PLANNING AND ZONING COMMISSION

MEETING AGENDA
May 24, 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.

INTRODUCTION OF NEW COMMISSIONER

1. Introduction of New Planning and Zoning Commissioner, Robert Field.

MINUTES

2. Consider approval of the minutes of the April 26, 2023 meeting of the Bismarck Planning & Zoning Commission.

CONSENT AGENDA

CONSIDERATION

The following items are requests for public hearings.

3. **Misty Waters, Lot 2, Block 1** (JW)…….....6

Hay Creek Township

PUD Amendment | PUDA2023-002 | *Consideration*

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

4. **Schilling Second Addition Lot 2, Block 1** (DN)……..……20

Zoning Change (CG to PUD) | ZC2023-004 | *Consideration*

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

5. **Wachters Second Addition part of Block 16**
And Parts of Section 4 and Section 9 / City Lands (KLEE)……..39

Zoning Change (RM30, PUD and CG to RM30 and CG) | ZC2023-005|*Consideration*

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

REGULAR AGENDA

PUBLIC HEARINGS

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

6. **Lot 1, Block 1, River of Hope Addition and**
Lot 1, Block 6, Meadowlark Commercial Third Addition (JW)……48

Zoning Change (R10 and RT to CA) | ZC2023-001 | *Public Hearing*

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

7. **Meledee Acres Lot 5, Block 1** (JW)…….....55

Gibbs Township

Special Use Permit (Oversized Accessory Building) | SUP2023-005 | *Public Hearing*

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

OTHER BUSINESS

8. Other Business

ADJOURNMENT

9. **Adjourn.** The next regular meeting date is scheduled for June 28, 2023.

Enclosures: Meeting Minutes of April 26, 2023
Building Permit Activity Month to Date Report for April 2023
Building Permit Activity Year to Date Report for April 2023

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.

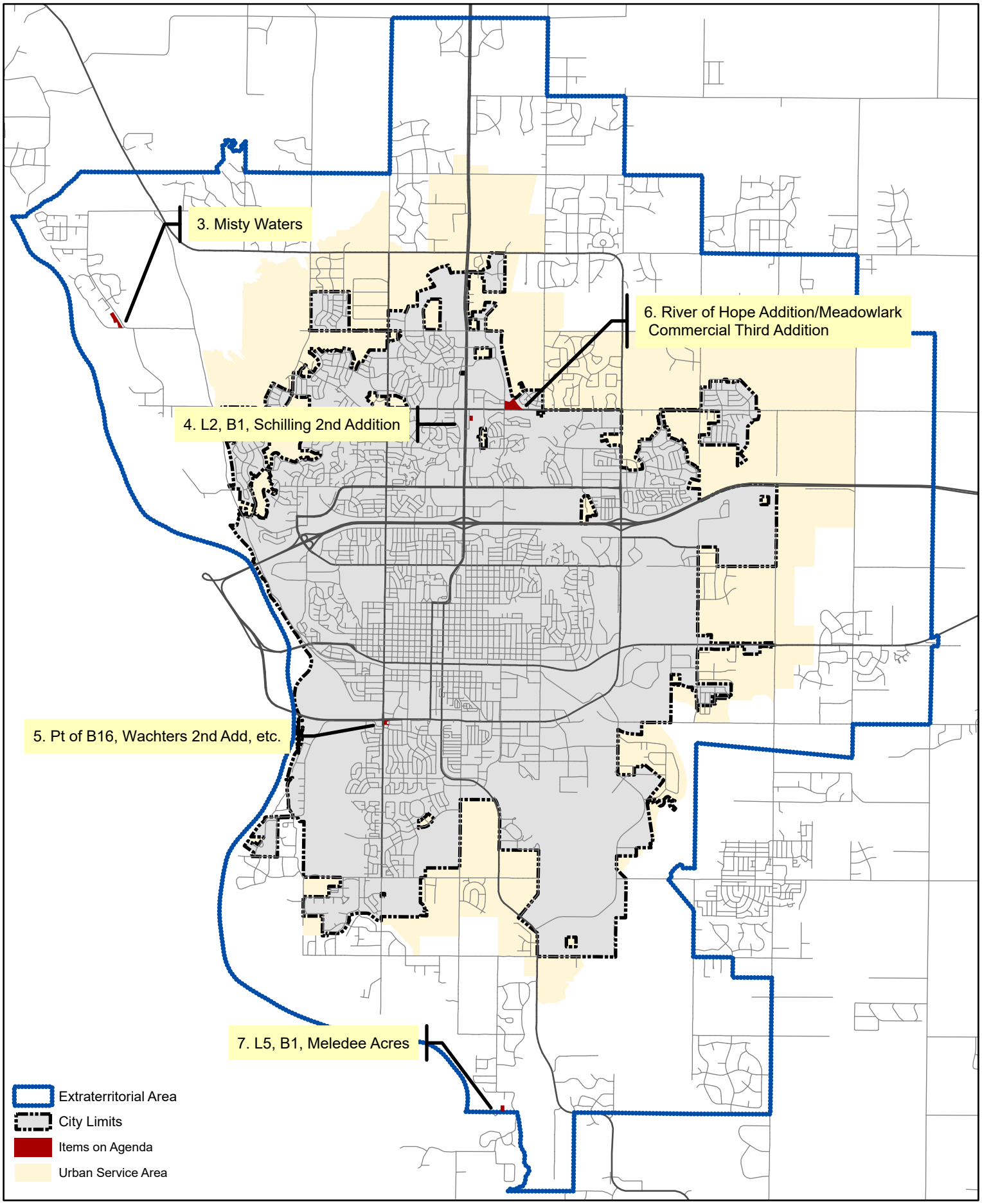
7. Please be respectful of the Planning and Zoning Commissioners, staff and others speaking on the request. Personal attacks against the applicant or others, clapping/cheering or booing speakers is not acceptable. Staff and the applicant will only respond to questions from the Planning and Zoning Commissioners,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



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

0 1 2 4 6 Miles

N

Bismarck COMMUNITY DEVELOPMENT

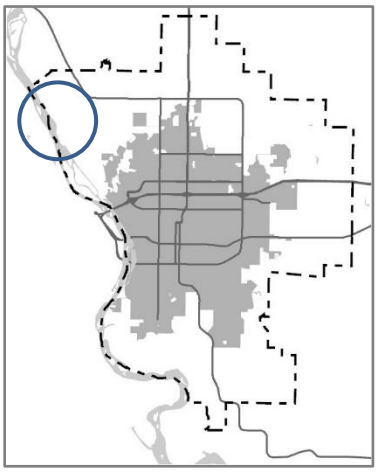
STAFF REPORT

Agenda Item # 3
May 24, 2023

Application for: **Zoning Map Amendment** Project ID: **PUDA2023-002**

Project Summary

Title:	Misty Waters PUD Amendment
Status:	Planning & Zoning Commission – Consideration
Property Owner(s):	Misty Waters LLC – Lot 2, Block 1, Misty Waters
Project Contact:	Missy Moritz
Project Location:	Northwest of Bismarck, west of River Road along the west side of Burnt Creek Loop (Lot 2, Block 1, Misty Waters)
Project Size:	6.42 acres
Applicant Request:	Amend PUD to modify the size and dimensions of Lot 2, Block 1, Misty Waters, remove residential uses and allow self-storage buildings with 1-2 units devoted to marina / watercraft maintenance operations
Staff Recommendation:	Call for public hearing



Site Information

Existing Conditions		*Proposed Conditions*	
Lots/Blocks:	126 lots in 4 blocks	*Lots/Blocks:*	126 lots in 4 blocks
Land Use:	Mixed density residential with limited commercial	*Land Use:*	Mixed density residential with limited commercial and self-storage
Future Land Use:	Rural Residential (RR)	*Future Land Use:*	Rural Residential (RR)
Zoning:	PUD – Planned Unit Development	*Zoning:*	PUD – Planned Unit Development
Uses Allowed:	PUD – Uses specified in PUD	*Uses Allowed:*	PUD – Uses specified in PUD
Max Density:	PUD – Density specified in PUD	*Max Density:*	PUD – Density specified in PUD

(continued)

Area Information		**Property History**	
Zoning Jurisdiction:	Extraterritorial Area (ETA)	*Zoned:*	05/2005
Township:	Hay Creek (organized)	*Platted:*	05/2005
Neighborhood:	Misty Waters	*Annexed:*	N/A

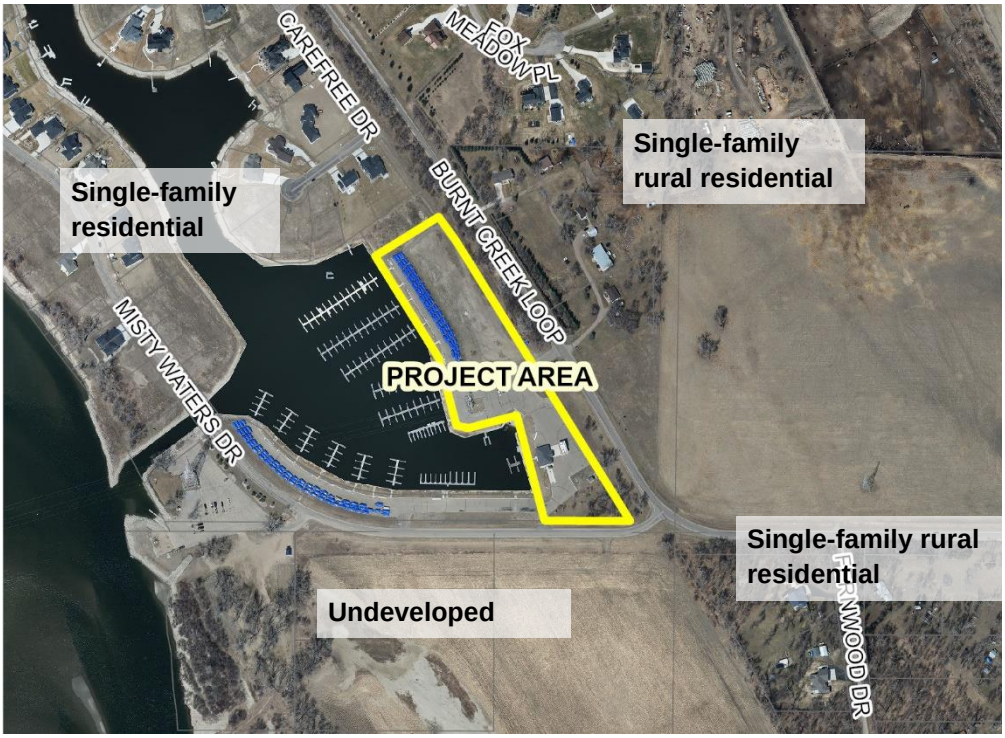
Project Narrative

Misty Waters LLC, with consent of the Misty Waters Homeowners Association, is requesting approval of a major Planned Unit Development (PUD) amendment that will only impact Lot 2, Block 1, Misty Waters.

The proposed amendment is in conjunction with a minor subdivision final plat and, if approved as proposed, would replat Lot 2, Block 1, Misty Waters into two lots, remove residential uses and allow self-storage buildings with 1-2 units devoted to marina / watercraft maintenance operations. Development standards for commercial uses (marina and convenience store) on Lot 2, as outlined in the PUD, would remain.

Project Context

Land uses adjacent to the project area are depicted on the adjacent map:



A Zoning and Plan Reference Map is attached to this staff report, including current zoning, the Future Land Use Plan, Major Street Plan, and Active Mobility Plan.

The property has been identified as Rural Residential (RR) in the Future Land Use Plan. The RR areas are places for country living with convenient proximity to city life.

The PUD was previously amended in 2006, 2017, and 2020.

(continued)

Public Engagement

Public engagement will commence if the Planning and Zoning Commission calls for a public hearing on this request.

Review Standards and Findings of Fact

The request is evaluated according to standards contained within the Comprehensive Plan, Bismarck Code of Ordinances, and relevant state law. Findings of fact, related to land use, are presented in response to each standard.

Together 2045 Bismarck's Comprehensive Plan is adhered to with the proposed Planned Unit Development (Section 14-04-18(3)a)

Yes. The following objectives of the plan would be advanced through the amended planned unit development. The proposed amendment would replat Lot 2, Block 1, Misty Waters into two lots, remove residential uses and allow self-storage buildings with 1-2 units devoted to marina / watercraft maintenance operations. Development standards for commercial uses (marina and convenience store) on Lot 2 as outlined in the PUD would remain

Adequate buffer areas have been provided between any noncompatible land uses (Section 14-04-18(3)b)

Yes. The proposed amendment is located adjacent to residential uses to the north and east across Burnt Creek Loop. The amended planned unit development includes landscaped buffers to mitigate any potential negative impacts on these uses. Buffer yard width and planting materials will be included in the site plan presented during the public hearing.

Natural features of the site would be preserved, insomuch as possible, including the preservation of trees and natural drainage ways (Section 14-04-18(3)c)

Yes. The amended planned unit development incorporates these existing natural features into the design of the development to the greatest extent feasible. Additionally, buffer yard width and planting materials along the north and east sides of the property will be included in the site plan presented during the public hearing.

The internal roadway circulation system within the planned unit development has been adequately designed for the type of traffic that would be generated (Section 14-04-18(3)d)

Yes. The proposed planned unit development is served entirely by existing public rights-of-way without need for an internal circulation system

The character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located (Section 14-04-18(3)e)

Yes. The current PUD allows for a mix of single, two and multifamily uses, and commercial uses (marina with boat slip mooring, dockside fuel, boat rental, a gas station/convenience store, a two-bay boat repair facility, and a restaurant/bar).

The proposed amendment would remove the multifamily uses and allow self-storage buildings with 1-2 units devoted to marina / watercraft maintenance operations. These uses, as designed and laid out in the proposed planned unit development amendment, would be compatible and harmonious with the surrounding area provided the design and aesthetic standards of the proposed storage buildings are compatible with existing buildings within the PUD, as outlined in the attached PUD amendment document, and a buffer yard is included along the north and east sides of the property.

Proper administrative procedures related to the request are being followed (Section 14-04-18)

Yes. All administrative procedures of the City Code of Ordinances and North Dakota Century Code have been followed to date. The applicant

(continued)

has submitted a complete application for a planned unit development amendment, and the required staff review of all submitted materials has occurred prior to submittal of this report to the Planning and Zoning Commission.

The public health, safety and general welfare will not be adversely impacted by the proposed zoning map amendment (Goal S10-a)

Yes. As a cumulative result of all findings contained in this staff report, City of Bismarck staff find that the proposed zoning map amendment would not adversely impact the public health, safety, and general welfare. Provided design and aesthetic standards of the proposed storage buildings are compatible with existing buildings within the PUD, as outlined in the attached PUD amendment document, and a buffer yard is included along the north and east sides of the property.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the major Planned Unit Development (PUD) amendment for Misty Waters, as outlined in the attached draft PUD amendment document, with the following conditions:

1. A public hearing will not be scheduled until a site plan showing the required landscaping buffer and planting materials, and building renderings are submitted for staff review.

Attachments

1. Draft PUD Ordinance
2. Zoning and Plan Reference Map
3. Written Statement
4. Misty Waters HOA letter
5. Conceptual Site Exhibit
6. Conceptual Building Drawing

Staff report prepared by: Jenny Wollmuth, AICP, CFM, Senior Planner

701-355-1845 | jwollmuth@bismarcknd.gov

MISTY WATERS PLANNED UNIT DEVELOPMENT
ORDINANCE NO. 5435 (Adopted June 14, 2005)
MAJOR PUD AMENDEMNT (Adopted August 23, 2006)
MAJOR PUD AMENDMENT (Adopted October 25, 2017)
MAJOR PUD AMENDMENT (Adopted October 28, 2020)
MAJOR PUD AMENDMENT (Adopted _____)

WHEREAS, Ordinance No. 5435 was adopted by the Board of City Commissioners on June 14, 2005; and

WHEREAS, Ordinance No. 05-03 was adopted by the Board of County Commissioners on June 6, 2005; and

WHEREAS, Section 1(2) of both ordinances indicates that this PUD shall only be amended in accordance with the provisions of Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments); and

WHEREAS, the PUD was amended on August 23, 2006 at the Misty Waters LLC to modify the location and density of residential uses, the location of commercial uses, and the setback around the bay; and

WHEREAS, the PUD was amended on October 25, 2017 to clarify language relating to multi-family residential development within the PUD; and

WHEREAS, was amended on October 28, 2020 to ~~Lot 84, Block 1 and Lot 40, Block 3 are being replatted as Misty Waters First Replat, which will~~ replace multi-family residential uses within a portion of the development with single-family uses for Lot 84, Block 1 and Lot 40, Block 3 replatted as Lots 1 and 2,Misty Waters First Replat,

WHEREAS, Lot 2, Block 1 is being replatted as Misty Waters Second Replat, which will modify the size and dimension of the commercial area and a PUD amendment in conjunction with the replat.

NOW, THEREFORE, BE IT RESOLVED by the Bismarck Planning and Zoning Commission of the City of Bismarck, North Dakota, a municipal corporation, that the request to amend the Planned Unit Development for the following described property:

Lots 1-83, Block 1; Lots 1, Block 2; Lots 1-39, Block 3; and Lot 1, Block 4; Misty Waters and Lots 1-3, Block 1; ~~and~~ Lots 1-3, Block 2, Misty Waters First Replat and Lots 1-2, Block 1, Misty Waters Second Replat

is hereby approved and this PUD is now subject to the following development standards:

1. *Uses Permitted.* Uses permitted include a maximum of 129 residential units (121 single-family residential units and up to 30 two-family residential

units) to be constructed in condominium associations with two units per building or as twinhome/townhouse projects with mutual easements and obligations with two units per building; water-related commercial uses, including a marina with boat slip mooring, dockside fuel, boat rental, a gas station/convenience store with a two-bay boat repair facility, and a restaurant/bar; marina parking facilities; parking facilities for winter storage of marine boats and pontoons; and a public boat ramp with parking to be deeded to Burleigh County. Any change in the proposed uses within the PUD from that indicated herein will require an amendment to this PUD.

2. *Single-Family Residential Development Standards.* Single family residential development shall be located on Lots 2–81, Block 1 and Lots 2- 37, Block 3, Misty Waters and Lots 1-3, Block 1 and Lots 1-3, Block 2, Misty Waters First Replat 121 lots with one dwelling unit per lot); the building corridor shown on the development plan submitted with the original application for a PUD shall be eliminated; the minimum front yard setback shall be 40 feet on Burnt Creek Loop, 35 feet on Misty Waters Drive and 25 feet on the other interior roadways; the minimum side yard setback shall be 10 feet with no encroachments (decks, bay windows, etc); the minimum rear yard setback shall be 30 feet; the minimum setback from the ordinary high water mark of the Missouri River shall be 100 feet; the minimum setback from the bay shall be elevation 1640.3 (NAVD88) as delineated by the contour line described in the approved LOMR; the maximum building height shall be 35 feet; walkout basements shall be elevated to a minimum of one foot above the base flood elevation; and the maximum lot coverage shall be 30%. Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure. Residential building types shall be substantially similar to those submitted in conjunction with the application for a PUD. Any change to the density or building setbacks that are inconsistent with these standards will require an amendment to this PUD.

