



PLANNING AND ZONING COMMISSION

MEETING AGENDA

November 15, 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.
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MINUTES

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

CONSENT AGENDA

CONSIDERATION

The following items are requests for public hearings.

2. **Dimensional Requirements for Accessory Buildings (IJ).....5**

Zoning Ordinance Text Amendment | ZOTA2023-002 | *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.

3. **Silver Ranch Fourth Addition (DN)**.....23

Annexation | ANNX2022-008 | *Public Hearing*

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

Zoning Map Amendment | ZC2022-014 | *Public Hearing*

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

Major Subdivision Final Plat | FPLT2022-009 | *Public Hearing*

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

OTHER BUSINESS

4. Release of Request for Proposals for New Land Development Code

ADJOURNMENT

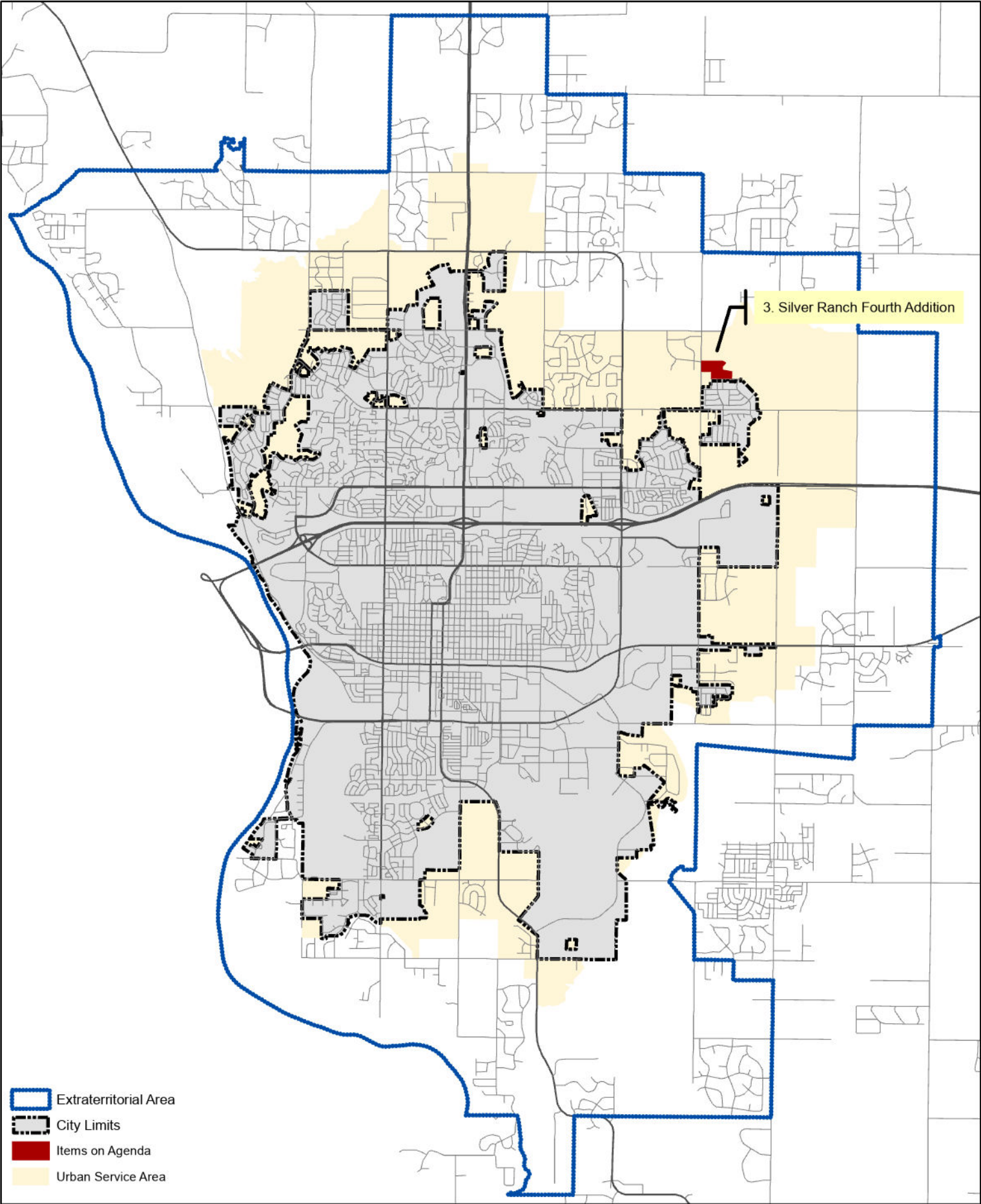
5. **Adjourn.** The next regular meeting date is scheduled for December 20, 2023.

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

BISMARCK PLANNING AND ZONING COMMISSION PUBLIC HEARING PROCEDURE AND PROTOCOL

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

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



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

STAFF REPORT

Agenda Item # 2
November 15, 2023

Application for: **Zoning Ordinance Text
Amendment**

Project ID: **ZOTA2023-002**

Project Summary

<i>Title:</i>	Dimensional Requirements for Residential Accessory Buildings
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Project Contact:</i>	Isak Johnson, Planner
<i>Request:</i>	Amend dimensional requirements for residential accessory buildings
<i>Staff Recommendation:</i>	Call for public hearing

Project Narrative

Accessory structures are allowed throughout the City of Bismarck as well as in the Extraterritorial Area for a variety of uses and purposes in conjunction with the principal use of a given parcel. Commonly asked questions from the public, or potential points of conflict during the review process by City staff related to accessory structures, include aspects of building height, size and placement.

In order to reduce any confusion surrounding the regulations of accessory structure dimensional requirements, Planning and Building Inspections staff aim to clarify sections of Title 14 of the City of Bismarck ordinances. This ordinance amendment addresses sections with the intent to increase public understanding and improve City processes related to approval of accessory structures throughout the City and the ETA.

Areas of clarification addressed by this zoning ordinance text amendment include:

- Definition of building height, and how height is measured, for all buildings.
- Height of residential accessory structures, including accessory dwelling units.
- Placement of residential accessory structures in relation to principal

structures, other accessory structures, and property line setbacks.

- Other minor clarifications connected to residential accessory structures when relevant.

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 goals and objectives of Together 2045 Bismarck's Comprehensive Plan would be advanced by the proposed zoning ordinance text amendment ([Comprehensive Plan](#))

Yes. The following objectives of the plan would be advanced through the proposed amendment.

S3(e): Encourage accessory buildings to be compatible in design with, and subordinate in scale to, the principal buildings on the property.

(continued)

S4(a): Increase efficiency of urban land use to maximize public investment in infrastructure and services thereby reducing cost for tax and ratepayers.

The proposed ordinance amendment will continue to improve how Bismarck residents use their land as efficiently as possible, while streamlining understandings of the appropriate regulations.

The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance (Goal S9-e, G10-g)

Yes. This section of the zoning ordinance has been amended many times, most recently in 2017. The purpose of the proposed zoning ordinance text amendment is to clarify this provision to ensure that the original intent is met.

