9 has requested a building permit for an addition to their residence, and because single and two-family dwellings are not permitted within the current RT – Residential zoning district, one could not be issued. This proposed zoning change would bring both properties into conformance with the zoning code.

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

Chair Schwartz opened the public hearing.

Tim Beckler, the owner of Lot 9, came forward to explain the reason for the request is that he would like to build an addition to his house.

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

MOTION: Based on the findings in the staff report, Commissioner Levchak made a motion to recommend approval of the 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. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, and Wangen voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE
LOTS 1 AND 2, BLOCK 1, KILBER NORTH ADDITION FIRST REPLAT**

Chair Schwartz called for the public hearing on a zoning change on Lots 1 and 2, Block 1, Kilber North Addition First Replat. The property is located in north Bismarck, east of North Washington Street on the south side of 43rd Avenue NE (4228 Boulder Ridge Road).

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

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan 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.

Mr. Nairn said, based on these 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.

Commissioner Schell asked Mr. Nairn to confirm the 2,500 square foot limit applies to each individual use and not a whole building. Mr. Nairn said that is the correct interpretation.

Commissioner Levchak asked what the difference is in having several small business uses rather than one large business on this site would be. Mr. Nairn state that staff believes that smaller-scale uses are more likely to follow the CA – Commercial intention, which is to be a neighborhood friendly area.

Chair Schwartz opened the public hearing.

Dan Keith, an adjacent property owner and a representative of The Ridge LLC, came forward to explain that in June of 2022 the owners requested a zoning change to CA – Commercial zoning district and that request was denied. After that, they decided that the current request

is more appropriate for their intentions. He then thanked the Planning Division for their guidance. He stated they plan to include seven small store fronts, but no large businesses would be affecting traffic.

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

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

**PUBLIC HEARING – ZONING CHANGE
PT OF NW ¼ OF SECTION 21, T138N, R80W/LINCOLN TWP PARADISE VALLEY**

Chair Schwartz called for the public hearing on a zoning change from the RM15 – Residential zoning district to the RM30 – Residential zoning district for Lot 1, Block 2, Paradise Valley Addition.

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

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and/or other agencies would be able to provide necessary public services, facilities and programs to serve any development
4. allowed by the new zoning classification at the time the property is developed;
5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Lee said, based on these findings, staff recommends approval of the zoning change from the RM15 – Residential zoning district to the RM30 – Residential zoning district for Lot 1, Block 2, Paradise Valley Addition.

Chair Schwartz opened the public hearing.

Andrew Thill, Lowry Engineering, came forward to address any concerns. There were none.

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

Commissioner Schmitz asked Commissioner Schell about traffic concerns on Burleigh Avenue. Commissioner Schell replied that a traffic study had been performed for the Paradise Valley subdivision and he feels comfortable with the accommodations.

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of zoning change from the RM15 – Residential zoning district to the RM30 – Residential zoning district for Lot 1, Block 2, Paradise Valley Addition. Commissioner Johnson seconded the motion, and the motion was unanimously approved with Commissioners Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, and Wangen voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE COTTONWOOD PARKVIEW ADDITION FIRST REPLAT

Chair Schwartz called for the public hearing on 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.

Ms. Wollmuth gave an overview of the request, including the following findings related 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.

Ms. Wollmuth said, based on these 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.

Chair Schwartz opened the public hearing.

Brittany Dawson, the architect representing the applicant, said this zoning change would allow for 23 additional units, which is about 40% of the allowed density if the zoning change were to be approved.

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

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

PUBLIC HEARING – SPECIAL USE PERMIT (INTERNAL ADU) MISSOURI MEADOWS SUBDIVISION

Chair Schwartz called for the public hearing on a special use permit to construct an internal accessory dwelling unit within a single-family residence on Lot 1, Block 1, Missouri Meadows Subdivision.

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

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

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

Mr. Nairn said, based on these findings, staff recommends approval of the special use permit for an internal accessory dwelling unit on Lot 1, Block 1, Missouri Meadows Subdivision.

Chair Schwartz opened the public hearing.

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

MOTION: Based on the findings contained in the staff report, Commissioner Wangen made a motion to approve the special use permit for an internal accessory dwelling unit on Lot 1, Block 1, Missouri Meadows Subdivision. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, and Wangen voting in favor of the motion.

ELECTION OF OFFICERS:

Chair Schwartz opened nominations for the election of Chair and Vice Chair at this time.

Commissioner Levchak made a motion to reelect Mike Schwartz as the Chair of the Bismarck Planning and Zoning Commission. Commissioner Wangen seconded the motion and, with Commissioners Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, and Wangen voting in favor of the motion, Mike Schwartz was reelected Chair of the Bismarck Planning and Zoning Commission.

Commissioner Schmitz made a motion to elect Cole Johnson as the Vice Chair of the Bismarck Planning and Zoning Commission. Commissioner Schell seconded the motion and with Commissioners Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, and Wangen voting in favor of the motion, Cole Johnson was elected Vice Chair of the Bismarck Planning and Zoning Commission.