3. *Multi-family or Two-family Residential Development Standards.* Multi-family or two-family residential development shall be located on ~~the northerly 573.16 feet of the easterly 177.91 feet of Lot 2~~ and all of Lots 82-83, Block 1, and Lots 38-39, Block 3 (separate parcels with the option of a separate condominium association for each parcel or a twinhome/townhouse project with mutual easements and obligations for each parcel and with up to fifteen buildings with no more than two units in each building); the building corridor shown on the development plan submitted with the original application for a PUD shall be eliminated; the minimum front yard setback shall be 35 feet; the minimum side yard setback shall be 15 feet with no encroachments (decks, bay windows, etc); the minimum rear yard setback shall be 30 feet; the minimum setback from the ordinary high water mark of the Missouri River shall be 100 feet; the minimum setback from the bay shall be elevation 1640.3 (NAVD88) as delineated by the contour line described in the approved LOMR; the maximum building height

shall be 35 feet; walkout basements shall be elevated to a minimum of one foot above the base flood elevation; and the maximum lot coverage shall be 40%. Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure. Residential building types shall be substantially similar to those submitted in conjunction with the application for a PUD. Any change to the density or building setbacks that are inconsistent with these standards will require an amendment to this PUD.

4. Commercial Development Standards. Commercial development shall be located on ~~Lot 2 less the northerly 573.16 feet of the easterly 177.91 feet of Lot 2, Block 1~~ Lot 2, Block 1, Misty Waters Second Replat and shall be limited to water-related commercial uses, including a marina with boat slip mooring, dockside fuel, boat rental, a gas station/ convenience store, a two-bay boat repair facility, and a restaurant/bar. The minimum front yard setback shall be 40 feet; the minimum side yard setback shall be 20 feet; the minimum rear yard setback shall be 30 feet; the maximum building height shall be 35 feet; and the maximum lot coverage shall be 70%. Commercial building types shall be substantially similar to those submitted in conjunction with the application for a PUD. Parking areas for commercial uses shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. Said parking areas shall be hard-surfaced and striped in conjunction with site development and regularly maintained. Concrete perimeter curbing of the parking areas will not be required. Any change to the uses or building setbacks that are inconsistent with these standards will require an amendment to this PUD. Any activities requiring a special use permit, such as gas dispensing/filling station or liquor sales, shall be subject to the requirements of Section 14-03-08 of the City Code of Ordinances (Special Uses). Any liquor sales will also be subject to the standards agreed to by Burleigh County and the developer in conjunction with liquor licensing.

5. Marina Parking Facilities. Marina parking facilities, including parking facilities for winter storage of marine boats and pontoons, shall be located on Lot 1, Block 1, in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on a ratio of one parking space per 1.5 boat slips. Said parking areas shall be hard-surfaced and striped in conjunction with site development and regularly maintained. Concrete perimeter curbing of the parking areas will not be required. A marina restroom and concession facility may be constructed on Lot 1, and each shall be no larger than 500 square feet in area, no more than one story in height, be architecturally similar to other commercial buildings in the development and be subject to the same development standards as outlined for commercial uses. Any changes to the location of marine parking facilities will require an amendment to this PUD.

6. Public Boat Ramp. A public boat ramp and parking facilities shall be located on Lot 1, Block 4. Said boat ramp and parking facilities shall be

developed in accordance with the agreement between the Developer and Burleigh County. Upon conveyance of the property to Burleigh County, the County may construct other complementary facilities, such as restrooms, fish cleaning stations, and picnic shelters.

7. *Design and Aesthetic Standards*. The following design and aesthetic standards shall apply to all structures located on Lot 1, Block 1, Misty Waters Second Replat:

Intent. It is the intent of the design standards to create and maintain a high visual quality and appearance for this development, encourage architectural creativity and diversity, create a lessened visual impact upon the surrounding land uses, and stimulate and protect investment through the establishment of high standards with respect to materials, details and appearance.

Building Materials. All building facades must be designed primarily with architecturally finished materials. Primary building materials are limited to modular masonry materials such as brick, stone or dimensional block; precast concrete or aggregate panels; stucco or stucco-like materials.

The following building materials are expressly prohibited: wood as an exterior wall finish (except where used as an accent material); corrugated metal and architectural metal panels and exposed, untextured, uncolored, unaugmented concrete (including poured in place, pre-cast concrete panels and concrete block).

~~7~~8. *Signage.* Development identification signage may be installed on Lot 1, Block 2, in accordance with the requirements of Section 14-03-05(9) of the City Code of Ordinances (Residential Area Identification Signs). Signage for the commercial uses on Lot 2, Block 1, shall be limited to one pylon sign no more than 35 feet in overall height with a face not exceeding 96 square feet, one monument sign with a face not exceeding 48 square feet, and up to two wall signs per building (one facing the marina and one facing the entrance to the commercial area) in accordance with the provision of Chapter 4-04 of the City Code of Ordinances (Signs and Outdoor Display Structures).

~~8~~ 9. *Landscaping.* Landscaping and buffer yards shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening). The perimeter parking lot and buffer yard landscaping requirements for the marina parking facilities on Lot 1, Block 1 and the storage and commercial uses on Lot 2 ~~less the northerly 573.16 feet of the easterly 177.91 feet of Lot 2,~~ Block 1 (being replatted as Lots 1 and 2, Block 1, Misty Waters 2nd Replat) may be modified by the City Forester and/or ~~City Planner~~ Community Development Director to recognize the setting of the development and to incorporate deer and drought-resistant plant materials, provided the overall intent of the landscaping requirements, if not the specific plant quantities, are met.

~~9~~ 10. *Common Elements.* Maintenance of all common elements, including the bay/inlet (Lot 85, Block 1) and open space lots (Lot 1, Block 2 and Lot 1, Block 3), shall be the responsibility of the property owner's association.

~~10~~ 11. *Lot Modifications.* Any subsequent modification of lots shall be subject to the requirements of Section 14-09-02 of the City Code of Ordinances.

~~11~~ 12. *No-Build Easement*. A no-build easement is shown on the face of the plat of Misty Waters over a portion of Lots 1 and 2, Block 1. The intent of this easement is to prohibit construction of structures within this area, as it is part of the Northern Bridge Corridor. The easement reserves the area for the future bridge and related roadways, but does not dedicate the property for this purpose.

~~12~~ 13. *Changes.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and a majority vote of the Bismarck Planning & Zoning Commission.

DRAFT

Zoning and Plan Reference Map

MISTY WATERS, L2, B1 (Version 2)

PUDA2023-002

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

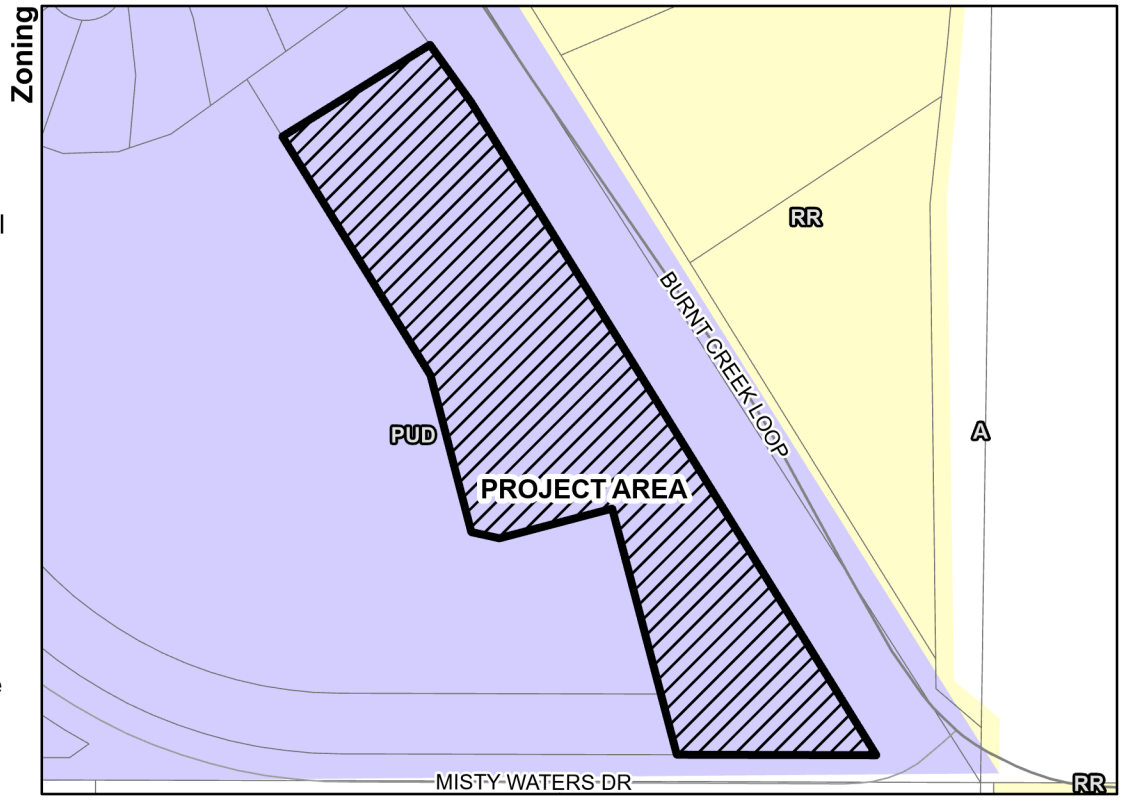
Major Street Plan

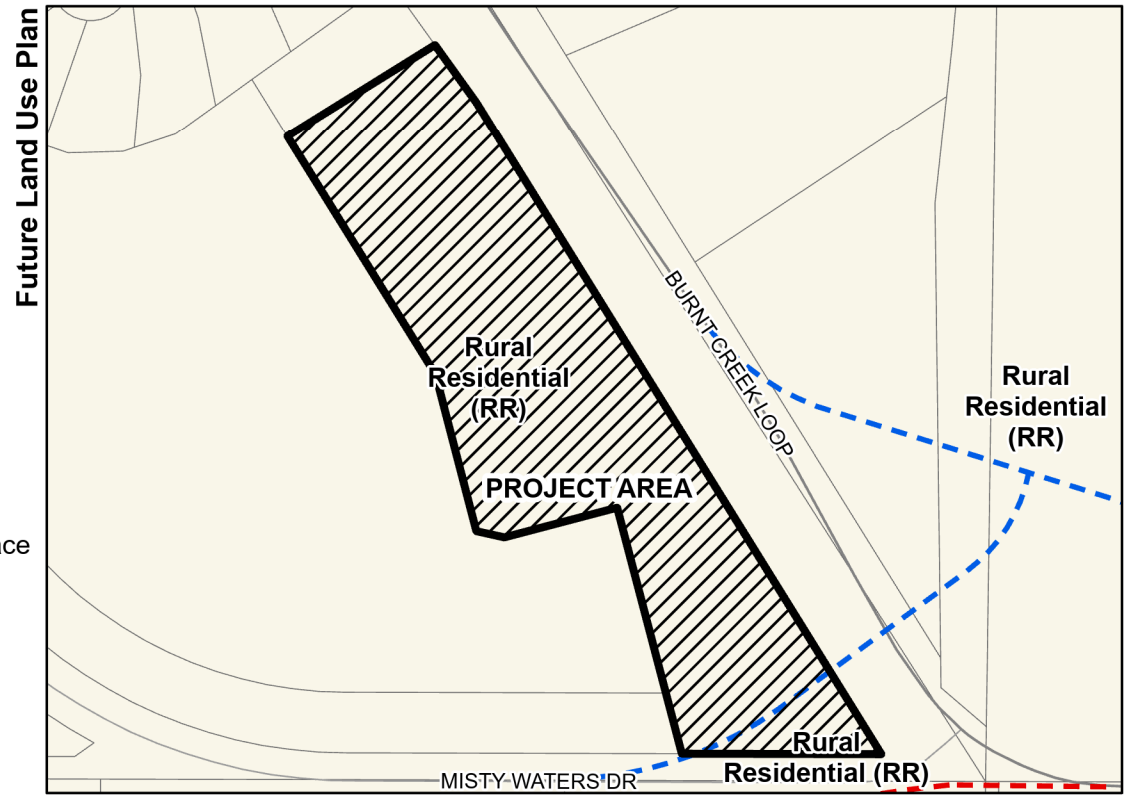
- Future Arterial
- Future Collector
- Future Interstate

Streets

Functional System

- Interstate





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.

0 210 420 840 Feet

City of Bismarck
Community Development
Planning Division
May 17, 2023

Bismarck City Planning & Zoning:

The intent of this letter is to provide a PUD statement and revisit future plan to develop the Misty Water's Lot 1, Block 1, Misty Waters 2nd Replat.

Project Scope: Construction of approximately thirty units (approximately 32'-38' wide, 36'- 50' deep) in addition to three oversized units (40' wide, 60'-70' deep), with the intent to provide private storage and/or servicing marina needs (this is written in the original PUD). Units would be a mix of heated and cold storage. Misty Waters residents would be given presale opportunities to purchase prior to opening sales to the public. The units would not be used for business purposes and would operate under the HOA rules and regulations to maintain the neighborhood peace (city noise ordinance guidelines) and appearance. These "luxury" units will provide a pleasing exterior appropriate to the Misty Waters setting. Parking spaces will be provided for each unit. A specific space is provided for each vehicle and no oversized vehicles with trailers attached and RVs will be allowed in these spaces. All personal property such as boats and boat trailers must fit within the unit and would not be allowed outside / in the parking area. Covenants with these rules and restrictions will be recorded.

Landscaping, including grass and trees, would be incorporated into the design to provide an aesthetically pleasing view by onlookers.

Units will have a base design with three options to choose from. We are currently in the process of getting cost estimates and plan to provide pricing in the near future. Construction would start upon approval.

At this time, we are requesting a review and approval of project. We have been in contact with Misty Waters HOA to secure a letter of support. The HOA board meeting will be held on April 25th, 2023. Input is welcome as we would like to make this project work for all involved! Misty Waters is a unique and beautiful place to reside. Our hope is to provide residents with the opportunity to access a luxury storage option and/or servicing needs in close proximity to the Marina.

Thank you for your consideration in this matter. We look forward to hearing from you soon. Please do not hesitate to call with any questions/concerns.

Sincerely,

Steve McCormick

Missy Moritz (representative for Steve McCormick)

[redacted]

Missy Moritz 4/20/23

MISTY WATERS

May 3, 2023

To whom it may concern:

Re: proposed shop/storage unit project on Misty Water's Lot 1, Block1, Misty Waters 2nd replat

The developer has asked for a review of this project by the HOA and a letter of support.

The developer has assured the HOA that

1. This project will have its own association to manage it.
2. The developer will give the Misty Water's HOA approval authority over its association governing documents.
3. The HOA will require that the building and landscaping design plan be submitted to the HOA Architectural Review Committee for approval.

Subject to those conditions, the HOA supports the project.

X _____

Lois Mosbrucker
President, Misty Waters HOA

TITLE:

MISTY WATERS STORAGE UNITS
PRELIMINARY CONCEPT PLAN
LOT 1, BLOCK 1, MISTY WATERS 2ND REPLAT

TOMAN ENGINEERING
501 1st Street NW, Mandan, ND 58554
Phone: 701-663-6483 * Fax: 701-663-0923

H:\Projects\7000\70231 Misty Waters\70231 Design Option 7.dwg, 5/18/2023 1:54:24 PM, andra, 1:1

Center Driveway View

Burnt Creek Loop Elevation

Misty Waters Conceptual Drawing

FOR PRESTIGE HOMES AND DESIGN USE ONLY. NOT FOR CONSTRUCTION PURPOSES. ALL DRAWINGS AND RENDERINGS ARE THE PROPERTY OF PRESTIGE HOMES AND DESIGN.

Date:x/xx/xx Initial:_____

PLANS ARE PROPERTY OF PRESTIGE HOMES & DESIGN AND NOT TO BE DUPLICATED

ADDRESS OF PROJECT:
Misty Waters Storage Units

info@prestigend.com

DRAWN BY: JOSH KUNTZ

PHONE NUMBER:
(701)471.4646

PRESTIGE HOMES & DESIGN

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

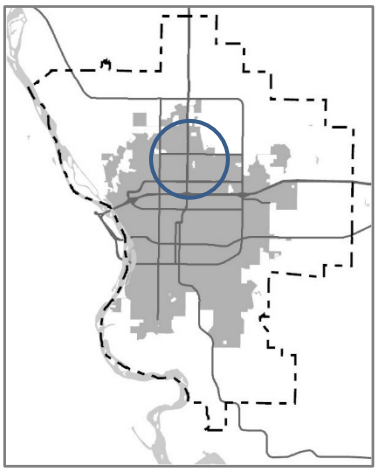
Agenda Item # 4
May 24, 2023

Application for: **Zoning Map Amendment**

Project ID: **ZC2023-004**

Project Summary

Title:	Lot 2, Block 1, Schilling Second Addition
Status:	Planning & Zoning Commission – Consideration
Property Owner(s):	Club House West, LLC, Applicant Capital Electric Cooperative, Owner
Project Contact:	Will Hutchings, AICP, Stantec
Project Location:	In north Bismarck, east of State Street/US Highway 83 and south of 43rd Avenue NE on the east side of the State Street frontage road
Project Size:	1.73 Acres
Applicant Request:	Rezone to PUD for redevelopment of a new indoor self-storage facility
Staff Recommendation:	Call for public hearing



Site Information

Existing Conditions		*Proposed Conditions*	
Lots/Blocks:	1 Lot in 1 Block	*Lots/Blocks:*	1 Lot in 1 Block
Land Use:	Office building (vacant)	*Land Use:*	Indoor storage building
Future Land Use:	Community Mixed Use (CMU)	*Future Land Use:*	Community Mixed Use (CMU)
Zoning:	CG – Commercial	*Zoning:*	PUD – Planned Unit Development
Uses Allowed:	CG – General commercial, multi-family residential, and offices	*Uses Allowed:*	PUD – Uses specified in PUD
Max Density:	CG – 42 units / acre	*Max Density:*	PUD – Density specified in PUD

Area Information

Zoning Jurisdiction:	Bismarck City Limits
Township:	N/A (City of Bismarck)
Neighborhood:	North Valley

Property History

Zoned:	12/2021
Platted:	03/2022
Annexed:	Pre-1980

(continued)

Project Narrative

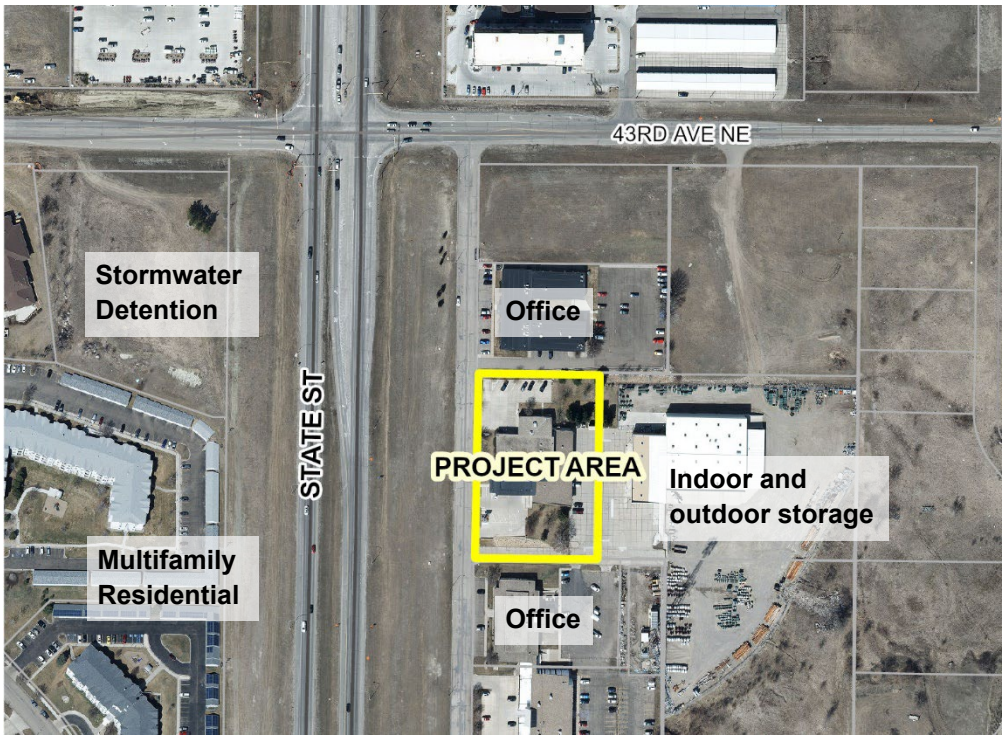
Club House West, LLC and Capital Electric Cooperative are requesting approval of a zoning map amendment from the CG – Commercial zoning district to the PUD – Planned Unit Development zoning district for Lot 2, Block 1, Schilling Second Addition.