The general intent and purpose of the zoning ordinance would be adhered to with the proposed amendment (Section 14-02-01; NDCC 40-47-03)

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

The proposed text amendment will preserve the overall integrity and coherence of the zoning ordinance (Goal G10)

Yes. All sections of the zoning ordinance containing any references to or potential conflicts with the proposed zoning ordinance text amendment have been reviewed and corrected, as needed.

Section 14-02-03 clarifies the definition of accessory structures (and related items) used throughout this text amendment. Sections 14-03-05, 14-03-06, and 14-03-08 address the primary

issues of residential accessory structure placement and height. Then Sections 14-04-01, 14-04-01.1, 14-04-03, 14-04-06 clarify several reiterations of previously addressed items to ensure consistency.

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 zoning ordinance text amendment has been initiated by staff from the Community Development Department, on behalf of the Planning and Zoning Commission. A preliminary draft is attached to this report for consideration by the Planning and Zoning Commission.

The public health, safety and general welfare will not be adversely impacted by the proposed zoning text 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 text amendment would not adversely impact the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends calling for a public hearing for the zoning ordinance text amendment on dimensional requirements for accessory structures.

Attachments

1. Draft zoning ordinance amendment
2. Examples of accessory structure placement areas
3. Examples of accessory structure height by roof type

Staff report prepared by: Isak Johnson, Planner

701-355-1850 | ijohnson@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 SECTIONS 14-02-03, 14-03-05, 14-03-06, 14-03-08, 14-04-01, 14-04-01.1, 14-04-03, 14-04-06, OF THE CODE OF ORDINANCES OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE DIMENSIONAL REQUIREMENTS FOR ACCESSORY BUILDINGS.

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

Section 1. Amend. Sections 14-02-03 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the dimensional requirements for accessory buildings, is hereby enacted to read as follows:

14-02-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

* * * * *

Accessory Dwelling Unit: A separate and complete dwelling unit established in conjunction with, ~~but clearly subordinate to, and ancillary to, the~~ principal single family dwelling unit, whether within the same structure as the principal unit or within a detached accessory structure on the same lot or parcel. An accessory dwelling unit contains one bedroom, kitchen and bathroom facilities, and a separate exterior entrance.

Accessory Use: A use or structure that is clearly incidental to and customarily found in connection with a principal structure or use; is ~~subordinate in area, extent and~~ ancillary in purpose to the principal building or uses; contributes to the comfort, convenience or necessity of occupants of the principal use; and is located on the same lot and in the same zoning district as the principal use.

* * * * *

Building-Accessory: ~~A subordinate~~ A permanent, or semi-permanent, ancillary building or structure, the use of which is customarily incidental to that of a principal building on the same lot, including, without limitation, garages, storage sheds, playhouses, kennels, ~~statuary, trellises, barbecue stoves, residential greenhouses, tent-like structures,~~ or similar structures, storm or civil defense shelter, radio towers, satellite receiving or transmitting stations or antennas, and other structures, towers, antenna, ornaments or devices.

* * * * *

Height of Building: The vertical distance measured from ~~the highest of the following three levels:~~

- ~~(a) The street curb level;~~
- ~~(b) The established or mean street grade in case the curb has not been constructed; or~~
- ~~(c) The average finished ground level adjoining the building if it sets back from the street line~~

The average finished ground level adjoining the building at all exterior walls (measured at fixed intervals around the base of the structure)

To:

- (a) the level of the highest point at the roof beams of flat roofs, or roofs including not more than one (1) inch of vertical rise to the one (1) foot of horizontal travel, and;
- (b) the deck line of mansard roofs; or
- (c) to the mean height level of the top of the main plate and highest ridge for other roofs. And when a building has multiple roofs, use the roof with the tallest ridge/height to calculate total building height.

* * * * *

Section 2. Amend. Sections 14-03-05 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the dimensional requirements for accessory buildings, is hereby enacted to read as follows:

14-03-05. Supplementary Provisions. The regulations specified in this title shall be subject to the following provisions and interpretations:

* * * * *

4. Location of residential accessory buildings.

- a. In any residential zoning district except RR and RR5 (see the RR or RR5 district for accessory building regulations specific to that district), all accessory buildings ~~except garages~~ shall be located ~~in the rear yard~~ ten (10) feet from the principal structure, shall be located behind the line created by the front wall of the principle structure, and shall not be less than three (3) feet from the rear or side lot line ~~while noting that structures less than five (5) feet from the side or rear lot line may require fire separation precautions in accordance with City of Bismarck Building Code when located at least ten feet behind the rear wall of the principal building.~~
1. For lots situated directly between two roadways, the yard adjacent to the roadway which provides access to the property's principal structure (such as by means of a doorway or driveway) is the front yard.
 2. If the ten-foot distance ~~behind the rear wall of~~ from the principal building cannot be maintained, the structure must be built in accordance with the appropriate fire protection features as determined by the City of Bismarck Building Code and the same setbacks shall be maintained as is required for the principal building.
 3. Any uncovered deck, patio or porch shall not be considered as part of the principal building for purposes of this subsection.
- b. A garage located in a rear yard and ~~approached from an~~ with an approach perpendicular to an alley must be set back from the alley line at least twenty (20) feet to allow for an additional parking space without obstructing the alley. When the approach to the garage is parallel to the alley and the car maneuvers on private property, the distance from the alley and side lot lines to the garage may be not less than three (3) feet.
- c. Accessory buildings, including garages, located on a corner lot in a residential district shall be ~~located not less than twenty feet from the lot line of the side street and in no case shall be set back less than the setback distance required for the principal building.~~ set back from the side street no less than the principal structure setback requirements for the district. For the purpose of this section, the side street is the street that does not provide access to the house by means of a door or driveway. The minimum setback from the adjacent lot line of the lot also facing the side street shall be ~~the same as required for the principal building.~~ no less than three (3) feet and be in accordance with the City of Bismarck Building Code when relevant.

d. ~~In a residential district any garage on an inside lot may be located with the same setback from the street as required for the principal building providing that such setback is at least twenty feet and that such garage does not violate the side yard requirements for a principal building for the district in which it is located. If such detached garage is located at least ten feet behind the rear wall of the principal building, such garage may be located not less than three feet from the side lot line.~~

d. All setback measurements for accessory buildings shall be made from the ~~eaves rather than the wall or foundation walls, or the outermost exterior structurally supporting features (such as columns), and the structures must be built in accordance with the City of Bismarck Building Codes with regards to projections from the walls such as eaves.~~

e. No accessory building shall be allowed on any utility easement.

* * * * *

Section 3. Amend. Sections 14-03-06 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the dimensional requirements for accessory buildings, is hereby enacted to read as follows:

14-03-06. Incidental Uses. Permitted uses and approved special uses shall be deemed to include accessory uses and accessory structures that are customarily incidental to the principal uses, subject to the following standards:

1. Accessory Uses and Buildings.

a. General Requirements. Accessory uses and buildings shall comply with the following standards and all other applicable regulations of this chapter:

1. The accessory use or building shall be incidental and customarily associated with the principal use or structure.

~~2. Except for accessory buildings for one and two-family residential uses constructed in accordance with the provisions of Section 14-03-06(1)(b), the accessory use or building shall be subordinate in area, extent, and purpose to the principal use or building served.~~

3. The accessory use or building shall contribute to the comfort, convenience and necessity of the occupants of the principal use or building served.