UPDATE ON TOGETHER 2045

Mr. Nairn came forward to inform the Commissioners that the Together 2045 plan has been adopted after approval by the Bismarck City Commission on December 27, 2022. Staff handed out bound copies of the final plans to each Commissioner. Commissioner Schmitz thanked Mr. Nairn and the Planning Division for their efforts.

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 6:27 p.m. to meet again on February 22, 2023.

Respectfully submitted,

Sarah S. Fricke
Recording Secretary

Mike Schwartz
Chair

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 1/2023

*****City*****

*****ETA*****

	1/2023		1/2022		1/2023		1/2022	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
ROWHOUSE (2) 1-HR FIRE SEPARATION	8	\$1,412,138.56	0	\$0.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
DECKS\PORCHES & COVERED PORCHES	0	\$0.00	2	\$5,481.00	0	\$0.00	0	\$0.00
SWIMMING POOLS	1	\$85,000.00	0	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL ALTERATION/OTHER	2	\$110,000.00	3	\$8,000.00	1	\$9,250.00	0	\$0.00
BASEMENT FINISH	6	\$77,292.50	8	\$209,848.00	2	\$69,552.50	1	\$4,500.00
RESIDENTIAL	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	1	\$3,600.00	8	\$35,900.00	0	\$0.00	0	\$0.00
SIGN ALTERATION	1	\$2,550.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	9	\$850,000.00	2	\$372,000.00	0	\$0.00	0	\$0.00
COMMERCIAL ALTERATION	9	\$2,320,000.00	7	\$4,782,850.00	0	\$0.00	2	\$3,715,000.00
Total	40	\$4,860,581.06	30	\$5,414,079.00	3	\$78,802.50	3	\$3,719,500.00

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 1/2023

*****City*****

*****ETA*****

	1/2023		1/2022		1/2023		1/2022	
Trade Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	69	\$0.00	45	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	124	\$1,561,891.72	145	\$2,193,199.48	8	\$243,737.75	5	\$14,020.00
BUILDING PLUMBING	6	\$147,000.00	11	\$435,885.00	0	\$0.00	0	\$0.00
Total	199	\$1,708,891.72	201	\$2,629,084.48	8	\$243,737.75	5	\$14,020.00

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 1/2023

*****City*****

*****ETA*****

	1/2023	1/2022	1/2023	1/2022
Living Units	Units	Units	Units	Units
MANUFACTURED HOMES	1	0	0	0
BASEMENT FINISH	0	0	0	0
DECKS\PORCHES & COVERED PORCHES	0	0	0	0
RESIDENTIAL ALTERATION/OTHER	0	0	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	8	0	0	0
SWIMMING POOLS	0	0	0	0
Total	9	0	0	0

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 1/2023

*****City*****

*****ETA*****

	1/2023		1/2022		1/2023		1/2022	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
ROWHOUSE (2) 1-HR FIRE SEPARATION	8	\$1,412,138.56	0	\$0.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
DECKS\PORCHES & COVERED PORCHES	0	\$0.00	2	\$5,481.00	0	\$0.00	0	\$0.00
SWIMMING POOLS	1	\$85,000.00	0	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL ALTERATION/OTHER	2	\$110,000.00	3	\$8,000.00	1	\$9,250.00	0	\$0.00
BASEMENT FINISH	6	\$77,292.50	8	\$209,848.00	2	\$69,552.50	1	\$4,500.00
RESIDENTIAL	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	1	\$3,600.00	8	\$35,900.00	0	\$0.00	0	\$0.00
SIGN ALTERATION	1	\$2,550.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	9	\$850,000.00	2	\$372,000.00	0	\$0.00	0	\$0.00
COMMERCIAL ALTERATION	9	\$2,320,000.00	7	\$4,782,850.00	0	\$0.00	2	\$3,715,000.00
Total	40	\$4,860,581.06	30	\$5,414,079.00	3	\$78,802.50	3	\$3,719,500.00

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 1/2023

*****City*****

*****ETA*****

	1/2023		1/2022		1/2023		1/2022	
Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	69	\$0.00	45	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	114	\$1,400,174.72	130	\$2,083,214.48	18	\$405,454.75	21	\$148,675.00
BUILDING PLUMBING	6	\$147,000.00	11	\$435,885.00	0	\$0.00	0	\$0.00
Total	189	\$1,547,174.72	186	\$2,519,099.48	18	\$405,454.75	21	\$148,675.00

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 1/2023

*****City*****

*****ETA*****

	1/2023	1/2022	1/2023	1/2022
Living Units	Units	Units	Units	Units
MANUFACTURED HOMES	1	0	0	0
BASEMENT FINISH	0	0	0	0
DECKS\PORCHES & COVERED PORCHES	0	0	0	0
RESIDENTIAL ALTERATION/OTHER	0	0	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	8	0	0	0
SWIMMING POOLS	0	0	0	0
Total	9	0	0	0