The lot currently contains an office building that was constructed in 1970 and altered over the years. Club House West, LLC proposes to purchase the property from Capital Electric Cooperative, demolish the existing building, and construct an indoor self-storage building on the site.

The PUD would limit the use of the property to indoor storage, as proposed, and retail and service uses. Industrial uses would be prohibited. The proposed PUD includes design and use standards that would apply to the building and site. A draft of the proposed PUD ordinance is attached to this report.

Project Context

Land uses adjacent to the project area are depicted on the adjacent map:



A Zoning and Plan Reference Map is attached to this staff report, including current zoning, the Future Land Use Plan, Major Street Plan, and Active Mobility Plan.

The property has been identified as Community Mixed Use (CMU) in the Future Land Use Plan, which is intended for urban development of a higher intensity, predominantly commercial uses, that would serve the region as a whole. Goals and objectives of this plan as they relate to a zoning map amendment are referenced in review standards below.

Although the site is adjacent to State Street/US Highway 83, vehicle access to this area is limited. The frontage road does not have full signalized access to either 43rd Avenue NE, to the north, or State Street, to the south, and there are no plans to improve either roadway to provide this. These access limitations have the effect of limiting the viability of land uses that generate many vehicle trips, such as traditional commercial uses.

(continued)

Public Engagement

Public engagement will commence if the Planning and Zoning Commission calls for a public hearing on this request.

Review Standards and Findings of Fact

The request is evaluated according to standards contained within the Comprehensive Plan, Bismarck Code of Ordinances, and relevant state law. Findings of fact, related to land use, are presented in response to each standard.

The Future Land Use Plan is adhered to with the proposed amendment (Future Land Use Plan)

Yes. The proposed zoning map amendment is within the area designated as Community Mixed Use (CMU) in the Future Land Use Plan, as described in the Project Context section above. The proposed zoning district would generally conform to the character of this district.

Adherence to the character of the CMU district depends on the design standards included with the PUD, which creates a visual impression more associated with a commercial than an industrial district. The appropriateness of these conditions is described further below.

Adjacent land uses and zoning are not incompatible with the proposed amendment (Goal S10-a, S5-a)

Yes, with certain conditions applied to this zoning district. Adjacent uses are described in the project context section above. The proposed zoning district would allow indoor self-storage.

The PUD also allows lighter commercial uses; provided sufficient parking is supplied. The number of parking spaces proposed on the site would not support more than a relatively small portion of the building to be in commercial use.

Although storage uses have traditionally been classified as industrial in Bismarck, the design requirements would result in a visual impact more like commercial than industrial uses. Facades visible from the street would have minimum window coverage and higher quality commercial-grade materials. Furthermore, the customers and suppliers for the type of self-storage facility would also be more commercial than industrial in nature.

With these conditions, development that may be anticipated from the proposed zoning would have no negative impact on the surrounding properties.

A change in conditions or an error in the zoning map has occurred since the previous zoning classification was established (Goal S9-e)

Yes. The current zoning district of CG - Commercial was established in December, 2021. Prior to this, the land was zoned as a PUD for light industrial and storage uses. The proposed PUD is similar to the zoning that was in effect from 2008 through 2021, although with more restrictive use and design standards.

Undue restriction of housing options or access to neighborhood amenities would not result from the proposed amendment (Goal S1-a, Goal T1-c)

Yes. The proposed zoning map amendment would not adversely impact housing opportunities in any way.

The general intent and purpose of the zoning ordinance would be adhered to with the proposed amendment (Section 14-02-01; NDCC 40-27-03)

Yes. The proposed zoning map amendment would support the purpose of the zoning ordinance, as stated in the City Code of Ordinances and North Dakota Century Code.

Proper administrative procedures related to the request are being followed (Section 14-07-02, NDCC Chapter 40-47)

Yes. All administrative procedures of the City Code of Ordinances and North Dakota Century Code have been followed to date. The applicant has submitted a complete application for a zoning

(continued)

map amendment, and the required staff review of all submitted materials has occurred prior to submittal of this report to the Planning and Zoning Commission.

The public health, safety and general welfare will not be adversely impacted by the proposed zoning map amendment (Goal S10-a)

Yes. As a cumulative result of all findings contained in the staff report, City of Bismarck staff find that the proposed zoning map amendment would not adversely impact the public health, safety, and general welfare, provided all issues raised in these findings are addressed and verified through final submittals prior to the public hearing.

Staff Recommendation

Based on the above findings, staff recommends calling for a public hearing on a zoning map amendment from the CG – Commercial zoning district to the PUD – Planned Unit Development zoning district, as outlined in the attached draft zoning ordinance, for Lot 2, Block 1, Schilling Second Addition, with the following conditions:

1) A preliminary site exhibit and building elevations are provided prior to a public hearing on this request.

Attachments

1. Draft Zoning Ordinance
2. Zoning and Plan Reference Map
3. Proposed Zoning Map
4. PUD Narrative

Staff report prepared by: Daniel Nairn, AICP, Senior Planner

701-355-1854 | dnairn@bismarcknd.gov

CITY OF BISMARCK
ORDINANCE NO. XXXX

Introduced by	_____
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, BURLEIGH COUNTY, 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 CG - Commercial zoning district and included within the PUD – Planned Unit Development zoning district:

Lot 2, Block 1, Schilling Second Addition

This PUD is subject to the following standards:

1. *Conformance to Submitted Documents*. The development must generally conform to the submitted site plan approved in conjunction with the PUD.

2. *Uses Permitted.* The uses within the district shall be limited to the following:

    a. *Principal Uses*. The following principal use shall be allowed:

        i. Self-storage facility

        ii. Retail Group A

        iii. Service Group A

    b. *Accessory Uses*. The following uses shall be allowed as accessory to the principal uses on the property.

i. Leasing office

3. *Special Uses.* The following uses shall be allowed with a special use permit

    a. No special uses are permitted

4. *Use Standards.* The following use standards shall apply within this district:

    a. *Building Storage Type*. The storage building shall be designed to be primarily accessed from common interior spaces with temperature and humidity control capabilities and containing fully enclosed, compartmentalized stalls or lockers which are rented or leased as individual units for the storage of property customarily related to residential, office, and/or local commercial activities.

    b. *Hazardous Items*. No storage of combustible or flammable liquids, combustible fibers, or explosive materials as defined in the fire prevention code, or toxic materials, shall be permitted within the self-storage buildings or upon the premises. A lease agreement between the lessee and lessor shall state:

        i. No flammable, combustible or toxic material shall be stored or used on premises, and

        ii. The property shall be subject to periodic and unannounced inspections for flammable, toxic and other hazardous materials by City officials.

    c. *Outdoor Storage*. No storage outside of a building shall be permitted.

    d. *Use Limitations*. Except as provided herein, the use of the premises shall be limited to personal or business storage only and shall not be used for operating any other business, for maintaining or repairing of any vehicles, recreational equipment or other items, or for any recreational activity, hobby or purpose other than the storage of personal items and business items as hereinbefore set forth.

    e. *Interior Clearance*. All interior entryways, access corridors remain clear and free of storage items and obstructions except for reasonable durations of time customary to lessee's loading and unloading activities.

5. *Dimensional Standards.* The following dimensional standards shall apply to all structures within this district:

a. All dimensional standards, including but not limited to, setbacks, height, and lot coverage shall follow the standards of the CG – Commercial zoning district.

6. *Parking, Loading and Access.* The following standards shall apply to all development within the district.

    a. *Parking Provided*. The number of parking spaces shall be provided on the basis of the following minimum requirements:

        i. 1 space for every 13,500 square feet of storage area; and

        ii. 1 space for each 300 square feet of leasing area; and

        iii. Interior space dedicated to retail or service uses shall follow provisions of Section 14-03-10 Off-Street Parking and Loading.

    b. *Paving and Grading*. All exterior access aisles, parking areas and walkways on the site shall be graded, drained, hard-surfaced and maintained in accordance with the standards and specifications of the City.

    c. All other requirements of the Section 14-03-10 Off-Street Parking and Loading shall apply, as applicable.

7. *Design and Aesthetic Standards*. The following design and aesthetic standards shall apply to all structures in the district:

    a. *Intent*. It is the intent of the design standards to create and maintain a high visual quality and appearance for this development, encourage architectural creativity and diversity, create a lessened visual impact upon the surrounding land uses, and stimulate and protect investment through the establishment of high standards with respect to materials, details and appearance.

    b. *Building Materials*. All building facades must be designed primarily with architecturally finished materials.

        i. Primary building materials are limited to modular masonry materials such as brick, stone or dimensional block; precast concrete or aggregate panels; stucco or stucco-like materials; or prefinished metal architectural panels.

        ii. If prefinished metal architectural panels or stucco or stucco-like materials are used, no more than 50 percent of the west elevation facing the State Street right-of-way may utilize these materials. These

materials may comprise up to 70% of the north and south façades and up to 100% of the east façade.

iii. The following building materials are expressly prohibited: wood as an exterior wall finish, except where used as an accent material; and exposed, untextured, uncolored, unaugmented concrete (including poured in place, pre-cast concrete panels and concrete block).

c. *Window Coverage*. The west façade shall include windows, glazing, glass overhead doors, or storefront systems covering at least 15 percent of the total area of the façade. Window transparency or tinting shall not be regulated.

d. *Prominent Entrance*. The primary entrance for pedestrians into the building shall be on the west façade and shall be distinguished through design and material from the remainder of the building façade.

e. *Storage Bay Doors*. Any loading bays facing the right-of-way for State Street must feature an overhead door composed of glass with a metal frame.

f. *Continuity of Design*. All subsequent renovations, additions and related structures constructed after the construction of the original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

g. *Screening of Mechanical Equipment and Solid Waste Collection Areas*. Mechanical equipment and solid waste collections areas shall be screened in accordance with Section 14-03-12 Screening of Mechanical Equipment and Solid Waste Collection Areas.

8. *Landscaping and Screening*. Landscaping and buffer yards shall be provided in accordance with requirements for commercial uses in Section 14-03-11 Landscaping and Screening.

9. *Signs*. Signage may be installed in accordance with the provisions of Chapter 14-03.1 Signs following standards for the CG – Commercial zoning district. Notwithstanding, off-premise advertising signs (billboards) are specifically prohibited within this district.

10. *Modifications.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major modifications require a public hearing and approval by the Bismarck Planning & Zoning Commission.

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

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

Zoning and Plan Reference Map

SCHILLING SECOND ADDITION L2, B1

ZC2023-004

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

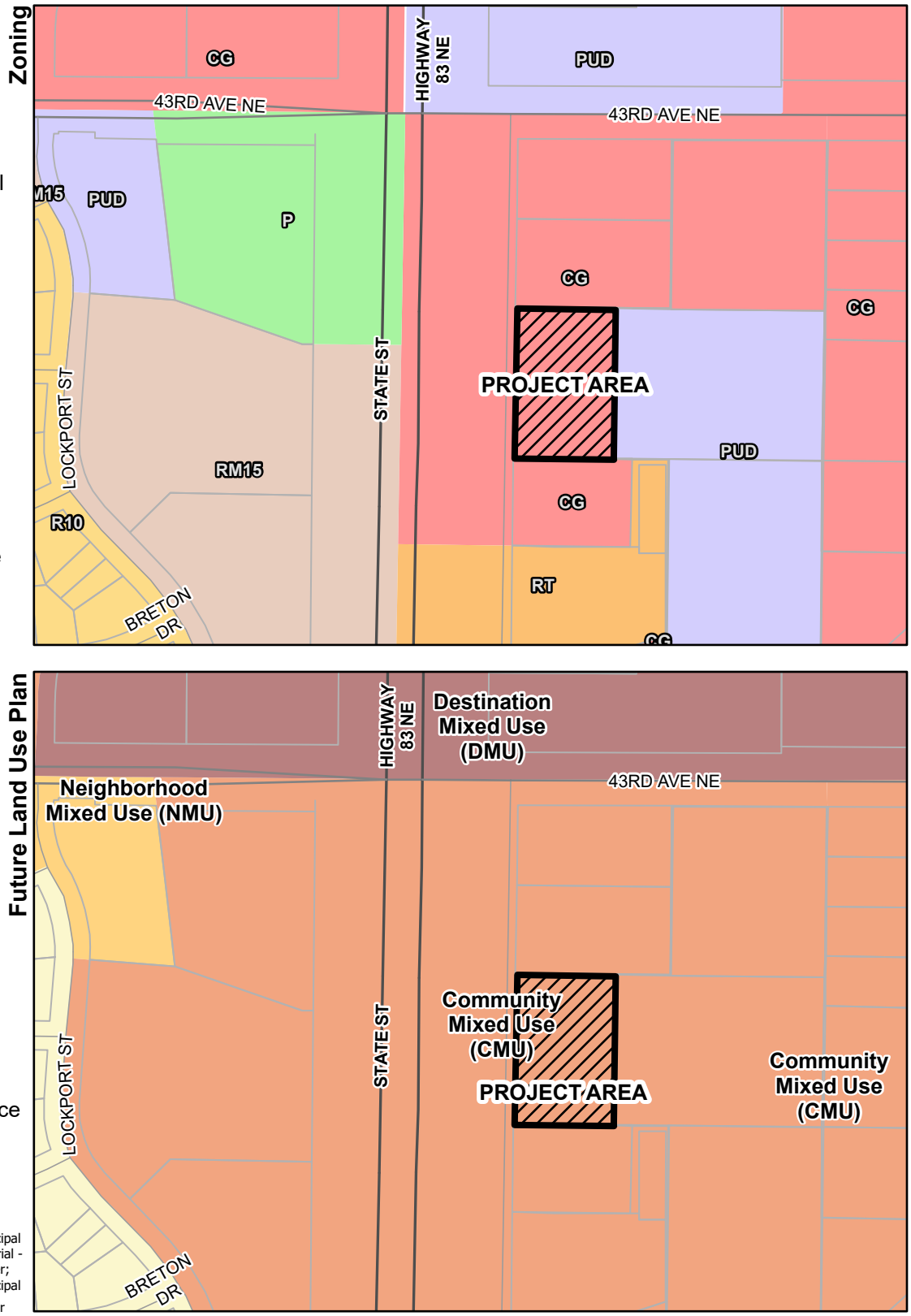
Major Street Plan

- Future Arterial
- Future Collector
- Future Interstate

Streets

Functional System

- Interstate
- Principal Arterial - Other; Principal
- Minor Arterial; Major
- Local



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.

0 255 510 1,020 Feet

City of Bismarck
Community Development
Planning Division
May 12, 2023

Proposed Zoning Change

SCHILLING SECOND ADDITION L2, B1

ZC2023-004

Proposed New Zoning Map

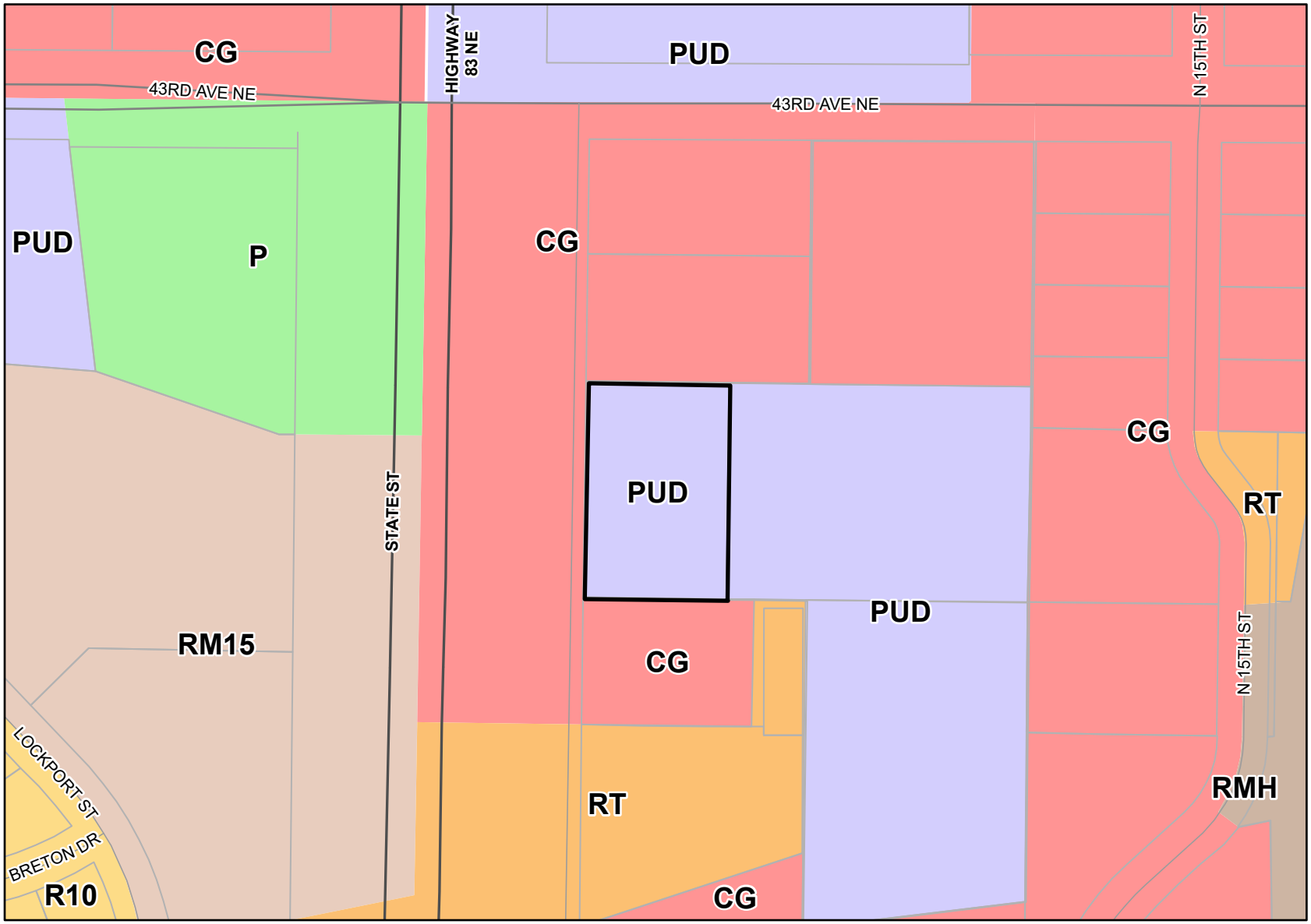
Project Area (zoning within is proposed)

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
Planning Division
May 17, 2023

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

April 18, 2023

Re: Clubhouse West – Planned Unit Development Application | Written Statement and Architectural Concepts

Clubhouse West, LLC d.b.a. Denny's Storage is requesting consideration of a zoning change from the CG-Commercial to the PUD – Planned Unit Development zoning district (PUD) for Lot 2, Block 1, Schilling 2nd Addition. The property is located in North Bismarck, south of 43rd Avenue NE along the east side of the frontage road that runs parallel to US Highway 83/State Street. The current site consists of the previous Capital Electric Cooperative headquarters office building that is now vacant. The property is currently under contract and owned by Capital Electric Cooperative who consents to the requested zoning change.