2. The accessory use or building shall be located on the same zoning lot as the principal use or building.

3. The accessory use or building shall not be injurious to the use and enjoyment of surrounding properties.

4. No accessory building shall be located within any recorded public easement or over any known public utility.

b. One and two-family residential accessory uses and buildings.

* * * * *

4. All allowable accessory buildings for a one or two-family residence in an urban residential zoning district (R5, R10, RM, RMH & RT) shall be limited to a maximum area of twelve hundred (1,200) square feet, a maximum wall height of twelve (12) feet and a maximum building height of twenty-five (25) twenty (20) feet, except for accessory dwelling units which are allowed a maximum height of twenty-five (25) feet as described in Section 14-03-08.4(y).

* * * * *

5. All allowable accessory buildings for a single-family rural residence in a rural residential zoning district (RR & RR5) shall be limited to a maximum area of fourteen hundred (1,400) square feet for lots of 40,000 forty thousand (40,000) square feet or less; to a maximum area of eighteen hundred (1,800) square feet for lots between 40,000 forty thousand (40,000) square feet and 64,999 sixty-five thousand (65,000) square feet; to a maximum area of twenty-four hundred (2,400) square feet for lots over 65,000 sixty-five thousand (65,000) square feet, except as provided for herein. The maximum wall height shall be limited to sixteen and one-half (16.5) feet and the maximum building height shall be limited to twenty-five (25) feet.

The allowable accessory buildings for a single-family rural residence on a lot in a rural residential zoning district (RR & RR5) with 40,000 forty thousand (40,000) to 64,999 sixty-five thousand (65,000) square feet in

area may be increased to a maximum of twenty-four hundred (2,400) square feet provided a special use permit is approved by the Planning Commission in accordance with the provisions of Section 14-03-08.

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 sixty-five thousand (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.

* * * * *

6. All allowable accessory buildings for a single-family rural residence in the agricultural zoning district (A) shall be limited to a maximum area of one (1) percent of the total lot area up to a maximum of five thousand (5,000) square feet. The maximum wall height shall be limited to sixteen and one half (16.5) feet and the maximum building height shall be limited to twenty-five (25) feet.

* * * * *

- e. Non-residential accessory uses and buildings in all other zoning districts.

* * * * *

- ~~9. Except for agricultural buildings located in the agricultural zoning district, no accessory building shall exceed the height or floor area of the principal building.~~
9. Manufacturing and repair facilities incidental to the principal use subject to the following limitations:

* * * * *

Section 4. Amend. Sections 14-03-08 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the dimensional requirements for accessory buildings, is hereby enacted to read as follows:

14-03-08. Special Uses. In order to carry out the purposes of this title, the board of city commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasons, be reviewed by the city planning and zoning commission and by the Zoning Administrator (where allowed) prior to the granting of a building permit or certificate of occupancy and that the city planning and zoning commission and the Zoning Administrator (where allowed) are hereby given limited discretionary powers relating to granting of such permit or certificate.

* * * * *

4. Permanent uses (planning and zoning commission approval). The city planning and zoning commission is authorized to grant special use permits for the following uses:

* * * * *

y. Accessory Dwelling Units

* * * * *

3. Requirements for All Accessory Dwelling Units. Prior to receiving a special use permit an applicant shall demonstrate that the following requirements will be met:

- a. No more than one accessory dwelling unit may be permitted on each lot or parcel.
- b. An accessory dwelling unit must be contained completely within the principal structure on the lot or parcel, or contained within an accessory structure that meets all requirements of this Code, including size and setback requirements of the underlying zoning district. However, the height of any accessory dwelling unit may be up to twenty (20) twenty-five (25) feet or the height of the principal structure on the lot, whichever is less.

* * * * *

- ~~g. No part of any rooftop deck or balcony on an accessory dwelling unit may be located within twenty five (25) feet of a side or rear property line.~~

- g. An accessory dwelling unit must be connected to public utilities if available on the lot or parcel. If the lot is serviced by an on-site sewage treatment facility, the applicant must show that sufficient sewage treatment capacity will be available to meet anticipated needs.
- h. An accessory dwelling unit must comply with all residential building code requirements outlined in Title 4 of the Bismarck Code of Ordinances.
- i. An accessory dwelling unit may be occupied by no more than one family, as defined by Title 14 of the Bismarck Code of Ordinances.

* * * * *

Section 5. Amend. Sections 14-04-01 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the dimensional requirements for accessory buildings, is hereby enacted to read as follows:

14-04-01. RR Residential District. In any RR residential district, the following regulations shall apply:

* * * * *

10. Accessory Buildings. All allowable accessory buildings for a single-family residence shall be limited to a maximum of fourteen hundred (1,400) square feet for lots of ~~40,000~~ forty thousand (40,000) square feet or less; to a maximum of eighteen hundred (1,800) square feet for lots between ~~40,000~~ forty thousand (40,000) square feet and ~~64,999~~ sixty-five thousand (65,000) square feet; and to a maximum of twenty-four hundred (2,400) square feet for lots over ~~65,000~~ sixty-five thousand (65,000) square feet, except as provided herein. The ~~maximum wall height shall be limited to sixteen and one-half (16.5) feet and the~~ maximum building height shall be limited to twenty-five (25) feet.

The allowable accessory buildings for a single-family rural residence on a lot with ~~40,000~~ forty thousand (40,000) to ~~64,999~~ sixty-five thousand (65,000) square feet in area may be increased to a maximum of twenty-four hundred (2,400) square feet provided a special use permit is approved by the Planning Commission in accordance with the provisions of Section 14-03-08.

The allowable accessory buildings for a single-family rural residence on a lot with more than ~~65,000~~ sixty-five thousand (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.

* * * * *

Section 6. Amend. Sections 14-04-01.1 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the dimensional requirements for accessory buildings, is hereby enacted to read as follows:

14-04-01.1. RR5 Residential District. In any RR5 residential district, the following regulations shall apply:

* * * * *

11. Accessory Buildings. All allowable accessory buildings for a single-family rural residence shall be limited to a maximum of thirty-two hundred (3,200) square feet. The ~~maximum wall height shall be limited to sixteen and one-half (16.5) feet and~~ the maximum building height shall be limited to twenty-five (25) feet.

* * * * *

Section 7. Amend. Sections 14-04-03 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the dimensional requirements for accessory buildings, is hereby enacted to read as follows:

14-04-03. R5 Residential District. In any R5 residential district, the following regulations shall apply:

* * * * *

10. Height limits. No single-family dwelling shall exceed forty (40) feet in height. No principal building for any other permitted use shall exceed fifty (50) feet in height. No accessory building shall exceed ~~twenty-five (25)~~ twenty (20) feet in height, except for accessory dwelling units which are allowed a maximum height of twenty-five (25) feet.

* * * * *

Section 8. Amend. Sections 14-04-06 of the Code of Ordinances of the City of Bismarck, North Dakota, relating to the dimensional requirements for accessory buildings, is hereby enacted to read as follows

14-04-06. R10 Residential District. In any R10 residential district, the following regulations shall apply:

* * * * *

10. Height limits. No single-family dwelling and no two-family dwelling shall exceed forty (40) feet in height. No principal building for any other permitted use shall exceed fifty (50) feet in height. No accessory buildings shall exceed ~~twenty-five (25)~~ twenty (20) feet in height, except for accessory dwelling units which are allowed a maximum height of twenty-five (25) feet.

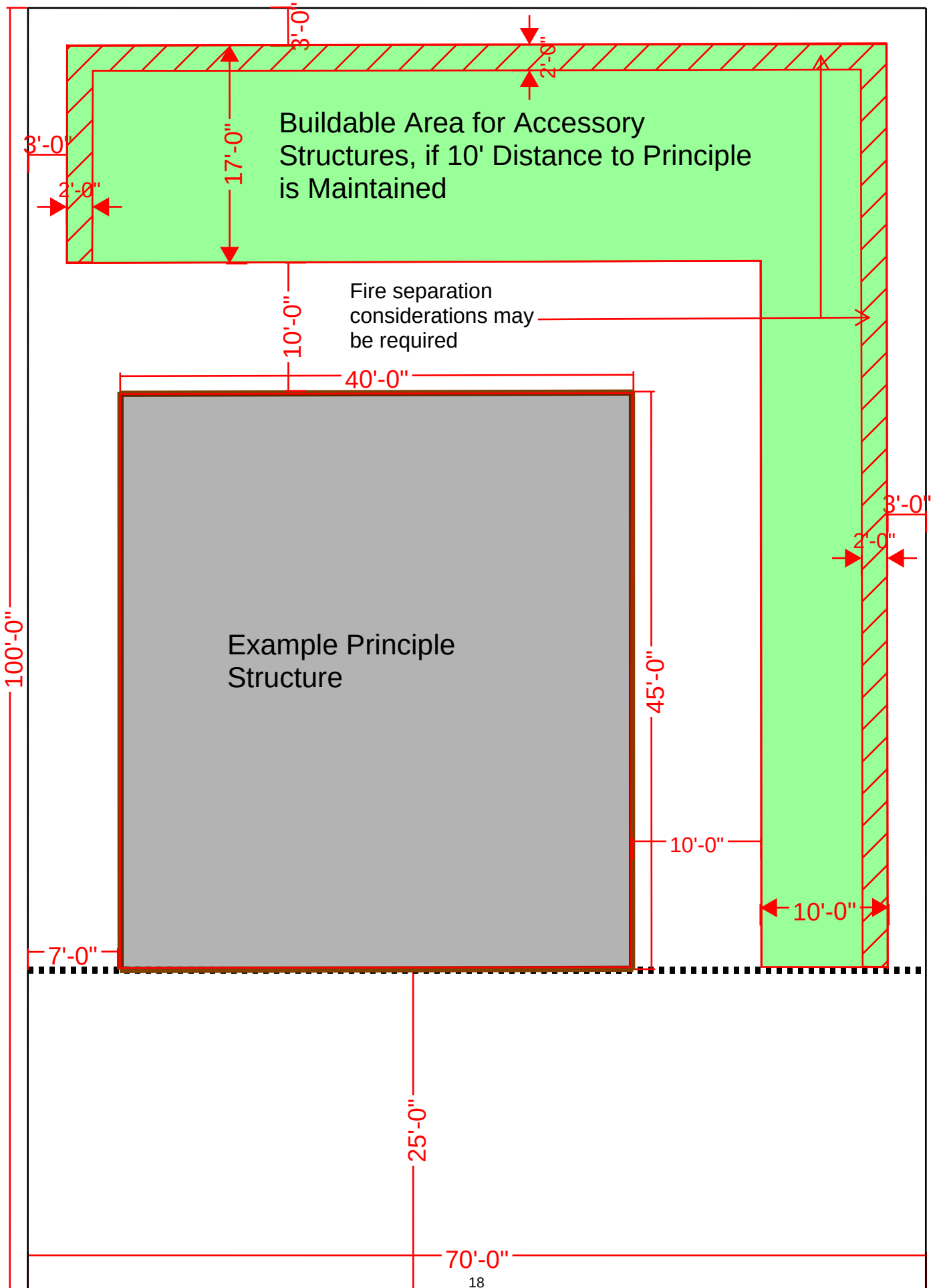
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Section 9. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent remaining portions of this ordinance.

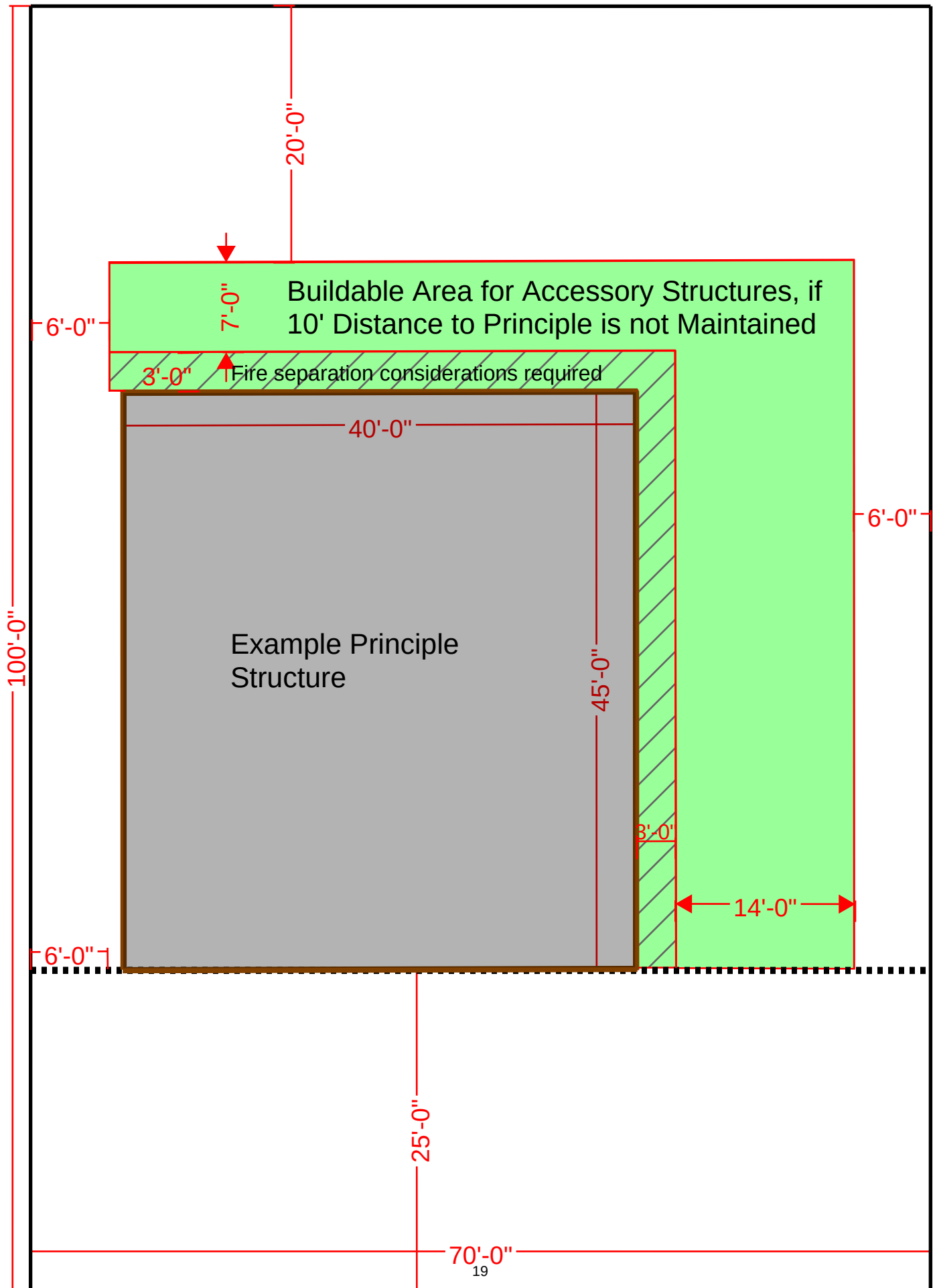
Section 10. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 11. Effective Date. This ordinance shall take effect after final passage, adoption and publication.