Development Overview
The requested PUD would allow for the redevelopment of the site as a new lifestyle storage facility (interior accessed, climate-controlled self-storage). The existing building would be demolished and a new 3-story building with an approximate footprint of 45,000 square feet or a total approximate size of 135,000 square feet would be constructed in its places. Architectural drawings have not been completed for this facility at this time, but the proposed facility would include up to 850 small, medium, and large storage units.

Figure 1: Current site and building. The terrain of this site allows this 3-story building to tuck into the hillside. On the north side of the property, the building is one story, on the south it is rises to two-story while the terrain drops two stories lower (17 feet). Going behind the building to the back, the terrain drops yet another story lower (8-10 feet) (Google Streetview)

The applicants currently own and operate 3 self-storage facilities in the Bismarck-Mandan community, all of which are at 100% capacity. The applicant has received numerous calls from potential customers who are referred from competing facilities who are also at 100% capacity. There is more demand for self-storage than there is supply.

Hours of Operation
The facility will maintain regular on-site staff and office hours from 9:00 AM - 5:00 PM. Access to the facility would be open to tenants between the hours of 6:00 AM and 10:00 PM. On-site staffing will be in place between the hour of 9:00 AM – 5:00 PM Monday – Friday and 9:00 AM - 12:00 PM Saturdays. Tenants would need a customer specific code to unlock the facility outside of staffed office hours.

Security
The proposed facility will include a high-end security system and state of the art access control system Access to leased storage units within the open hours but outside of the stated office hours will require a customer specific code for entry which can be tracked and monitored by staff in real time. Each individual leased unit will be required to be locked by the lessee and unoccupied units will be locked by the facility operator until such time as they are leased.

Ancillary Uses
In addition to the primary use as a lifestyle storage facility, a leasing and management office with limited retail area for the purpose of leasing units, site management and the purchase of storage related supplies such as tape, locks, boxes, and storage protection materials would be included within the proposed facility. The leasing office will be approximately 1,000 sf.

Parking, Loading and Access:

Parking
The City of Bismarck's parking requirements do not specify parking standards for this specific type of use. The applicants have traffic and access data from other facilities they own and operate within Bismarck and other communities that provide a benchmark that can be utilized to identify minimum parking requirements while meeting the stated purpose of the City of Bismarck's Off-Street Parking and Loading requirements which states:

> *Purpose. The provisions of this section are intended to provide accessible, attractive, secure and well-maintained off-street parking and loading areas with the appropriate number of spaces in proportion to the needs of proposed and future uses and to prevent overflow parking into adjacent properties. The provisions of this section are also intended to help protect the public health, safety and general welfare by:*
>
> *a. Helping to avoid and mitigate traffic congestion;*
> *b. Encouraging multi-modal transportation options and enhanced pedestrian safety; and*
> *c. Providing flexible methods for responding to the transportation and access demands of various land uses.*

A review of access records from Denny's Storage facility in east Bismarck with 260 units shows that they average 10 visitors daily and most visitors are on site for less than 10 minutes at a time and rarely more than one visitor at a time.

Based on these historic records and the ratio of units between the existing and proposed facility, Clubhouse West, LLC calculates the total amount of necessary parking spaces needed for tenant use would be between three at a minimum and 32 as a worst case scenario if all average daily visitors were to visit at the same time. One additional space would be needed during staffed hours to accommodate staff parking. No more than one employee would be on site at a time.

The Institute of Transportation Engineers (ITE) "*Parking Generation Manual,* 5th Edition" is an educational tool for transportation professionals, zoning boards and others who are interested in estimating parking demand of a proposed development. The Parking Generation Manual includes a complete set of

searchable electronic files and a database that includes land use descriptions and data pots for all available combinations of land uses, time periods, independent variables and settings. This following excepts where referenced:

Land Use: 151 Mini-Warehouse

Description

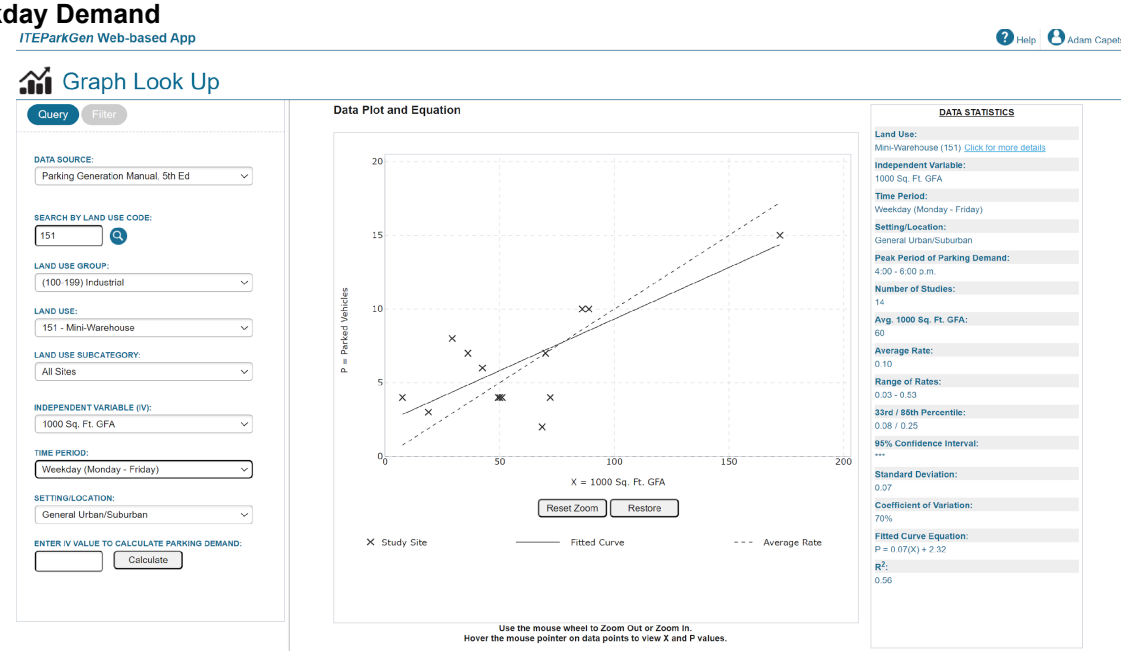
A mini-warehouse is a building in which a number of storage units or vaults are rented for the storage of goods. They are typically referred to as "self-storage" facilities. Each unit is physically separated from other units, and access is usually provided through an overhead door or other common access point.

Time of Day Distribution for Parking Demand

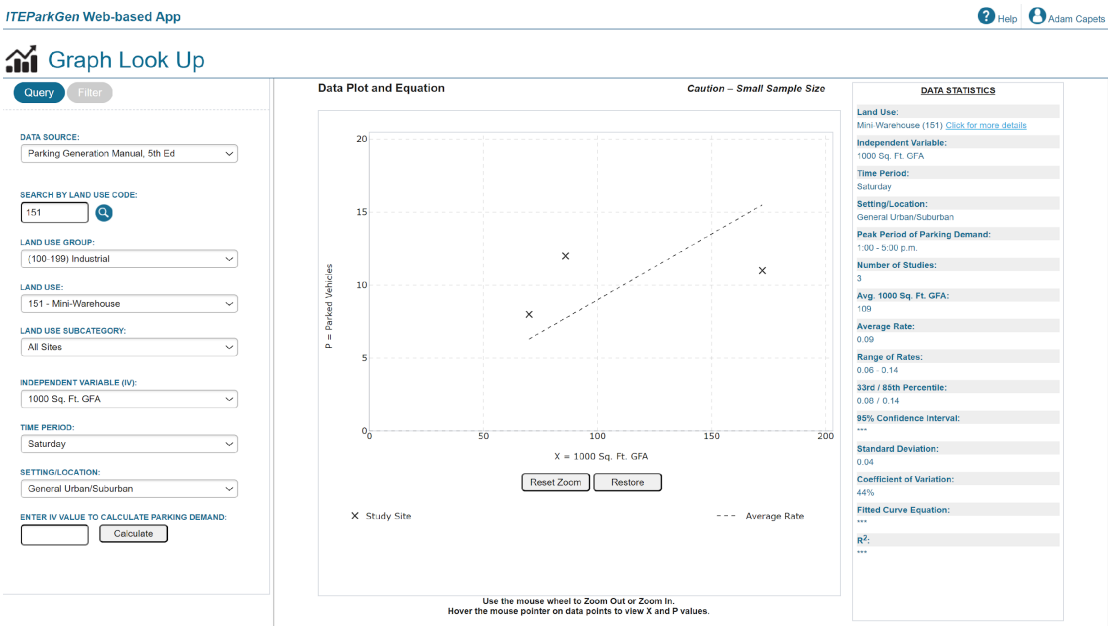
The following table presents a time-of-day distribution of parking demand on a weekday (nine study sites) and a Saturday (one study site) in a general urban/suburban setting.

	Percent of Peak Parking Demand	
Hour Beginning	Weekday	Saturday
12:00–4:00 a.m.	0	–
5:00 a.m.	0	–
6:00 a.m.	0	–
7:00 a.m.	0	–
8:00 a.m.	14	–
9:00 a.m.	71	–
10:00 a.m.	50	–
11:00 a.m.	79	–
12:00 p.m.	57	–
1:00 p.m.	64	91
2:00 p.m.	64	27
3:00 p.m.	79	55
4:00 p.m.	71	100
5:00 p.m.	100	91
6:00 p.m.	14	27
7:00 p.m.	0	0
8:00 p.m.	0	–
9:00 p.m.	0	–
10:00 p.m.	0	–
11:00 p.m.	0	–

Weekday Demand



Weekend Demand



The data based on ITE's peak observed parking demand times indicates that parking demands ranged between seven spaces for a 70,000 square foot facility, 12 for a 90,000 square foot facility and 11 for a 165,000 square foot facility.

> **Based on this data and Clubhouse West, LLC's historic access logs, a parking requirement of 1 space for every 85 units or 1 space for every 1350 square feet would provide sufficient parking for the proposed facility. This would equate to 10 off-street parking spaces total. Additional parking needs would be offset by vehicles utilizing the two proposed loading/unloading areas denoted below.**

Access:
Access to the site will be provided either via direct access from any of the following:

a) dedicated public right-of-way.
b) dedicated private access easements within the subject property.
c) dedicated for the use of the subject property, its tenants, visitors and governmental officials within other adjacent properties.

Loading/Unloading
Two back in style interior loading/unloading areas are proposed for the facility. One loading/unloading area would be provided from the adjacent frontage road which would be provided for grade level access to the third floor. The other would be provided from the rear side of the facility and would be provided to provide at grade access for the first floor. An additional third bay may also be desired to provide at grade access for the second floor if it is deemed to be feasible based on final architectural designs.

Contextual Analysis
To provide a better understanding of appropriate design standard recommendations for the proposed PUD, the following analysis was conducted of the surrounding environs. *Figure 2* indexes each of the context sites referenced further below.

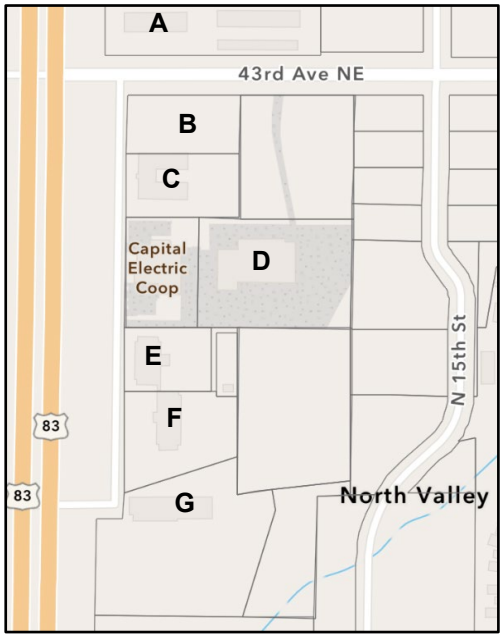


Figure 2 Contextual Analysis Reference Map (ESRI/Stantec)

Figure 3 – ***Reference Site A: Shilling Building***

This building is a neo-classical modern, brick and stucco building which stands prominently at the crest of the hill located in the NW corner of the intersection of 43rd Ave NE and US Highway 83/State Street. The mixed-use retail, office and residential building is 4 stories with underground parking. Self-storage facilities are located on the eastern portion of the property. Note: This property is owned by the applicant. (Google Streetview)

Figure 4 – ***Reference Site B: Vacant*** *(Google Streetview)*

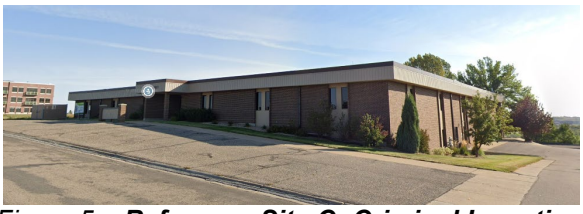


Figure 5 – ***Reference Site C: Criminal Investigation Bureau***

This building, constructed in 1973, is a mid-century modern, brick and stucco office building which takes advantage of the surrounding sloped terrain. It's greatest adjacent exterior grade to overall building height ratio (on the southern portion of the property) is 1.5 stories. It is generally setback from the adjacent access road ~40' with the entrance setback ~33'. *(Google Streetview)*

Figure 6 – ***Reference Site D: Capital Electric Cooperative Maintenance Facility***

This building, constructed in 1975, is a one story metal warehouse that previously served as an interior storage and maintenance/vehicle service facility for capital electric headquarters. It is accessed via platted access easements and private shared driveways. This property is owned by the applicant. *(Google Streetview)*

Figure 7 – ***Reference Site E: State Street Center (Northern Building)***
This building is a one story modernist style office building constructed in 1971 and features an articulated horizontal stucco façade with repetitive contrasting vertical elements. It is connected to Reference Site F and is setback from the adjacent access road ~37'. *(Google Streetview)*

Figure 8 – ***Reference Site F: State Street Center (Southern Building)***
This building is a one story modernist style office building constructed in 1971 and features an articulated horizontal stucco façade with repetitive contrasting vertical elements and a prominent covered front entrance. It is connected to Reference Site E and is setback from the adjacent access road ~80'. *(Google Streetview)*

Figure 9 – ***Reference Site G: Holiday Inn***
This building a 4-story hotel constructed in 2014 that features a stucco facade with stone accents. It is setback from the adjacent access road ~17' and from the lesser US Highway 83/State Street right-of-way ~100'. *(Google Streetview)*

Architectural Design Case Studies
The following are illustrative examples of similar facilities Clubhouse West LLC intends to draw design inspiration from. These urban style buildings are designed in a manner to feature façade variation, typical commercial façade finishes frontage finished with architectural quality materials. The front entrance and leasing areas are prominent and street facing. Windows and glazing along the primary frontage allow for natural sunlight to enter the building and help ensure the design character is similar to other urban multi-story commercial structures. The use of signage is minimal. For areas not readily seen from the public right of way, high end metal panels and/or stucco finishes are used. These examples are not meant to convey the specific final design proposed for this site.

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

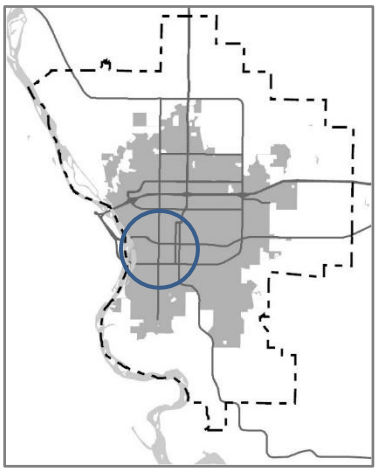
Agenda Item # 5
May 24, 2023

Application for: **Zoning Map Amendment**

Project ID: **ZC2023-005**

Project Summary

Title:	Pt Block 16, Wachters Second Addition and adjacent lands – Zoning Map Amendment
Status:	Planning & Zoning Commission - Consideration
Property Owner(s):	Triple 3 Ventures LLC 1008 Portland Drive, LLC
Project Contact:	Kim L. Lee, AICP, Planning Manager
Project Location:	In south central Bismarck, in the southeast quadrant of the intersection of Bismarck Expressway and South Washington Street
Project Size:	2.4 acres, more or less
Applicant Request:	Eliminate the PUD zoning
Staff Recommendation:	Call for public hearing



Site Information

Existing Conditions		*Proposed Conditions*	
Lots/Blocks:	4 parcels in 2 blocks	*Lots/Blocks:*	4 parcels in 2 blocks
Land Use:	Multi-family residential and Multi-tenant commercial facility	*Land Use:*	Multi-family residential and Multi-tenant commercial facility
Future Land Use:	Community Mixed Use (CMU) Neighborhood Mixed Use (NMU)	*Future Land Use:*	Community Mixed Use (CMU) Neighborhood Mixed Use (NMU)
Zoning:	RM30 – Residential CG – Commercial PUD – Planned Unit Development	*Zoning:*	RM30 – Residential CG – Commercial
Uses Allowed:	RM30 – Multi-family residential CG – General commercial, multi-family residential, and office PUD – Uses specified in PUD	*Uses Allowed:*	RM30 – Multi-family residential CG – General commercial, multi-family residential, and office
Max Density:	RM30 – 30 units / acre CG – 42 units / acre PUD – Density specified in PUD	*Max Density:*	RM30 – 30 units / acre CG – 42 units / acre

(continued)

Area Information

Zoning Jurisdiction:	Bismarck City Limits
Township:	N/A (City of Bismarck)
Neighborhood:	Wachter

Property History

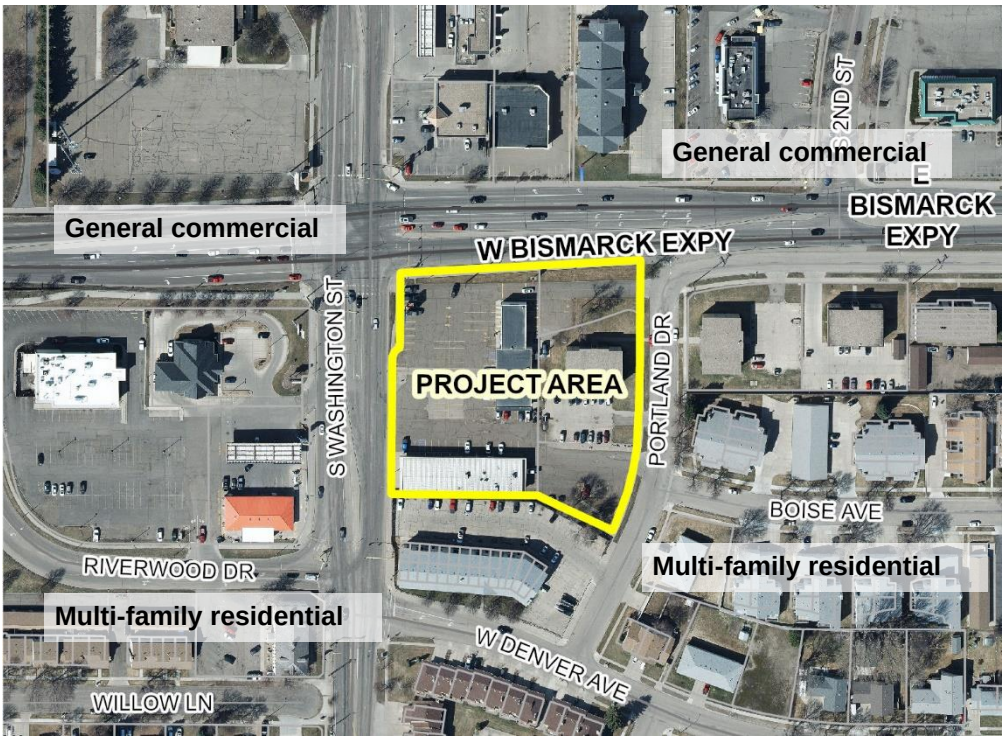
Zoned:	10/1987
Platted:	04/1969 and 04/1970
Annexed:	Pre-1980

Project Narrative

The City of Bismarck, with concurrence of the impacted property owners, is initiating a zoning map amendment from the RM30 – Residential, CG – Commercial and PUD – Planned Unit Development zoning districts to the RM30 – Residential and CG – Commercial zoning districts for Lots 1-3 and 7, Block 16, Wachters Second Addition and adjacent lands. The PUD that was created in 1987 to accommodate a multi-tenant commercial retail sales facility and was amended in 1997 to allow vehicular access to the facility from Portland Drive.