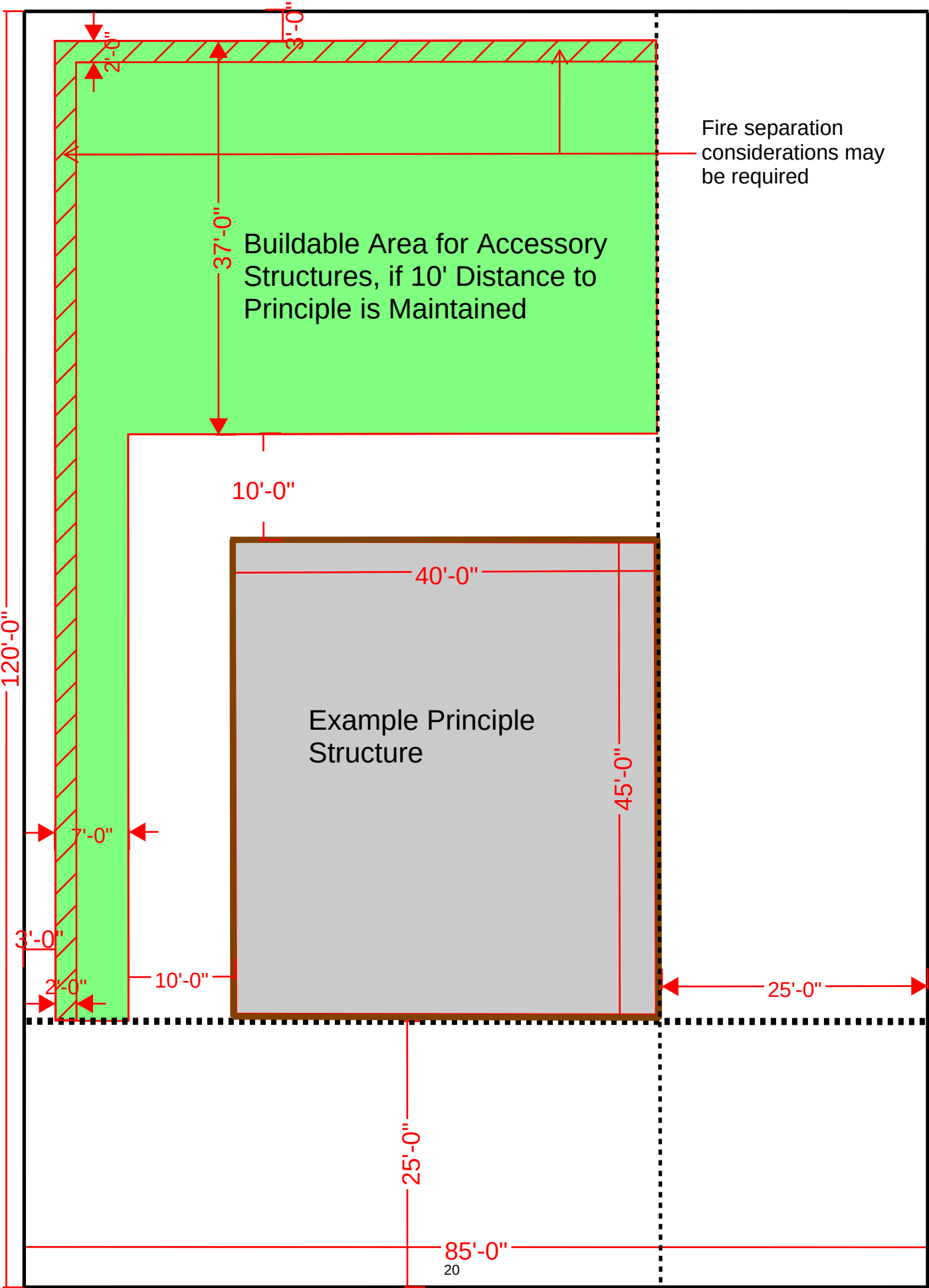
Accessory Structures on an Interior Lot (1"=10')



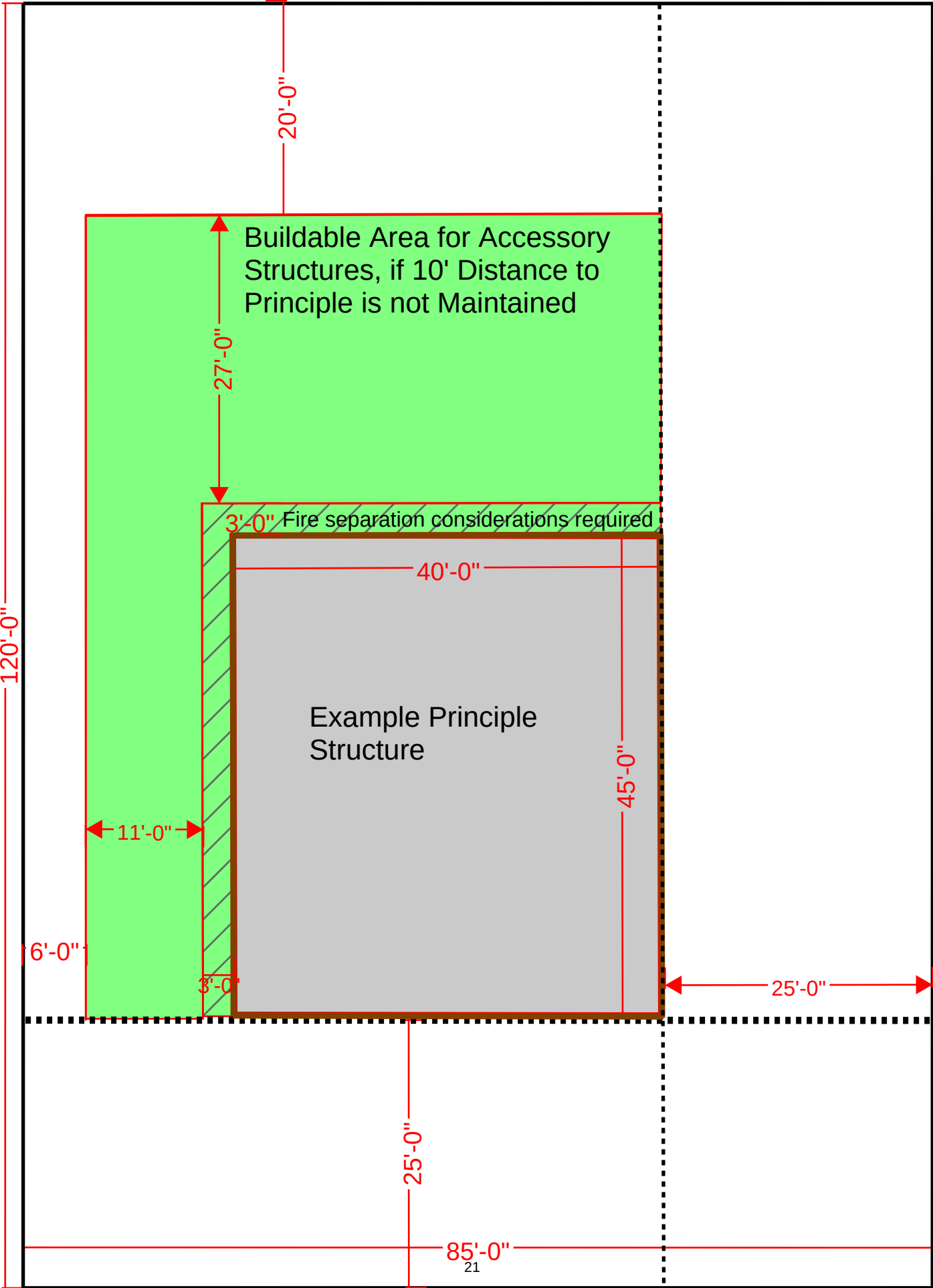
Accessory Structures on an Interior Lot (1"=10'), cont.



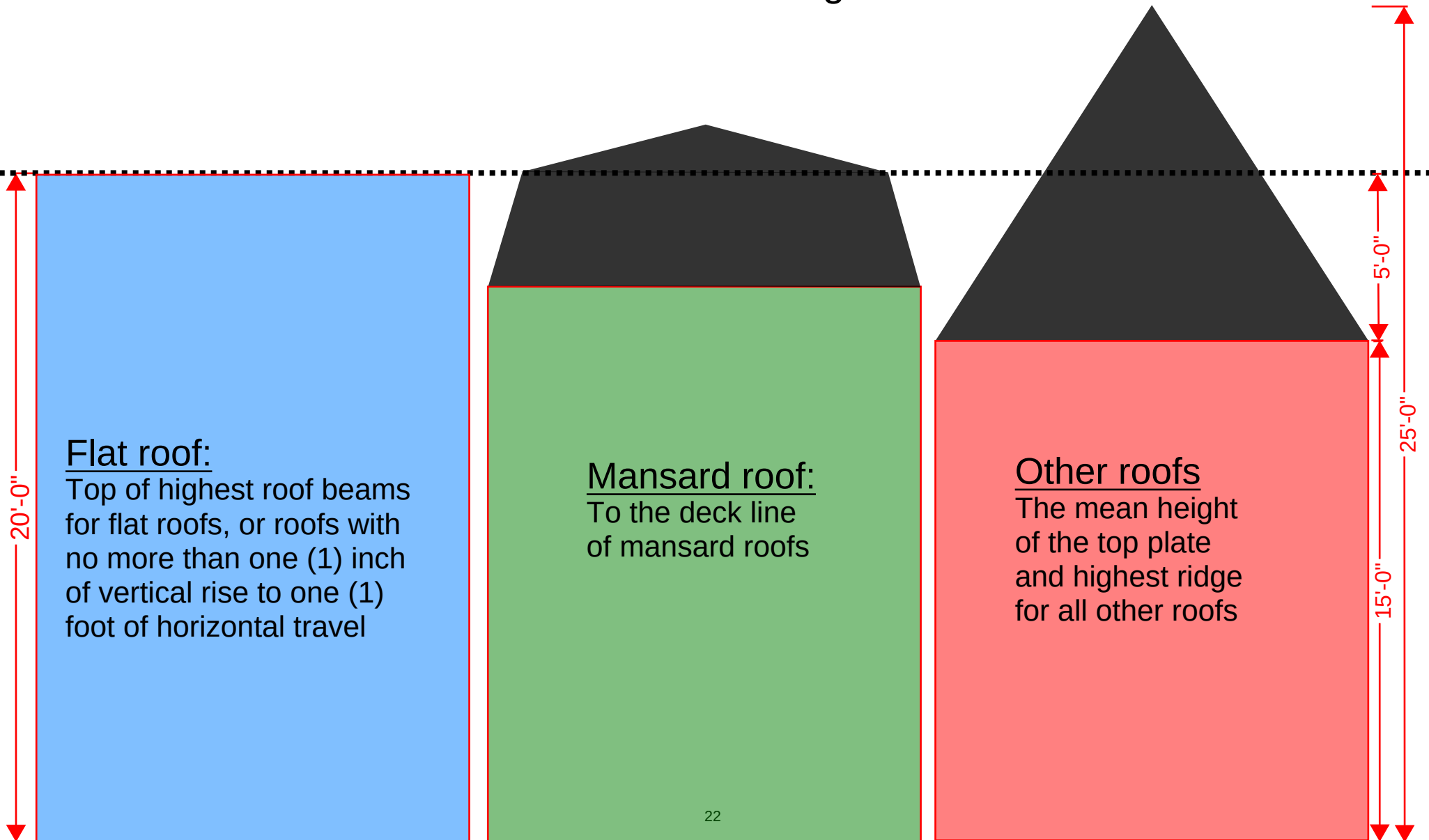
Accessory Structures on a Corner Lot (1"=12')



Accessory Structures on a Corner Lot (1"=12'), cont.



Example maximum heights of
different roof types, assuming
measurements from level ground



STAFF REPORT

Agenda Item # 3
November 15, 2023

Application for: **Annexation**

Zoning Map Amendment

Final Plat

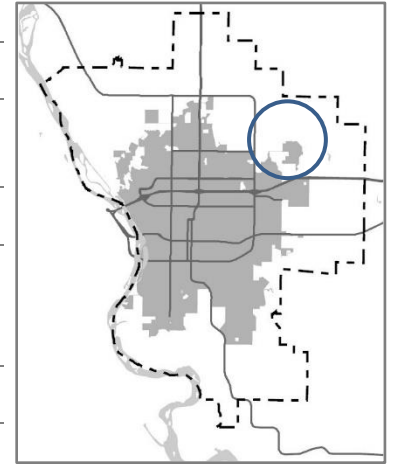
Project ID: **ANNX2022-008**

ZC2022-014

FPLT2023-002

Project Summary

<i>Title:</i>	Silver Ranch Fourth Addition
<i>Status:</i>	Planning and Zoning Commission - Public Hearing
<i>Property Owner(s):</i>	Investcore, Inc Chad Wachter, LLC
<i>Project Contact:</i>	Landon Niemiller, Swenson Hagen & Co.
<i>Project Location:</i>	Northeast of Bismarck, north of 43 rd Avenue NE and east of 52 nd Street NE, along extensions of Silver Boulevard and Silbernagel Drive
<i>Project Size:</i>	43.1 Acres
<i>Applicant Request:</i>	Plat and zone for future mixed-density residential and neighborhood commercial development
<i>Staff Recommendation:</i>	Approve