Project Context

Land uses adjacent to the project area are depicted on the adjacent map:



A Zoning and Plan Reference Map is attached to this staff report, including current zoning, the Future Land Use Plan, Major Street Plan, and Active Mobility Plan.

The property has been identified as Commercial Mixed Use (CMU) and Neighborhood Mixed Use (NMU) in the Future Land Use Plan. The Commercial Mixed Use (CMU) areas are places of commerce, employment, and residence for the Bismarck community and the Neighborhood Mixed Use (NMU) areas are the social and commercial gathering spaces for the immediate surrounding residential areas.

The proposed zoning map amendment will eliminate the PUD - Planned Unit Development zoning and change the commercial areas to CG –

(continued)

Commercial and the multi-family residential area to RM30 – Residential.

Public Engagement

Public engagement will commence if the Planning and Zoning Commission calls for a public hearing on this request.

Review Standards and Findings of Fact

The request is evaluated according to standards contained within the Comprehensive Plan, Bismarck Code of Ordinances, and relevant state law. Findings of fact, related to land use, are presented in response to each standard.

The Future Land Use Plan is adhered to with the proposed zoning map amendment (Future Land Use Plan)

Yes. The proposed zoning map amendment is within the area designated as Commercial Mixed Use and Neighborhood Mixed Use in the Future Land Use Plan, as described in the Project Context section above. The proposed zoning districts would generally conform to the character of this district.

The proposed zoning map amendment is compatible with adjacent land uses and zoning are (Goal S10-a, S5-a)

Yes. Adjacent uses are described in the project context section above. The proposed zoning districts would allow the existing multi-family residential and multi-tenant commercial uses to continue and would clarify the zoning. Development that may be anticipated from the proposed zoning would have no negative impact on the surrounding properties.

A change in conditions or by an error in the zoning map has occurred since the previous zoning classification was established (Goal S9-e)

Yes. The current zoning district of PUD – Planned Unit Development district was established in 1987 to accommodate access points. The PUD was also erroneously applied to part of the adjacent property occupied by a multi-family residential use. The PUD is no longer needed for the access points and the proposed zoning map amendment brings the existing uses into more appropriate zoning districts.

Undue restriction of housing options or access to neighborhood amenities would not result from the proposed zoning map amendment (Goal S1-a, Goal T1-c)

Yes. The proposed zoning map amendment would not adversely impact housing opportunities in any way.

The general intent and purpose of the zoning ordinance would be adhered to with the proposed zoning map amendment (Section 14-02-01; NDCC 40-27-03)

Yes. The proposed zoning map amendment would support the purpose of the zoning ordinance, as stated in the City Code of Ordinances and North Dakota Century Code.

Proper administrative procedures related to the request are being followed (Section 14-07-02, NDCC Chapter 40-47)

Yes. All administrative procedures of the City Code of Ordinances and North Dakota Century Code have been followed to date. The owners have concurred with the proposed City-initiated zoning map amendment and the required staff review of all submitted materials has occurred prior to submittal of this report to the Planning and Zoning Commission.

The public health, safety and general welfare will not be adversely impacted by the proposed zoning map amendment (Goal S10-a)

Yes. As a cumulative result of all findings contained in this staff report, City of Bismarck staff find that the proposed zoning map amendment

(continued)

would not adversely impact the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends calling for a public on the City-initiated zoning map amendment from the RM30 – Residential, CG – Commercial and PUD – Planned Unit Development zoning districts to the RM30 – Residential and CG – Commercial zoning districts for Lots 1-3 and 7, Block 16, Wachters Second Addition and adjacent lands, as outlined in the attached draft zoning ordinance.

Attachments

1. Draft Zoning Ordinance
2. Zoning and Plan Reference Map
3. Proposed Zoning 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 RM30 – Residential and PUD – Planned Unit Development zoning district and included in the RM30 – Residential zoning district:

LOTS 1 AND 2, BLOCK 16, WACHTERS SECOND ADDITION, LESS THAT PART OF LOT 2 PART OF LOT 2, BLOCK 16, WACHTER'S SECOND ADDITION TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, WITH THE PROPERTY IN LOT 2 MORE SPECIFICALLY DESCRIBED AS BEGINNING AT THE SE CORNER OF LOT 2; THENCE NORTHERLY ALONG THE EAST LINE OF LOT 2, A DISTANCE OF 14 FEET; THENCE WESTERLY A DISTANCE OF 135.6 FEET TO THE SW CORNER OF LOT 2; THENCE EASTERLY ALONG THE SOUTH LINE OF LOT 2 A DISTANCE OF 134.91 FEET TO THE POINT OF BEGINNING.

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 CG – Commercial and PUD – Planned Unit Development zoning districts and included in the CG – Commercial zoning district:

LOT 3 AND PART OF LOT 2, BLOCK 16, WACHTER'S SECOND ADDITION TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH

DAKOTA, WITH THE PROPERTY IN LOT 2 MORE SPECIFICALLY DESCRIBED AS BEGINNING AT THE SE CORNER OF LOT 2; THENCE NORTHERLY ALONG THE EAST LINE OF LOT 2, A DISTANCE OF 14 FEET; THENCE WESTERLY A DISTANCE OF 135.6 FEET TO THE SW CORNER OF LOT 2; THENCE EASTERLY ALONG THE SOUTH LINE OF LOT 2 A DISTANCE OF 134.91 FEET TO THE POINT OF BEGINNING.

and

AUDITOR'S LOTS A AND B OF LOT 7, BLOCK 16, WACHTER'S SECOND ADDITION TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AND VACATED BISMARCK AVENUE WEST OF THE EAST LINE OF LOT 7 IN SECTIONS 4 AND 9, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

LOT A: ALL THAT PART OF LOT 7, BLOCK 16, WACHTER'S SECOND ADDITION TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, THAT IS BOUNDED BY THE FOLLOWING DESCRIBED TRAVERSE: BEGINNING AT THE SW CORNER OF LOT 7, BLOCK 16; THENCE N0º23'50"E ALONG THE EAST RIGHT OF WAY LINE OF WASHINGTON STREET A DISTANCE OF 175.00 FEET; THENCE S89º36'10"E A DISTANCE OF 200.00 FEET; THENCE S0º23'50"W A DISTANCE OF 175.00 FEET; THENCE N8º36'10"W ALONG THE SOUTH LINE OF LOT 7, BLOCK 16 A DISTANCE OF 200.0 FEET TO THE POINT OF BEGINNING.

LOT B: ALL THAT PART OF BLOCK 1, WACHTER'S ADDITION AND LOT 7, BLOCK 16, WACHTER'S SECOND ADDITION TO THE CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA AND VACATED BISMARCK AVENUE THAT LIES WEST OF THE EAST LINE OF LOT 7 THAT IS BOUNDED BY THE FOLLOWING DESCRIBED TRAVERSE: BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF BISMARCK EXPRESSWAY AND THE EAST LINE OF WASHINGTON STREET; THENCE S0º23'50"W ALONG THE EAST RIGHT OF WAY LINE OF WASHINGTON STREET A DISTANCE OF 106.17 FEET TO THE NORTH LINE OF LOT 7, BLOCK 16, WACHTER'S SECOND ADDITION; THENCE S90º00'00"W ALONG THE NORTH LINE OF SAID LOT 7 AND SAID EAST RIGHT OF WAY LINE OF WASHINGTON STREET A DISTANCE OF 10.00 FEET TO THE NW CORNER OF SAID LOT 7; THENCE S0º23'50"W CONTINUING ALONG THE WEST LINE OF SAID LOT 7 AND THE EAST RIGHT OF WAY LINE OF WASHINGTON STREET A DISTANCE OF 25.00 FEET TO A POINT WHICH LIES 175.00 FEET NORTH OF THE SW CORNER OF SAID LOT 7; THENCE S89º36'10"E A DISTANCE OF 200.00 FEET; THENCE N0º23'50"E ALONG THE EAST LINE OF LOT 7 AND THE EXTENSION THEREOF A DISTANCE OF 142.75 FEET TO THE SOUTH RIGHT OF WAY LINE OF BISMARCK EXPRESSWAY; THENCE S86º55'50"W ALONG SAID SOUTH RIGHT OF

WAY LINE OF BISMARCK EXPRESSWAY A DISTANCE OF 190.35 FEET TO THE POINT OF BEGINNING.

LESS PARCELS DEEDED TO THE STATE OF NORTH DAKOTA, FOR THE USE AND BENEFIT OF THE STATE HIGHWAY DEPARTMENT AND THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION RECORDED AS DOCUMENT NO.'S 305604 AND 482435.

and

A TRACT OF LAND LYING IN SECTIONS 4 AND 9, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS: BEGINNING AT THE NE CORNER OF LOT 1, BLOCK 16, WACHTER'S SECOND ADDITION; THENCE WESTERLY ALONG THE NORTH LINE OF LOT 1, BLOCK 16 OF SAID ADDITION TO THE NW CORNER OF SAID LOT 1; THENCE NORTH ALONG THE WEST LINE OF SAID LOT EXTENDED A DISTANCE OF 99.53 FEET TO A LINE LYING PARALLEL TO AND 50 FEET SOUTH OF THE CENTERLINE OF BISMARCK EXPRESSWAY; THENCE EASTERLY ALONG SAID PARALLEL LINE A DISTANCE OF 136.73 FEET; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 1 EXTENDED A DISTANCE OF 65.05 FEET TO THE POINT OF BEGINNING.

LESS PARCEL DEEDED TO THE STATE OF NORTH DAKOTA, FOR THE USE AND BENEFIT OF THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION RECORDED AS DOCUMENT NO. 482435.

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.

Zoning and Plan Reference Map

WACHTERS SECOND ADDITION PT B16, PTS SEC 4 & 9

ZC2023-005

Zoning Districts

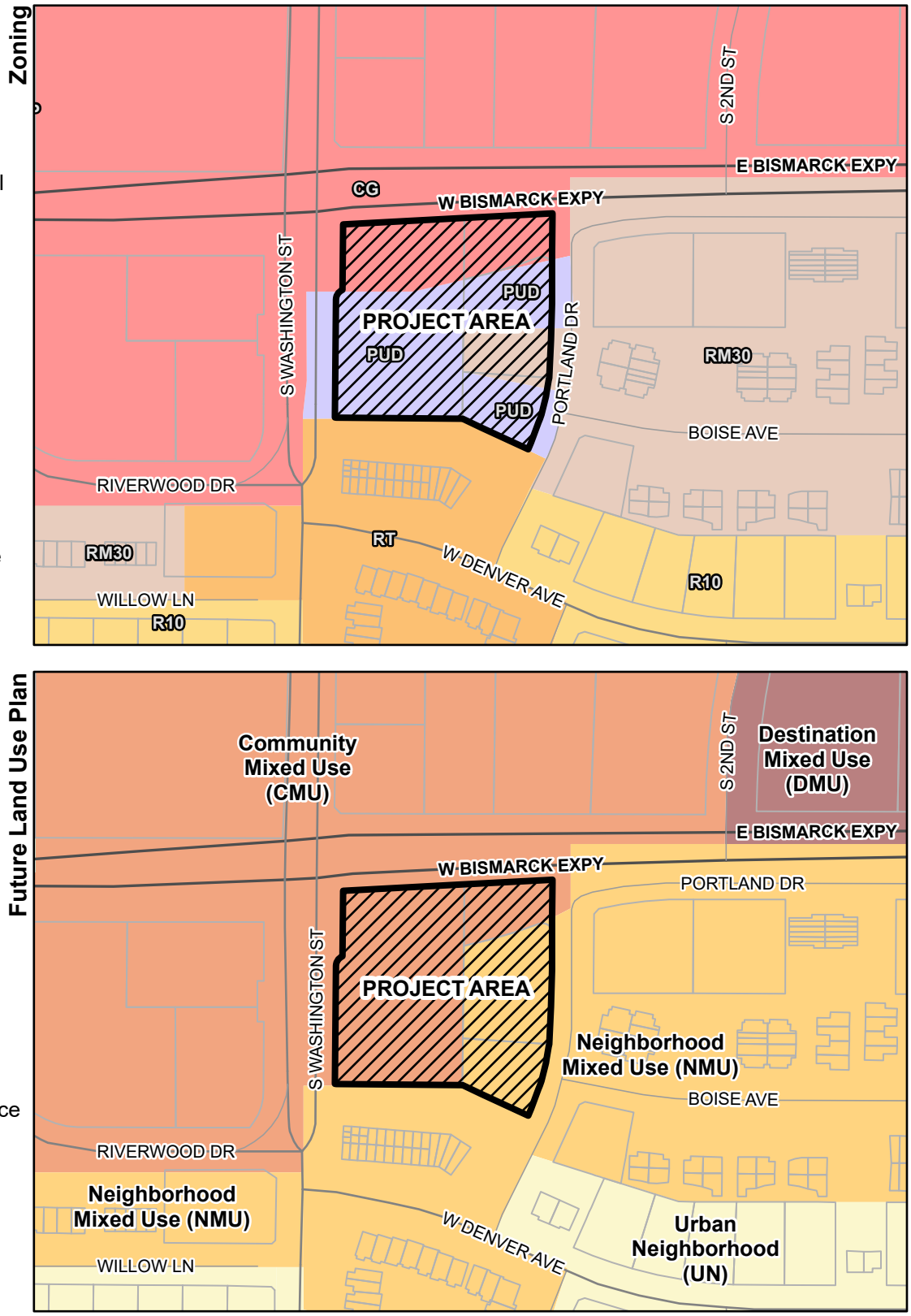
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

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



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.

0 175 350 700 Feet

N

City of Bismarck
Community Development
Planning Division
May 17, 2023

Proposed Zoning Change

WACHTERS SECOND ADDITION PT B16, PTS SEC 4 & 9

ZC2023-005

Proposed New Zoning Map

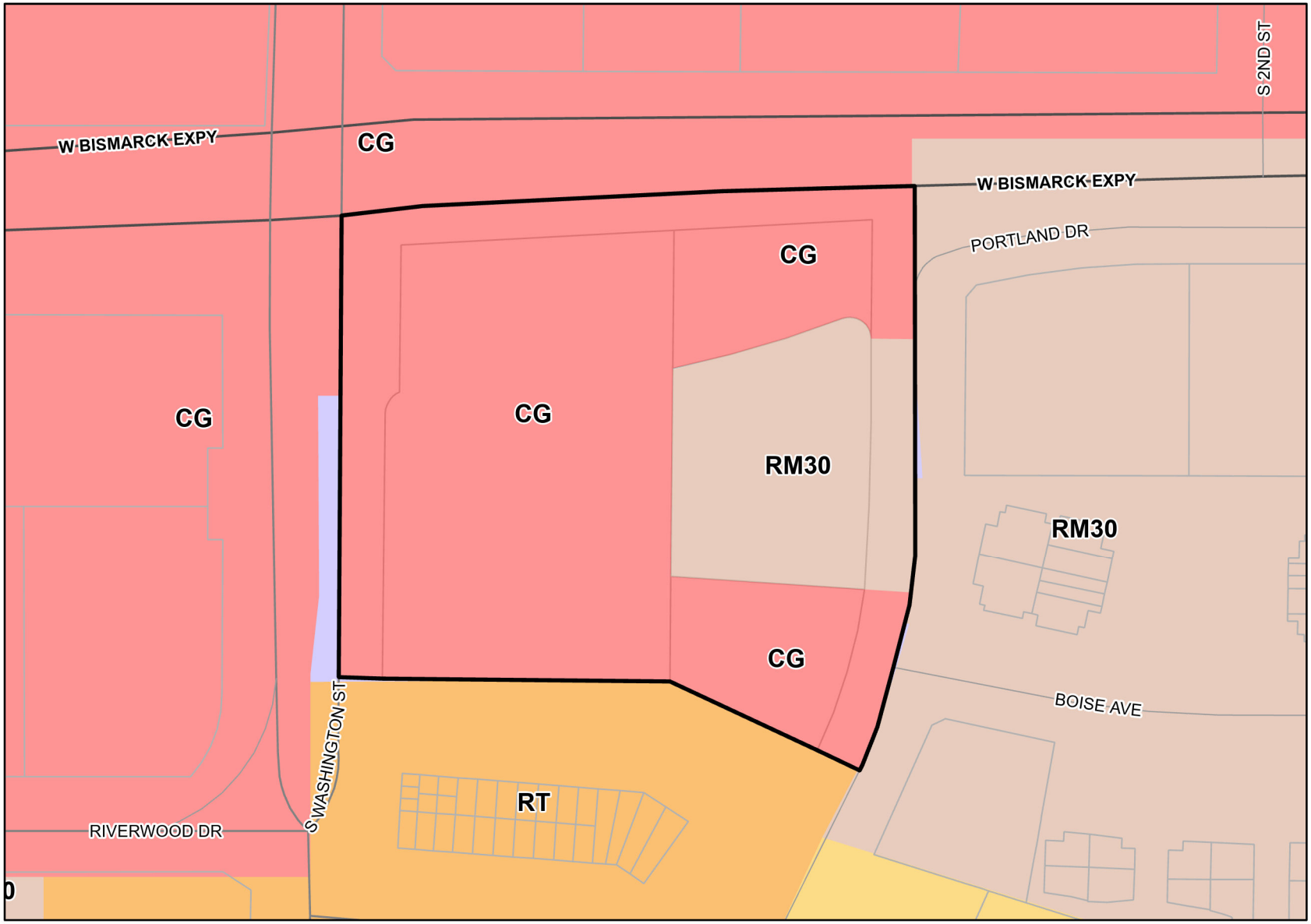
Project Area (zoning within is proposed)

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 0.04 0.07 0.14 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
May 17, 2023

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

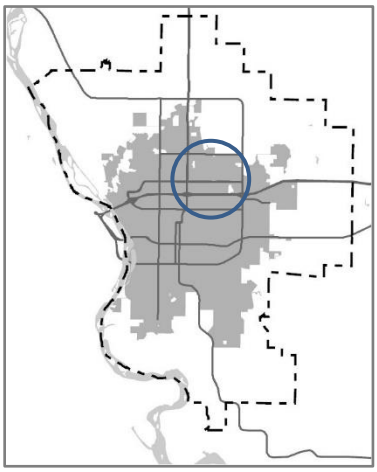
Agenda Item # 6
May 24, 2023

Application for: **Zoning Map Amendment**

Project ID: **ZC2023-001**

Project Summary

Title:	Lot 1, Block 1, River of Hope Addition and Lot 1, Block 6, Meadowlark Commercial Third Addition
Status:	Planning & Zoning Commission – Public Hearing
Property Owner(s):	Alison Artavia (Lot 1, Block 1, River of Hope Addition) Dakota Square Plaza, LLC (Lot 1, Block 6, Meadowlark Commercial Third Addition
Project Contact:	Alison Artavia
Project Location:	In northeast Bismarck, east of State Street / US Highway 83 in the northeast quadrant of the intersection of 43rd Avenue NE and North 19th Street
Project Size:	9.98 acres
Applicant Request:	Rezone properties to allow for commercial recreation in conjunction with a religious institution
Staff Recommendation:	Approve



Site Information

Existing Conditions		*Proposed Conditions*	
Lots/Blocks:	2 lots in 2 blocks	*Lots/Blocks:*	2 lots in 2 blocks
Land Use:	Multi-family residential and religious Institution	*Land Use:*	Multi-family residential, religious Institution, and commercial recreation
Future Land Use:	Neighborhood Mixed Use Parks and Open Space	*Future Land Use:*	Neighborhood Mixed Use Parks and Open Space
Zoning:	RT – Residential R10 – Residential	*Zoning:*	CA – Commercial
Uses Allowed:	RT – Offices and multi-family residential R10 – Single and two-family residential	*Uses Allowed:*	CA – Neighborhood commercial
Max Density:	RT – 30 units / acre R10 – 10 units / acre	*Max Density:*	CA – 30 units / acre

(continued)

Area Information

Zoning Jurisdiction:	Bismarck City Limits
Township:	N/A (City of Bismarck)
Neighborhood:	Hay Creek

Property History

Zoned:	07/2005 (MLC 3rd Addition) 05/2002 (River of Hope)
Platted:	07/2005 (MLC 3rd Addition) 05/2002 (River of Hope)
Annexed:	07/2005 (MLC 3rd Addition) 05/2002 (River of Hope)

Project Narrative

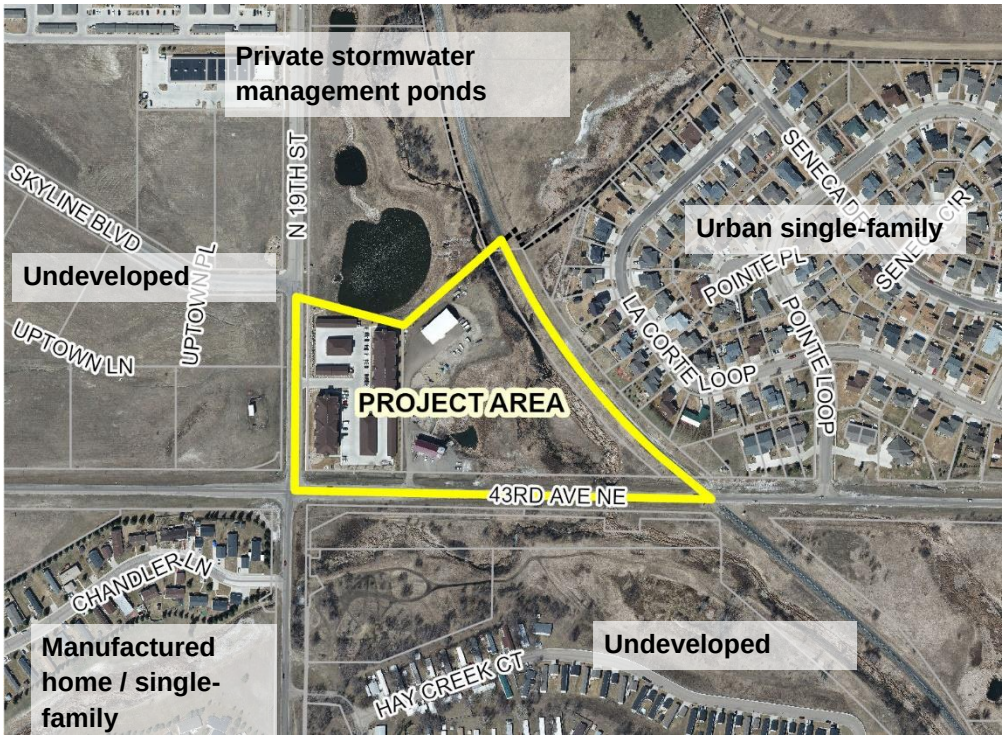
Alison Artavia and Dakota Square Plaza, LLC are requesting approval of a zoning map amendment from the RT – Residential and the R10 – Residential zoning districts to the CA – Commercial zoning district for Lot 1, Block 1, River of Hope Addition and Lot 1, Block 6, Meadowlark Commercial Third Addition.

The proposed zoning map amendment is being requested to allow for commercial recreation in conjunction with a religious institution (River of Hope Church) and create a contagious zoning district.

The property owner of the existing multi-family property to the west has agreed to be included in this request, which would connect the requested CA – Commercial zoning to an existing commercial zoning district. No changes are anticipated on this property.

Project Context

Land uses adjacent to the project area are depicted on the adjacent map:



A Zoning and Plan Reference Map is attached to this staff report, including current zoning, the Future Land Use Plan, Major Street Plan, and Active Mobility Plan.

(continued)

The property has been identified as Neighborhood Mixed Use (NMU) and Parks and Open Space (PKOS) in the Future Land Use Plan. The NMU are areas are the social and commercial gathering spaces for the immediate surrounding residential areas and PKOS areas are areas that are kept in a largely natural state, providing many important functions for the community and ecosystem.

Public Engagement

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on May 12 and May 19, and 27 letters were mailed to the owners of nearby properties on May 12, 2023.

All written comments received by staff prior to the public hearing will be distributed to the Planning and Zoning Commission and summarized by staff during the oral presentation.

Review Standards and Findings of Fact

The request is evaluated according to standards contained within the Comprehensive Plan, Bismarck Code of Ordinances, and relevant state law. Findings of fact, related to land use, are presented in response to each standard.

Adjacent land uses and zoning are not incompatible with the proposed zoning map amendment (Goal S10-a, S5-a)

Yes. Adjacent uses are described in the project context section above. The proposed zoning district would allow the commercial recreation uses. The applicant is proposing to convert the existing accessory building on Lot 1, Block 1, River of Hope Addition to an arcade / recreation facility. Development that may be anticipated from the proposed zoning would have not negative impact on the surrounding properties.

A change in conditions or by an error in the zoning map has occurred since the previous zoning classification was established (Goal S9-e)

Yes. The current zoning districts of R10 – Residential and RT – Residential were established in May 2002 and in July 2005. Conditions have changed since this time. This area has developed with a mix of residential and commercial uses. Additionally, 43rd Avenue NE was recently reconstructed from a rural roadway to an urban roadway.

Undue restriction of housing options or access to neighborhood amenities would not result from the proposed zoning map amendment (Goal S1-a, Goal T1-c)

Yes. The proposed zoning map amendment would not adversely impact housing opportunities in any way.

The general intent and purpose of the zoning ordinance would be adhered to with the proposed zoning map amendment (Section 14-02-01; NDCC 40-27-03)

Yes. The proposed zoning map amendment would support the purpose of the zoning ordinance, as stated in the City Code of Ordinances and North Dakota Century Code.

Proper administrative procedures related to the request are being followed (Section 14-07-02, NDCC Chapter 40-47)

Yes. All administrative procedures of the City Code of Ordinances and North Dakota Century Code have been followed to date. The applicant has submitted a complete application for a zoning map amendment, and the required staff review of all submitted materials has occurred prior to submittal of this report to the Planning and Zoning Commission.

The Planning and Zoning Commission considered this request at their meeting of April 26, 2023 and called for a public hearing on the zoning map amendment. All requirements for notice of this hearing have been met, as documented in this report above.

(continued)

The public health, safety and general welfare will not be adversely impacted by the proposed zoning map amendment (Goal S10-a)

Yes. As a cumulative result of all findings contained in this staff report, City of Bismarck staff find that the proposed zoning map amendment would not adversely impact the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval zoning map amendment from the RT – Residential and the R10 – Residential zoning districts to the CA – Commercial zoning district for Lot 1, Block 1, River of Hope Addition and Lot 1, Block 6, Meadowlark Commercial Third Addition.

Attachments

1. Draft Zoning Ordinance
2. Zoning and Plan Reference Map
3. Proposed Zoning 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 R10 – Residential zoning district and included in the CA – Commercial zoning district:

Lot 1, Block 1, River of Hope Addition

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

Lot 1, Block 6, Meadow Lark Commercial Third 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.

Zoning and Plan Reference Map

ZC2023-001

RIVER OF HOPE ADD L1,B1 & MEADOWLARK COMMERICAL 3RD L1,B6

Zoning Districts

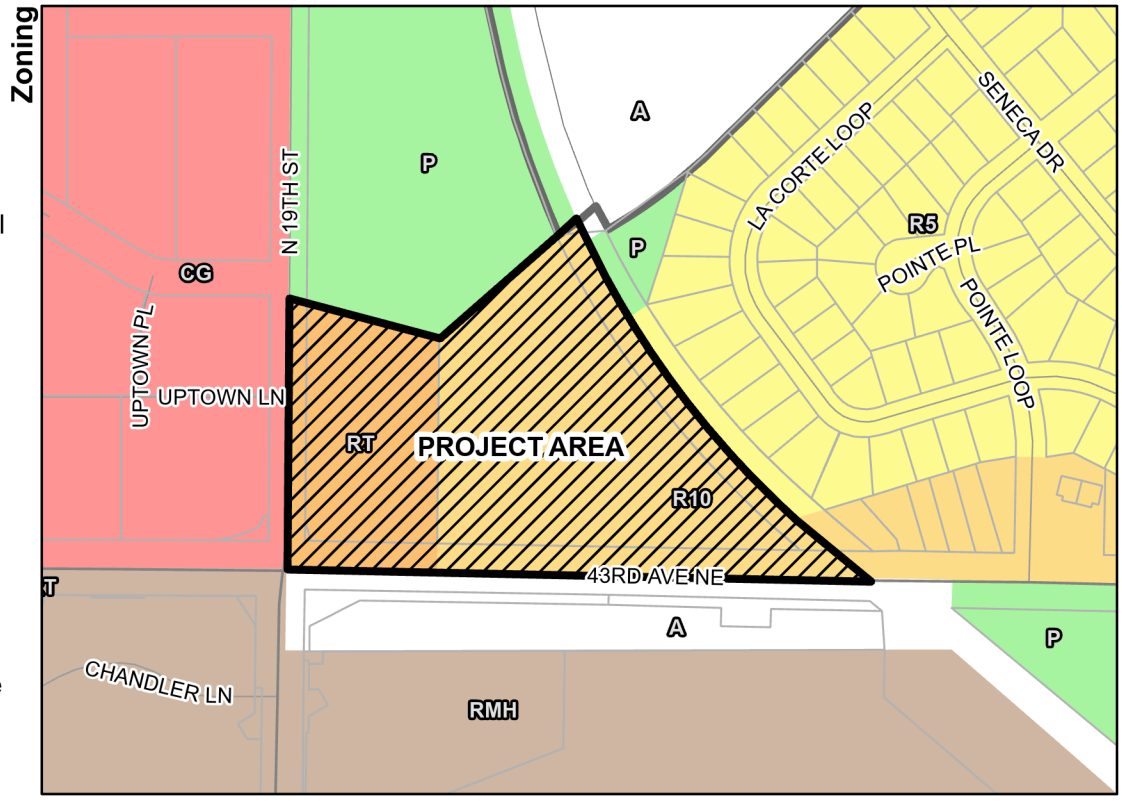
A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

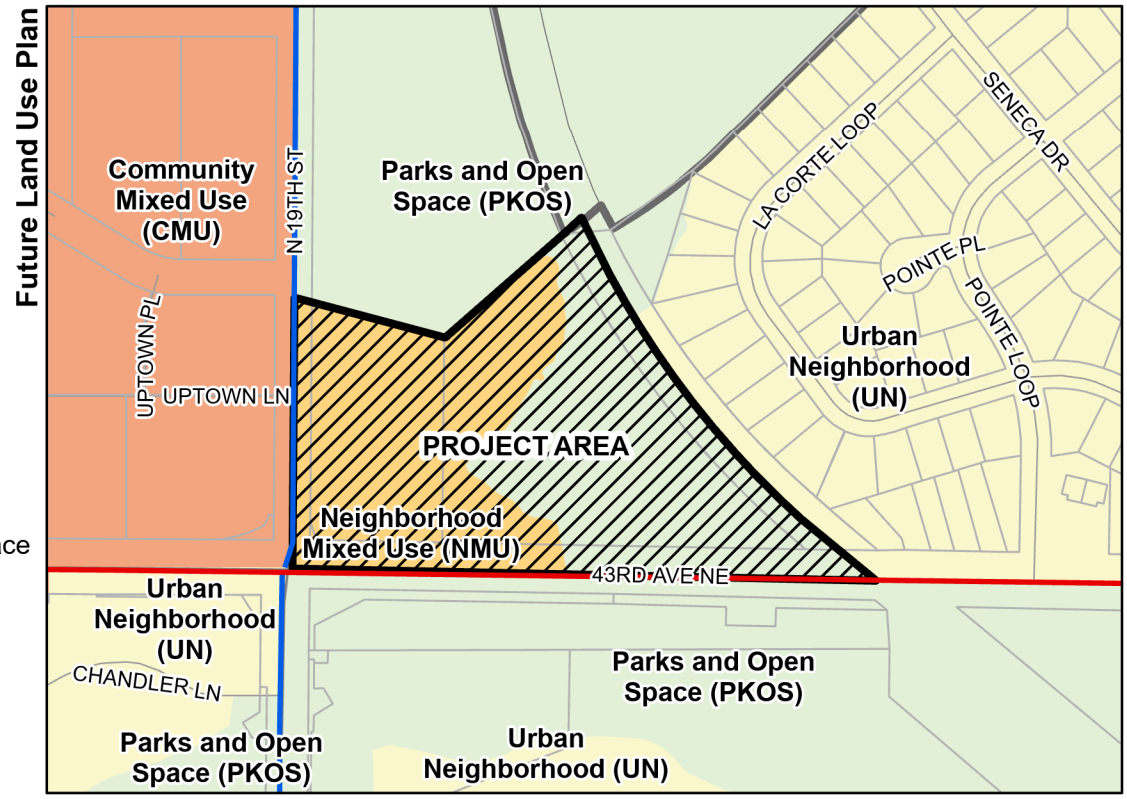
Future Land Use Plan

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

- Existing Arterial
- Future Arterial
- Existing Collector
- Future Collector
- Existing Interstate
- Future Interstate





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.

0 305 610 1,220 Feet

City of Bismarck
Community Development
Planning Division
May 18, 2023

Proposed Zoning Change

RIVER OF HOPE ADD L1,B1 & MEADOWLARK COMMERICAL 3RD L1,B6

ZC2023-001

Proposed New Zoning Map

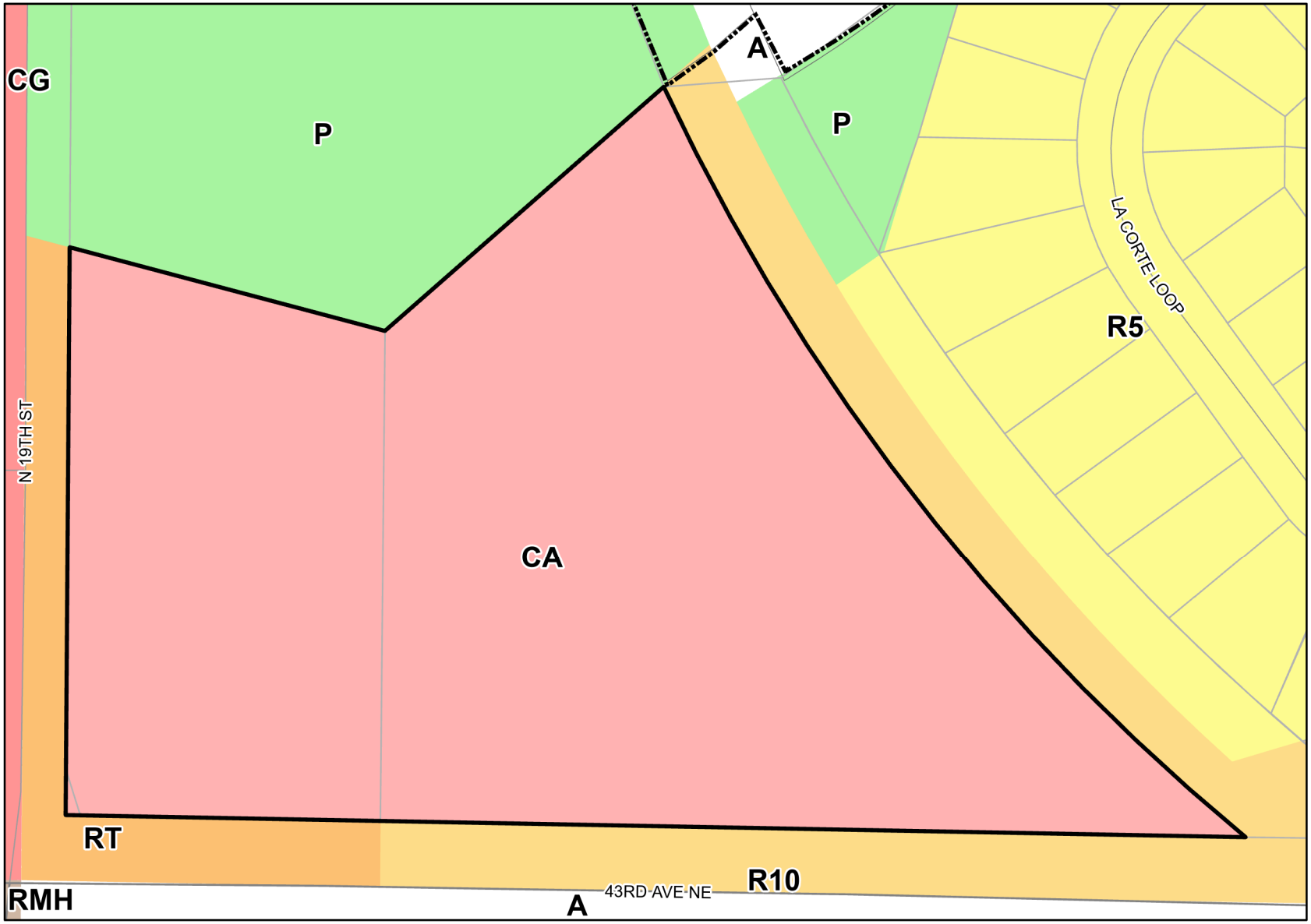
Project Area (zoning within is proposed)

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 0.19 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
April 14, 2023

Bismarck COMMUNITY DEVELOPMENT

STAFF REPORT

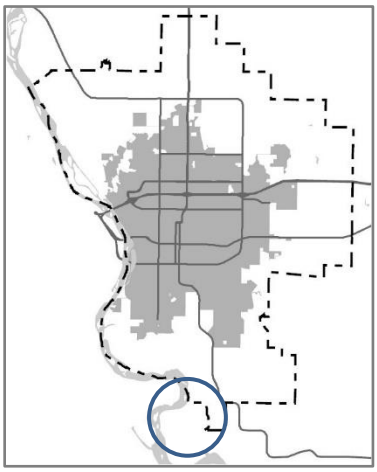
Agenda Item # 7
May 24, 2023

Application for: **Special Use Permit**

Project ID: **SUP2023-005**

Project Summary

Title:	Lot 5, Block 1, Meledee Acres
Status:	Planning & Zoning Commission – Public Hearing
Property Owner(s):	Mark and Andrea Adolf
Project Contact:	Andrea Adolf
Project Location:	South of Bismarck, west of Sibley Drive, along the north side of Dogwood Drive (7640 Dogwood Drive)
Project Size:	2.37 acres
Applicant Request:	Oversized Accessory Building – up to 3,200 square feet
Staff Recommendation:	Approve