Site Information

<i>Existing Conditions</i>		<i>Proposed Conditions</i>	
<i>Lots/Blocks:</i>	3 unplatted parcels	<i>Lots/Blocks:</i>	19 Lots in 4 Blocks
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Two-family residential, multi-family residential, school, water tower
<i>Future Land Use:</i>	Neighborhood Mixed Use (NMU) Urban Neighborhood (UN)	<i>Future Land Use:</i>	Neighborhood Mixed Use (NMU) Urban Neighborhood (UN)
<i>Zoning:</i>	A – Agricultural	<i>Zoning:</i>	Conditional RM20 – Residential R10 – Residential P – Public Use
<i>Uses Allowed:</i>	A – Agriculture	<i>Uses Allowed:</i>	Conditional RM20 – Multi-family residential R10 – Single and two-family residential P – Parks, open space, stormwater facilities, and other public uses
<i>Max Density:</i>	A – 1 unit / 40 acres	<i>Max Density:</i>	Conditional RM20 – 20 units / acre R10 – 10 units / acre P – N/A

(continued)

Area Information

<i>Zoning Jurisdiction:</i>	Bismarck City Limits
<i>Township:</i>	N/A (City of Bismarck) Pending
<i>Neighborhood:</i>	Silver Ranch

Property History

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

Project Narrative

Investcore, Inc and Chad Wachter, LLC request approval of a zoning ordinance map amendment from the A – Agricultural zoning district to the Conditional RM20 – Residential, R10 – Residential, and P – Public zoning districts, the final plat for Silver Ranch Fourth Addition, and the annexation of part of Silver Ranch Fourth Addition and Silver Ranch Third Addition. The proposed annexation includes 40.84 acres, more or less.

The subdivision would allow development of a school site, low to moderate density residential

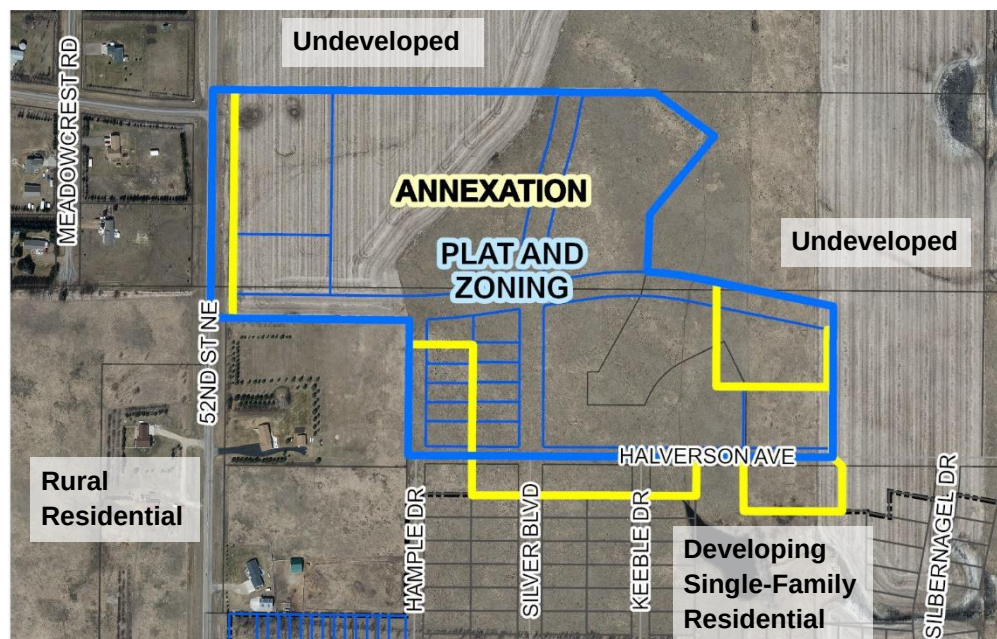
uses, a potential site for a future water tower, and stormwater facilities to support development.

A final plat, zoning map amendment, and annexation for Silver Ranch Fourth Addition was tentatively approved/recommended by the Planning and Zoning Commission on March 22, 2022, and these requests were approved by the City Commission on May 9, 2023. However, the boundaries and lots of the plat have been substantially changed, which requires a new application and review.

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 Neighborhood Mixed Use and Urban Neighborhood in the Future Land Use Plan. Goals and objectives of this plan as they relate to zoning ordinance amendments are referenced in review standards below.

Public Engagement

The public has been duly notified of this request. A notice was published in the Bismarck Tribune on November 3, 2023 and November 10, 2023, and 37 letters were mailed to the owners of nearby properties on November 3, 2023.

(continued)

Basic project information, with the ability to contact staff for more details, has been provided publicly online through the Community Development Activities map.

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.

Final Plat

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

Yes. The proposed final plat is substantially similar to the preliminary plat.

Any and all conditions placed on approval of the preliminary plat by the Planning and Zoning Commission have been satisfied or will remain in place for future completion

Yes. The following conditions of the preliminary plat have been met:

1. "Staff and the applicant consider conditions placed on the RM20 zoning district to limit density and provide internal street connectivity."

A recommended condition has been added, as detailed below.

2. "An administrative amendment to the Active Mobility Plan occurs in conjunction with recordation."

A proposed route has been provided by the applicant and an amendment will be initiated as recommended.

3. "The final plat notes a future access to Lots 1-2, Block 1 from Noble Drive."

An access easement to Noble Drive through this lot has been included in the final plat.

Sufficient easements and rights-of-way are included on the proposed subdivision to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision ([Goal G3-d](#))

Yes. The proposed subdivision includes easements that extended into and through the plat. Easements are included for stormwater and drainage, utilities, a watermain, access, and a multi-use trail (i.e. shared use trail).

Technical specifications required of the final plat have been met (Section 14-09-07)

Yes. The proposed final plat contains the required information to ensure an accurate and timely review by staff, the Planning and Zoning Commission, and the general public.

Proper administrative procedures related to the request are being followed (Section 14-09-04)

Yes. All administrative procedures of the City Code of Ordinances and North Dakota Century Code have been followed to date. Upon tentative approval of the preliminary plat, the applicant has submitted a complete application for final plat approval, 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 for this request, and all requirements for notice of this hearing have been met, as documented in this report above.

Creation of any new lots in the City of Bismarck is subject to utility capital charges, which will be due upon creation of a street improvement district, annexation, or recordation of the plat, whichever is the latter.

(continued)

The Major Street Plan is adhered to with the proposed subdivision ([Major Street Plan](#))

Yes. The corridors identified in the Major Street Plan are incorporated into rights-of-way within the proposed subdivision. The right-of-way of Noble Drive and the extension of Silver Boulevard shown on the proposed plat are both identified as future collector roadways. A plan reference map is attached to this staff report.