Site Information

Existing Conditions		*Proposed Conditions*	
Lots/Blocks:	1 lot in 1 block	*Lots/Blocks:*	1 lot in 1 block
Land Use:	Single-family rural residential	*Land Use:*	Single-family rural residential
Future Land Use:	Rural Residential (RR)	*Future Land Use:*	Rural Residential (RR)
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

Area Information

Zoning Jurisdiction:	Extraterritorial Area (ETA)
Township:	Lincoln (not organized)
Neighborhood:	Sibley

Property History

Zoned:	Pre-1980
Platted:	09/2008
Annexed:	N/A

(continued)

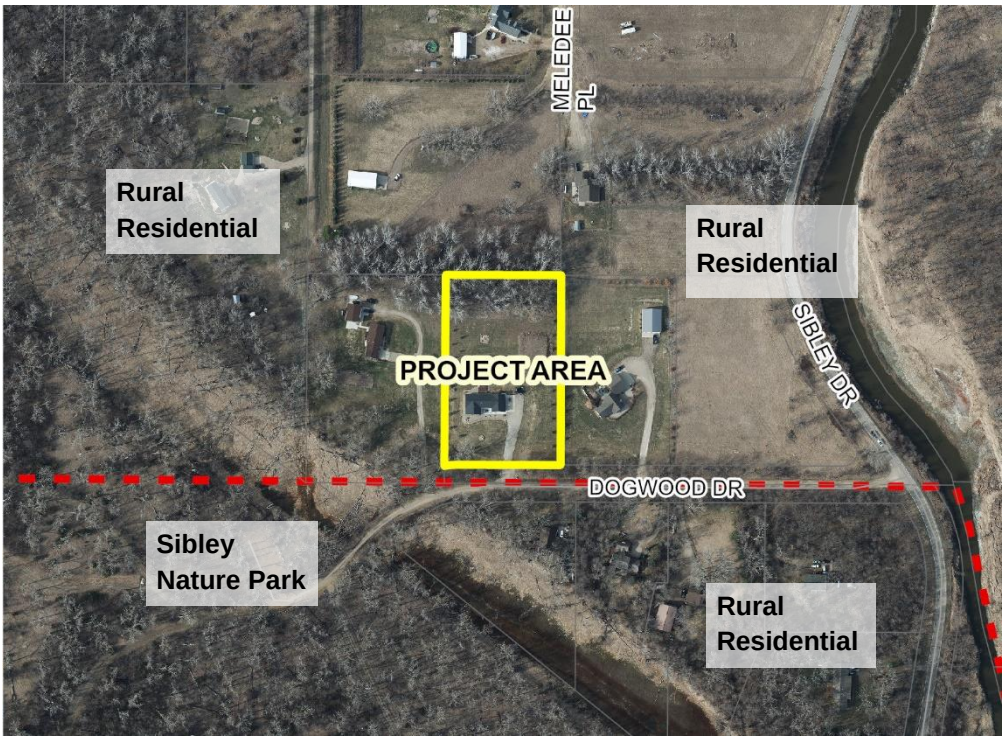
Project Narrative

Mark and Andrea Adolf are requesting approval of a special use permit to increase the total area of accessory buildings to 3,200 square feet on Lot 5, Block 1, Meledee Acres.

The applicants are proposing to construct an accessory building with two covered decks. The total building footprint with the proposed covered decks is 2,830 square feet.

Project Context

Land uses adjacent to the project area are depicted on the adjacent map:



A Zoning and Plan Reference Map is attached to this staff report, including current zoning, the Future Land Use Plan, Major Street Plan, and Active Mobility Plan.

The property has been identified as Rural Residential (RR) in the Future Land Use Plan. The RR areas are places for country living with convenient proximity to city life.

This property is located within the Special Flood Hazard Area (SFHA). The Building Inspection Division and Floodplain Administrator have received and reviewed all required floodplain development permit information. The proposed accessory building will comply with all regulations outlined in Section 14-04-19 of the City Code of Ordinances (FP Floodplain District).

Public Engagement

The project is located within the Lincoln Township, which is not organized. Therefore, no communications with the township have occurred.

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on May 12 and May 19, and 27 letters were mailed to the owners of nearby properties on May 12, 2023.

All written comments received by staff prior to the public hearing will be distributed to the Planning and Zoning Commission and summarized by staff during the oral presentation.

(continued)

Review Standards and Findings of Fact

The request is evaluated according to standards contained within the Comprehensive Plan, Bismarck Code of Ordinances, and relevant state law. Findings of fact, related to land use, are presented in response to each standard.

Special regulations established for this type of use have been met (Section 14-03-08(1)c)

Yes. The proposed accessory structure will conform to requirements of Section 14-03-06(1)(b)(5), which states, "the allowable accessory buildings for a single-family rural residence on a lot in a rural residential zoning district (RR & RR5) with more than 65,000 square feet in area may be increased to a maximum of thirty-two hundred (3,200) square feet provided a special use permit is approved by the Planning Commission in accordance with the provisions of Section 14-03-08 of the City Code of Ordinances (Special Uses)." The size of the lot is 2.37 acres and the sum of all accessory structures on the lot would be less than 3,200 square feet.

The general intent and purpose of the zoning ordinance would be adhered to with the proposed special use permit (Section 14-03-08(1)c)

Yes. The proposed zoning map amendment would support the purpose of the zoning ordinance, as stated in the City Code of Ordinances and North Dakota Century Code.

Together 2045 Bismarck's Comprehensive Plan is adhered to with the proposed Special Use Permit (Section 14-03-08(1)c)

Yes. The proposed Special Use Permit adheres to the overall goals and objectives of the comprehensive plan.

Proper administrative procedures related to the request are being followed (Section 14-03-08(1))

Yes. All administrative procedures of the City Code of Ordinances have been followed to date. The applicant has submitted a complete application for a special use permit, and the required staff review of all submitted materials has occurred prior to submittal of this report to the Planning and Zoning Commission. A public hearing has been scheduled by the Planning and Zoning Commission for this request, and all requirements for notice of this hearing have been met, as documented in this report above.

The public health, safety and general welfare will not be adversely impacted by the proposed special use permit (Goal S10-a)

Yes. As a cumulative result of all findings contained in this staff report, City of Bismarck staff find that the proposed special use permit would not adversely impact the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the proposed special use permit to increase the total area of accessory buildings to 3,200 square feet on Lot 5, Block 1, Meledee Acres.

Attachments

1. Draft Special Use Permit Resolution
2. Zoning and Plan Reference Map
3. Proposed Site Exhibit
4. Proposed Building Elevations

Staff report prepared by: Jenny Wollmuth, AICP, CFM, Senior Planner

701-355-1845 | jwollmuth@bismarcknd.gov

RESOLUTION OF
BISMARCK PLANNING AND ZONING COMMISSION

SPECIAL USE PERMIT FOR OVERSIZED ACCESSORY BUILDING
IN MELEDEE ACRES, LOT 5, BLOCK 1 (SUP2023-005)

WHEREAS, certain special uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasons, must be granted approval by the Planning and Zoning Commission within certain zoning districts, as established by Section 14-03-08 of the Bismarck Code of City Ordinances; and

WHEREAS, the owners of property described as Lot 5, Block 1, Meledee Acres have requested approval of a special use permit to allow an oversized accessory building, up to 3,200 square feet in the RR – Residential zoning district on said property; and

WHEREAS, The Bismarck Planning and Zoning Commission held a public hearing on May 24, 2023 regarding this request for a special use permit and considered public testimony and findings of fact related to the request.

NOW, THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission of the City of Bismarck, North Dakota, that the application for a special use permit for and oversized accessory building, up to 3,200 square feet on Lot 5, Block 1, Meledee Acres is hereby approved, subject to the following conditions:

1. The special use permit is put into use by 05/24/2025
2. All other terms and conditions of the zoning ordinance are met.

Adopted this 24th day of May, 2023.

CERTIFICATE

I, Ben Ehreth, do hereby certify that I am the duly appointed, qualified Community Development Director of the City of Bismarck, North Dakota, and that the foregoing is a full, true and correct copy of a resolution adopted at a legally convened meeting of the Planning and Zoning Commission held on this May 24, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Bismarck, North Dakota, this 24th day of May, 2023.

_____
Ben Ehreth
Community Development Director
Bismarck, North Dakota

Zoning and Plan Reference Map

MELEDEE ACRES LOT 5, BLOCK 1

SUP2023-005

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

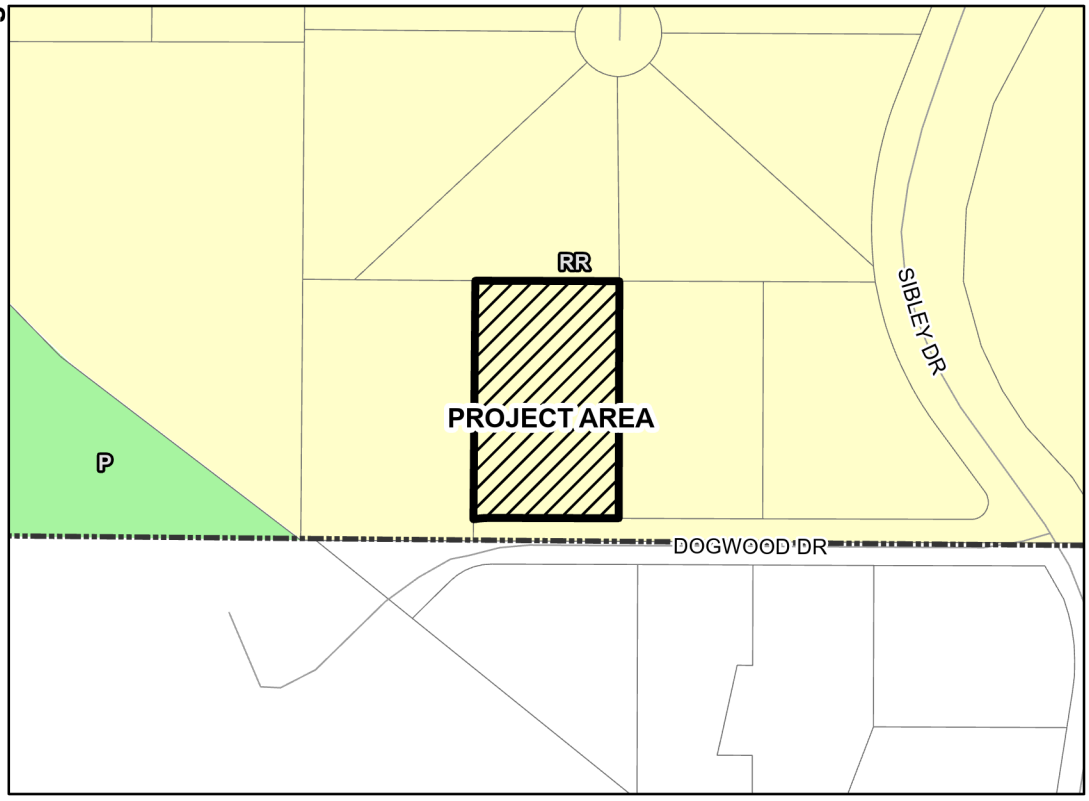
- Future Arterial
- Future Collector
- Future Interstate

Streets

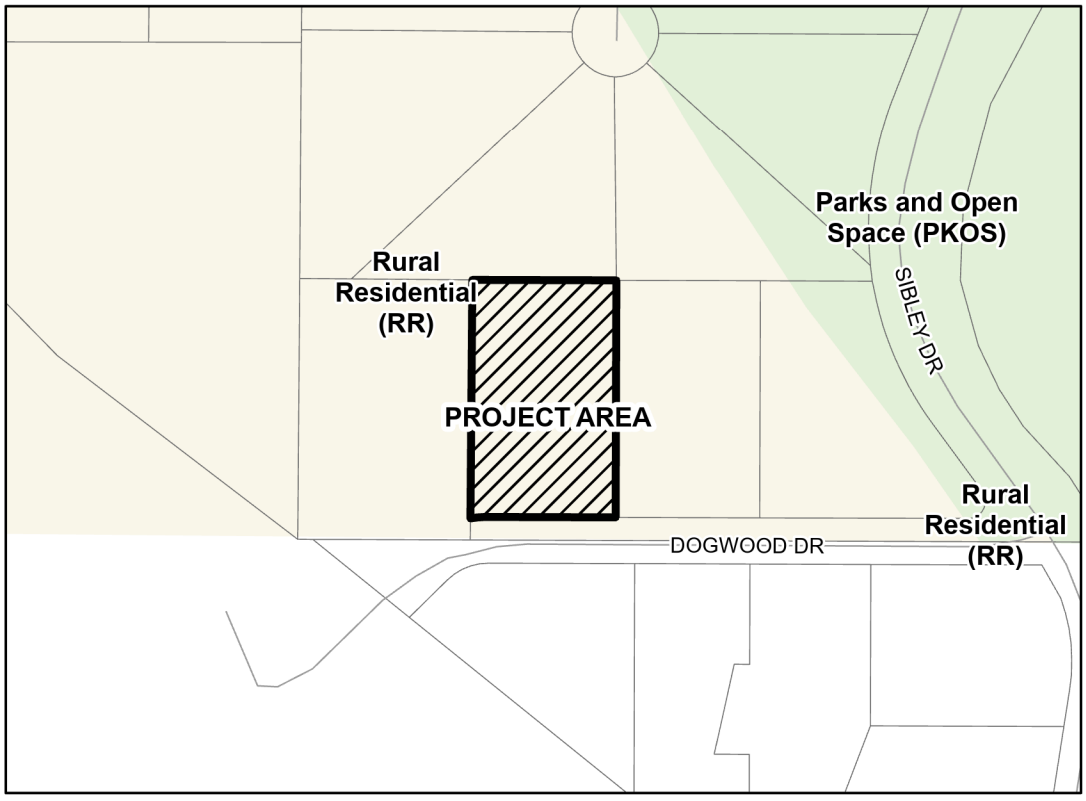
Functional System

- Interstate

Zoning



Future Land Use Plan



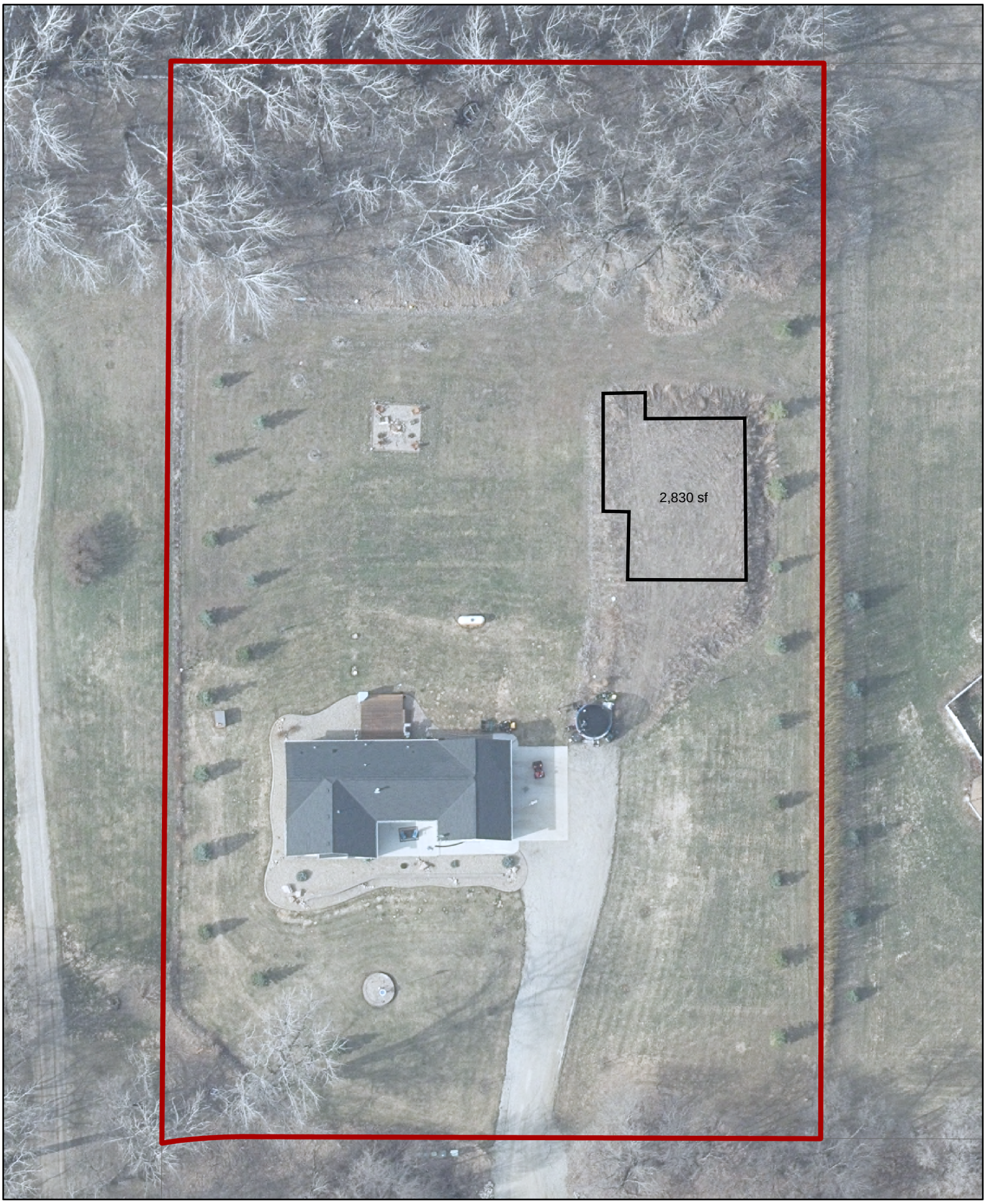
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

0 240 480 960 Feet

City of Bismarck
Community Development
Planning Division
May 15, 2023

Site Plan Exhibit

SUP2023-005 | 5/3/2023



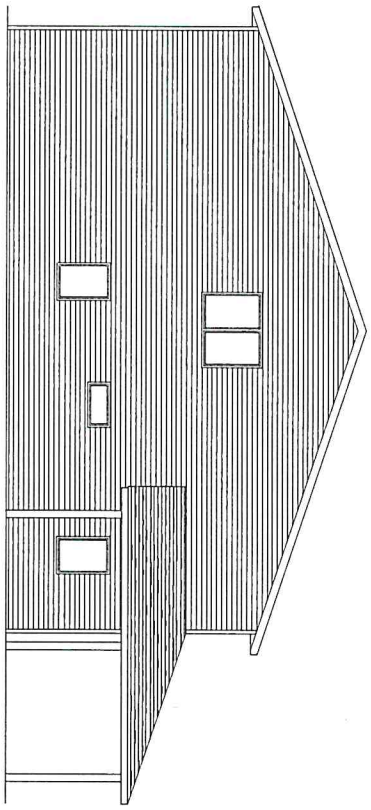
Drawn by: JW | Confirmed by:

0 6040 80 160 Feet

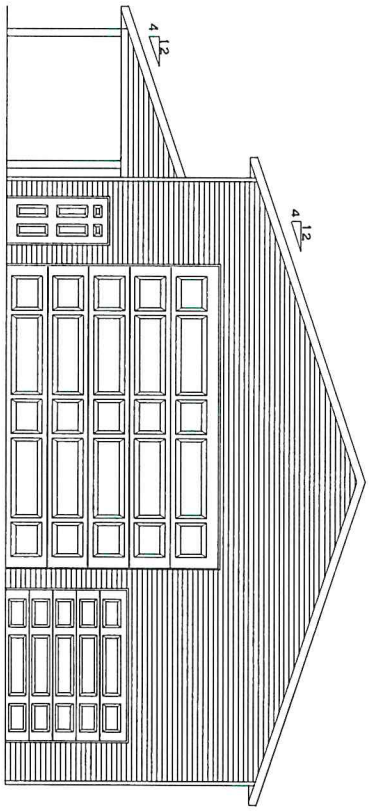
N

Unauthorized Reproduction of These Plans is Illegal. Front Street Millwork & Lumber, Inc. and Its Employees, Agents, and Contractors Assume No Responsibility for Any Unauthorized Modifications Made to These Plans After They Leave Our Office. Any Plans Furnished by Front Street Millwork & Lumber, Inc. are Furnished Without Any Warranty by 84 Lumber Company That They are Suitable for Any Delivery or Particular Purpose. Reliance by Any User of the Plans and All Responsibilities for the Usage and/or Calculation of Correct Structural Materials, Spans, Loads, & Bearing Points or Application of the Art or Science of Construction Based on the Principles of Mathematics, Aesthetics or the Physical Sciences Must be the Responsibility of the Builder, the Owner, or the User of the Plans.

REAR ELEVATION



FRONT ELEVATION



SCALE: 1/8" = 1'-0"	DRAWN BY: Marcie Fornshell DATE: April 6, 2023 REVISED: Friday, April 28, 2023	DRAWN FOR & PLAN OWNER: **Andrea Adolf** PLAN NAME: Andrea Adolf shop	**Front Street Millwork & Lumber, Inc.** 3320 E Century Ave - Bismarck, ND 58503 Phone: 701-255-1636 Fax: 701-222-0500 Marcie@FrontStreetMillwork.com

Unless noted otherwise, Front Street Millwork & Lumber, Inc. and its employees, agents, and subcontractors are not engineers and do not provide engineering services. Front Street Millwork & Lumber, Inc. and its employees, agents, and subcontractors make no warranties, express or implied, concerning the adequacy of any design, plan, or specification with respect to the structural capacity, stability, or safety relative to wind, seismic, snow, or other loads of any structure. Any and all such warranties are hereby expressly disclaimed. Unless noted otherwise, all truss design drawings, shop drawings, erection drawings, bracing drawings, and layout drawings are preliminary only and must be reviewed, approved, and sealed by a registered professional engineer before any construction begins. Review by Front Street Millwork & Lumber, Inc. and its employees, agents, and subcontractors is limited to general conformance with the information given in the contract documents and does not include verification of dimensions, quantities, or any other information that is the responsibility of the owner, the owner's agents, or other professionals. It does not include review of the adequacy of any means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto. Review does not relieve the owner, the owner's agents, or other professionals of their responsibility to comply with all applicable codes, regulations, and standards. Review does not relieve the owner, the owner's agents, or other professionals of their responsibility to perform their own quality control and to coordinate all portions of the work of all trades. Review does not relieve the owner, the owner's agents, or other professionals of their responsibility to obtain all necessary permits, approvals, and licenses. Review does not relieve the owner, the owner's agents, or other professionals of their responsibility to maintain all insurance coverages required by law or contract. Review does not relieve the owner, the owner's agents, or other professionals of their responsibility to indemnify and hold harmless Front Street Millwork & Lumber, Inc. and its employees, agents, and subcontractors from any and all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom, and is caused in whole or in part by the negligent act or omission of the owner, the owner's agents, or other professionals, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. In the event of any such claim, damage, loss, or expense caused in part by a party indemnified hereunder, the owner, the owner's agents, or other professionals shall indemnify and hold harmless Front Street Millwork & Lumber, Inc. and its employees, agents, and subcontractors to the fullest extent permitted by law. The owner, the owner's agents, or other professionals shall also

BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
April 26, 2023

The Bismarck Planning & Zoning Commission met on April 26, 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 Brain Bitner, Cole Johnson, Paul Levchak, Daniel Lukens, Gabe Schell, Mike Schmitz, Wendy Van Duyne, Trent Wangen, and Paul Zent.

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

MINUTES

Chair Schwartz called for consideration of the minutes of the March 22, 2023 meeting.

MOTION: Commissioner Wangen made a motion to approve the minutes of the March 22, 2023 meeting, as presented. Commissioner Schmitz seconded the motion, and it was unanimously approved with Commissioners Bitner, Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, Van Duyne, Wangen, and Zent voting in favor of the motion.

CONSIDERATION

2. LOT 1, BLOCK 1, RIVER OF HOPE ADDITION AND LOT 1, BLOCK 6, MEADOWLARK COMMERCIAL THIRD ADDITION – ZONING CHANGE

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

PUBLIC HEARING – ZONING CHANGE AND MAJOR SUBDIVISION FINAL PLAT TALL PINES SUBDIVSION, LOTS 1-3, BLOCK 1

Chair Schwartz called for the public hearing on the zoning change and major subdivision final plat titled Tall Pines Subdivision. The property is located in Northeast of Bismarck, north of 43rd Avenue NE and east of 52nd Street on the north side of 57th Avenue NE.

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 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 the above findings, staff recommends approval of a zoning change from the A – Agricultural to the RR5 – Residential and Conditional RR5 – Residential zoning districts and approval for the final 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 understanding that Lot 2, Block 1, Tall Pines would be annexed into the city limits when municipal services are available and adjacent to the subdivision.

Commissioner Levchak asked if letters were mailed to adjacent property owners. Mr. Nairn stated letters were mailed and no comments have been received from neighbors, but a resolution to recommend approval was received from Gibbs Township.

Chair Schwartz opened the public hearing.

Eric Wagner, the applicant, appeared to answer any questions.

Commissioner Levchak asked whether the religious institution was moving from a different location. Mr. Wagner stated they are currently using a building in Mandan.

Commissioner Zent asked about the steepness on the east side of the lot. Mr. Wagner stated the area had been mostly filled.

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

MOTION: Commissioner Levchak made a motion to recommend approval of the zoning change from the A – Agricultural to the RR5 – Residential and Conditional RR5 – Residential zoning districts and approval for the final 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 understanding that Lot 2, Block 1, Tall Pines would be annexed into the city limits when municipal services are available and adjacent to the subdivision. Commissioner Bitner seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, Van Duyne, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT - DATA CENTER
EXPRESSWAY INDUSTRIAL PARK FIRST REPLAT, LOT 2, BLOCK 1

Chair Schwartz called for the public hearing on a special use permit to construct a data center on Lot 2, Block 1, Expressway Industrial Park First Replat. The property is located in southeast Bismarck, south of East Bismarck Expressway on the southwest corner of Apple Creek Road and Yegen 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.

Commissioner Levchak asked if any negative comments were received from adjacent property owners. Mr. Nairn replied that no public comments were received.

Chair Schwartz opened the public hearing.

Chair Schwartz asked whether the shop condos would be used by the owners or, if not, how would they be used.

Commissioner Schell then asked about the facilities power needs and if the utilities could keep up with the demand or if new infrastructure would be necessary.

Landon Niemiller from Swenson Hagen & Co. came forward to note that the applicant was present to answer any questions or address any concerns.

The applicant, Colton Shoults with Northern Immersion, LLC, came forward to state that the shop condos would be used by the owners of the property at this time. He then responded to Commissioner Schell's concern with the facility's power needs by explaining that the area was chosen based on the available utilities and no new infrastructure will be required. He then shared that the company has several operations throughout North Dakota and surrounding states, and they would like to have their headquarters in Bismarck for testing new immersion cooling systems.

Commissioner Levchak asked if this Bismarck location would be doing any manufacturing and if they would be staffing the facility. Mr. Shoults replied that immersion cooling tanks

would be manufactured at the facility to cool bitcoin monitors, and they may be hiring additional staff members.

Commissioner Zent asked about the nature of the data centers and whether data would be stored on site. Mr. Shoults explained that the data center would not be used for data storage but rather for mining of cryptocurrency, which was briefly explained. He further explained that the immersion cooling product would be used to support this data center operation.

Chair Schwartz asked if site growth is predicted. Mr. Shoults said the business would not be growing in this area.

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

MOTION: Based on the findings contained in the staff report, Commissioner Wangen made a motion to recommend approval of special use permit to construct a data center on Lot 2, Block 1, Expressway Industrial Park First Replat. Commissioner Levchak seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, Van Duyne, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT - DATA CENTER
HAY CREEK SUBSTATION ADDITION, LOT 1, BLOCK 1

Chair Schwartz called for the public hearing on a special use permit to construct a data center on Lot 1, Block 1, Hay Creek Substation Addition. The property is located in east Bismarck, east of North Bismarck Expressway and north of East Main Avenue.

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.

Chair Schwartz opened the public hearing.

Gary Emineth, with Top Speed Energy, came forward to answer any questions or respond to any concerns.

Commissioner Schell asked if water and sewer municipal services would be required. Mr. Emineth replied that because no regular staff will be on site, no water or sewer services are necessary. Commissioner Schell also asked for confirmation that the applicant would be building outside of the regulatory floodplain. Mr. Emineth responded that the pad was built up initially by Central Power and that the building site is outside of the regulatory floodplain.

Commissioner Levchak asked about plans for power interruptions and their affect on operations. Mr. Emineth explained that there is a contractual agreement between Top Speed Energy and Capital Electric that allows the utility to reduce power to the data center during periods of peak demand.

There being no further questions or 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 special use permit to construct a data center on Lot 1, Block 1, Hay Creek Substation Addition. Commissioner Levchak seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson, Levchak, Lukens, Schell, Schmitz, Schwartz, Van Duyne, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING - SPECIAL USE PERMIT (OVERSIZED ACCESSORY BUILDING) LOT 12, BLOCK 1, BROOKFIELD ESTATES

Chair Schwartz called for the public hearing on a special use permit to increase the total allowable area of accessory buildings up to 3,200 square feet on Lot 12, Block 1, Brookfield Estates. The property is located east of Bismarck, between 66th Steet NE and 80th Street NE, along the west side of West Bristol Drive (930 West Bristol Drive).

Ms. Wollmuth 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 be consistent with the general intent and purpose of the zoning ordinance.

2. The proposed special use would be compatible with adjacent land uses and zoning if recommended conditions are met.

3. The Gibbs Township Board of Supervisors has been notified of the proposed special use but has recommended tentative approval of the request.

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

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

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

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

8. The proposed special use is consistent with the master plan, other adopted plans, policies, and accepted planning practice if recommended conditions are met.

9. The proposed special use would not adversely affect the public health, safety, and general welfare if recommended conditions are met.

Ms. Wollmuth noted that the applicant intends to utilize an existing second approach along the north side of the property to gain access to the proposed accessory building and has received a second approach permit from Burleigh County. Therefore the condition of approval outlined in this staff report, that a second approach permit is required is no longer needed.

Ms. Wollmuth said, based on these findings, staff recommends approval of the special use permit to increase the total allowable area of accessory buildings up to 3,200 square feet on Lot 12, Block 1, Brookfield Estates.

Commissioner Levchak asked if there were any comments from adjacent property owners. Ms. Wollmuth stated there were no comments received.

Chair Schwartz opened the public hearing.

The applicant, Nathan Bernhardt, came forward to answer any questions or respond to any comments.

Commissioner Levchak asked if the building would be used commercially. Mr. Bernhardt said it would be used only for personal storage.

Commissioner Schmitz asked if Gibbs Township had any comments. Gibbs representative, Richard Sander said Gibbs Township has no reservations about the request.

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

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to recommend approval of the special use permit to increase the total allowable area of accessory buildings up to 3,200 square feet on Lot 12, Block 1, Brookfield Estates. Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Bitner, Johnson,

Levchak, Lukens, Schell, Schmitz, Schwartz, Van Duyne, Wangen, and Zent voting in favor of the motion.

OTHER BUSINESS

Mr. Nairn came forward to notify the commissioners that the staff report format would be changing slightly starting in May 2023. The “Required Findings” will now include references to the ordinance and comprehensive plan standards and staff response to each. Staff can be contacted if there are any questions.

Commissioner Zent asked if these changes would be on all projects. Mr. Nairn responded that the format for all projects will include these changes, but the agenda items will be in the same order.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 5:41 p.m. to meet again on May 24, 2023.

Respectfully submitted,

_____
Sarah Fricke
Recording Secretary

_____
Mike Schwartz
Chair

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 4/2023

	**********City**********				**********ETA**********			
	4/2023		4/2022		4/2023		4/2022	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	6	$1,944,922.03	22	$6,375,136.67	5	$1,986,033.82	4	$1,440,983.73
ROWHOUSE (2) 1-HR FIRE SEPARATION	3	$824,956.85	0	$0.00	1	$268,596.85	0	$0.00
MANUFACTURED HOMES	2	$0.00	0	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	0	$0.00	1	$3,150.00	1	$88,698.00	0	$0.00
DETACHED GARAGE	2	$36,000.00	0	$0.00	1	$45,000.00	5	$241,735.50
DECKS\PORCHES & COVERED PORCHES	5	$30,365.75	13	$42,287.25	1	$3,024.00	0	$0.00
RESIDENTIAL ALTERATION/OTHER	2	$11,000.00	4	$124,200.00	2	$558,193.48	3	$80,452.01
STORAGE SHED	2	$5,400.00	3	$7,440.00	0	$0.00	0	$0.00
BASEMENT FINISH	4	$106,382.00	7	$179,568.00	0	$0.00	1	$38,463.50
NURSERY STOCK SALES	0	$0.00	4	$0.00	0	$0.00	0	$0.00
NEW SIGN PERMITS	7	$185,920.62	9	$95,158.00	0	$0.00	0	$0.00
SIGN ALTERATION	8	$70,829.27	1	$35,000.00	0	$0.00	0	$0.00
COMMERCIAL NEW CONSTRUCTION	6	$9,068,000.00	5	$862,760.00	0	$0.00	0	$0.00
COMMERCIAL ADDITION	0	$0.00	2	$11,300,387.00	0	$0.00	1	$2,937,630.00
COMMERCIAL ALTERATION	8	$1,127,150.00	11	$4,800,449.51	0	$0.00	0	$0.00
Total	**55**	**$13,410,926.52**	**82**	**$23,825,536.43**	**11**	**$2,949,546.15**	**14**	**$4,739,264.74**

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 4/2023

	*******************City*******************				*******************ETA*******************			
	4/2023		**4/2022**		**4/2023**		**4/2022**	
Trade Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	60	$0.00	88	$10,000.00	0	$0.00	0	$0.00
BUILDING MECHANICAL	105	$2,922,134.00	108	$2,222,637.00	2	$10,075.00	2	$6,192.00
BUILDING PLUMBING	43	$1,005,507.67	51	$1,693,456.79	4	$38,632.00	0	$0.00
BUILDING SEPTIC	0	$0.00	0	$0.00	1	$10,000.00	1	$0.00
Total	**208**	**$3,927,641.67**	**247**	**$3,926,093.79**	**7**	**$58,707.00**	**3**	**$6,192.00**

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 4/2023

	*******************City*******************		*******************ETA*******************	
	4/2023	**4/2022**	**4/2023**	**4/2022**
Living Units	**Units**	**Units**	**Units**	**Units**
MANUFACTURED HOMES	2	0	0	0
BASEMENT FINISH	0	0	0	0
DECKS\PORCHES & COVERED PORCHES	0	0	0	0
DETACHED GARAGE	0	0	0	0
RESIDENTIAL ADDITION	0	0	0	0
RESIDENTIAL ALTERATION/OTHER	0	0	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	3	0	1	0
SINGLE FAMILY DETACHED	6	21	5	3
Total	**11**	**21**	**6**	**3**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 4/2023

	**********City**********				**********ETA**********			
	4/2023		4/2022		4/2023		4/2022	
Census Code	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
SINGLE FAMILY DETACHED	8	$2,567,703.21	45	$13,102,356.32	6	$2,297,629.46	6	$2,068,381.42
ROWHOUSE (2) 1-HR FIRE SEPARATION	18	$4,151,980.92	12	$2,734,134.02	2	$537,193.70	0	$0.00
MANUFACTURED HOMES	4	$0.00	0	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ADDITION	1	$32,796.00	3	$47,988.00	1	$88,698.00	0	$0.00
DETACHED GARAGE	2	$33,600.00	3	$28,550.00	2	$64,200.00	9	$419,985.50
DECKS\PORCHES & COVERED PORCHES	11	$39,896.75	18	$65,739.00	1	$3,024.00	0	$0.00
SWIMMING POOLS	1	$85,000.00	0	$0.00	0	$0.00	0	$0.00
RESIDENTIAL ALTERATION/OTHER	6	$150,300.00	15	$218,786.73	4	$583,581.16	5	$386,127.49
HOME OCCUPATION	2	$0.00	1	$0.00	0	$0.00	0	$0.00
STORAGE SHED	1	$2,400.00	6	$16,680.00	1	$3,000.00	0	$0.00
BASEMENT FINISH	21	$415,208.00	27	$706,519.50	3	$85,677.50	5	$129,931.00
RESIDENTIAL	1	$0.00	1	$0.00	0	$0.00	0	$0.00
COMMERCIAL	4	$0.00	0	$0.00	0	$0.00	0	$0.00
NURSERY STOCK SALES	4	$0.00	4	$0.00	0	$0.00	0	$0.00
NEW SIGN PERMITS	14	$443,973.62	38	$332,343.00	0	$0.00	2	$38,866.00
SIGN ALTERATION	10	$73,879.27	1	$35,000.00	0	$0.00	0	$0.00
COMMERCIAL NEW CONSTRUCTION	33	$26,477,753.00	12	$31,075,229.00	0	$0.00	10	$2,400,000.00
COMMERCIAL ADDITION	1	$1,000,000.00	2	$11,300,387.00	0	$0.00	1	$2,937,630.00
COMMERCIAL ALTERATION	37	$13,263,505.00	36	$11,254,997.51	1	$19,500.00	2	$3,715,000.00
Total	**179**	**$48,737,995.77**	**224**	**$70,918,710.08**	**21**	**$3,682,503.82**	**40**	**$12,095,921.41**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 4/2023

	*******************City*******************				*******************ETA*******************			
	4/2023		**4/2022**		**4/2023**		**4/2022**	
Permit Type	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**	**Permits**	**Valuations**
BUILDING ELECTRIC	227	$0.00	251	$35,500.00	0	$0.00	0	$0.00
BUILDING MECHANICAL	434	$7,589,171.84	442	$7,217,392.33	68	$817,500.25	60	$359,744.50
BUILDING PLUMBING	64	$1,649,608.67	97	$3,122,848.84	5	$53,647.00	5	$60,655.00
BUILDING SEPTIC	0	$0.00	0	$0.00	1	$10,000.00	1	$0.00
Total	**725**	**$9,238,780.51**	**790**	**$10,375,741.17**	**74**	**$881,147.25**	**66**	**$420,399.50**

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 4/2023

	*******************City*******************		*******************ETA*******************	
	4/2023	**4/2022**	**4/2023**	**4/2022**
Living Units	**Units**	**Units**	**Units**	**Units**
MANUFACTURED HOMES	4	0	0	0
BASEMENT FINISH	0	0	0	0
DECKS\PORCHES & COVERED PORCHES	0	0	0	0
DETACHED GARAGE	0	0	0	0
RESIDENTIAL ADDITION	0	0	0	0
RESIDENTIAL ALTERATION/OTHER	0	0	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	18	12	2	0
SINGLE FAMILY DETACHED	8	44	6	5
SWIMMING POOLS	0	0	0	0
Total	**30**	**56**	**8**	**5**