The Active Mobility Plan is adhered to with the proposed subdivision ([Active Mobility Plan](#))

Yes, with an administrative amendment to the Active Mobility Plan. A shared-use path originating from a park to the south will continue through this subdivision, but the alignment will be shifted to the east around a proposed stormwater detention pond. If the plat is approved, the Director of Community Development and the City Engineer would also approve an amendment to the Active Mobility Plan to adjust the alignments of the plan to reflect the rights-of-way or easements dedicated on the plat. A plan reference map is attached to this staff report.

A neighborhood park will be available within walking distance for all urban residents ([Goal 11-a](#), Section 14-09-04(2)a(vii))

Yes. Adequate parks and open space already exist to serve anticipated residents of this subdivision. The requirements of the neighborhood parks and open space policy have been waived by the Bismarck Parks and Recreation District. A neighborhood park will be developed on Lot 20, Block 8, Silver Ranch Third Addition, adjacent to the south.

Vehicle trips generated by the proposed subdivision will be adequately supported by the transportation system ([Goal C3-c](#))

Yes. The proposed subdivision would likely not have a substantial effect on circulation and safety

of public roadways in the vicinity, and therefore no traffic impact study is required.

Street connectivity is provided for efficient travel and secondary access for emergency services ([Goal C4](#), Section 14-09-05)

Yes, with the understanding that a certain standard of internal access for vehicles and pedestrians is met within Blocks 2 and 3, in lieu of local public roads. A condition has been recommended by staff and added to the draft RM20 – Residential zoning district ordinance to include internal vehicle and pedestrian connections between each housing unit within the block.

As proposed, the subdivision would result in a disconnected public street network, leading to potential traffic congestion and barriers to emergency response on both a regional and local scale.

At a regional scale, the developing Silver Ranch area is functionally connected to Bismarck by only 43rd Avenue NE. A blockage of this roadway would divert emergency response a significant distance. A proposed extension of East Century Avenue and 52nd Street NE would provide an additional means of access to this area once it is completed.

At a local scale, the area concept development plan submitted with this request, and attached to this staff report, would result in block lengths that exceed the maximum length of 1,320 feet on three separate blocks. Certain blocks shown in the area concept development plan could contain eight or nine traditional city blocks, found in the central areas of Bismarck. The ordinance violation would not occur within Silver Ranch Fourth Addition, but the street layout approved in this plat would influence subsequent phases of development.

Previously approved versions of Silver Ranch Fourth Addition included an extension of Keeble

(continued)

Drive, but that right-of-way has been removed from this version.

The Together 2045 Comprehensive Plan includes Goal C4: “Encourage a highly connected network of streets and pathways,” with the following relevant objectives:

“a) Improve vehicular travel for all road users by dispersing traffic, allowing multiple route options, and providing safe alternatives for cyclists or scooters through creation of a fine-grained pattern of streets

b) Enhance the existing secondary access policy to ensure at least two reasonably direct and reliable means of access to all developed areas for emergency services and general travel

c) Provide for sufficient street and pathway connectivity and shortened block lengths on new development during the subdivision review process, including to undeveloped areas outside of the development with use of temporary stub-outs as necessary”

According to the US DOT, “A well-connected transportation network reduces the distances traveled to reach destinations, increases the options for routes of travel, and can facilitate walking and bicycling.” The goal for a well-connected street network supports other objectives of the comprehensive plan, including public health, traffic congestion, and emergency services.

Roadway access is managed to reduce potential points of conflict and improve safety (Goal C3-b)

Yes. A note on the final plat to determine an appropriate access point from Lots 1-2, Block 1 to Noble Drive. The location of this driveway and access easement has not yet been determined, but it can be reviewed during site development. Otherwise, direct access to major public roadways is appropriately limited and spacing of all

intersections is adequate to meet the City’s access management standards and professional engineering judgement. Non-access lines will be dedicated with the proposed plat to communicate and enforce this access control.

Stormwater runoff impacted by this subdivision is adequately managed to protect public and private investments and the natural environment (Goal I5, Section 14.1-04-03);

Yes. The City Engineer has conditionally approved the Post-Construction Stormwater Management Permit (PCSMP) for the proposed subdivision. Sufficient easements are in place for installation of the all necessary facilities.

Natural hazards and impact to environmentally sensitive land is minimized through the location and design of the proposed subdivision (Goal I6-a)

Yes. 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.

Water supply systems will seamlessly transition from a rural to an urban system through cooperation with the South-Central Regional Water District (Goal G3-f, Section 14-09-04(2)d)

Yes. The proposed subdivision will be served with municipal water upon development and no future transition will be necessary.

The City’s investment in infrastructure associated with the proposed subdivision is expected to receive a proportional long-term return to residents through future revenues or other public goods associated with this subdivision (Goal G3-a)

Yes. The future revenue and other public goods generated by the proposed subdivision are expected to be proportional to the public costs of development. Public costs associated with

(continued)

provision of municipal water and sewer service to new development will be adequately compensated for through payment of capital utility charges. The initial development will be funded by the developer or through special assessment of properties benefitted by said improvements, as outlined in the Development Cost Policy. Ongoing costs of maintenance and operation of all public facilities will be offset by property and/or sales tax derived from the proposed subdivision.

Technical specifications required of the final plat have been met (Section 14-09-07)

Yes. The proposed preliminary plat contains the required information to ensure an accurate and timely review by staff, the Planning and Zoning Commission, and the general public.

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

Yes. As a cumulative result of all findings contained in this staff report, City of Bismarck staff find that the proposed subdivision would not adversely impact the public health, safety, and general welfare, recognizing that future platting and growth in this area may result in a deficiently connected network or streets unless remedied.

Zoning Map Amendment

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

Yes, with the understanding that the proposed Conditional RM20 – Residential zoning district is developed at low-to-moderate densities suitable to the Urban Neighborhood classification. The applicant has expressed that this is their intent, although not strictly required by the requested zoning district.

The proposed zoning map amendment is within the area designated as Neighborhood Mixed Use and Urban Neighborhood 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.

At this time, it is the applicant's intent to develop a complex of townhomes or rowhouses on Blocks 2 and 3, which align with the Urban Neighborhood designation, especially as a transition to more intensive uses to the north.

Although Lot 3, Block 1 would be zoned R10 – Residential, it is intended for development as a school site, which aligns with the intent of the Neighborhood Mixed Use District it is within.

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

Yes. Adjacent uses are described in the project context section above. The proposed zoning district would allow a range of residential densities, as well as institutional uses. 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 A – Agricultural zoning district was established by default with extension of the Extraterritorial area. Conditions have changed since this time as the City of Bismarck has developed.

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 enhance the diversity of housing types available to Bismarck residents and would support a mix of uses to create vibrant neighborhoods where necessities and amenities of daily life are easily accessible to all residents.

(continued)

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 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.

Annexation

The Growth Phasing Plan is adhered to with the proposed annexation ([Growth Phasing Plan](#))

Yes, with funding commitments related to expansion of municipal infrastructure. The proposed annexation incorporates land that is within the Urban Service Area Boundary and has been designated as Expansion Priority 3. This area is not yet easily serviced with existing infrastructure and municipal services, but may reasonably be annexed by 2045, the time horizon of this plan. The petitioner would be responsible for financing and installing necessary services.

Adequate public facilities are or will be available to serve the annexed properties completely and equitably ([Goal G3-b](#), [Goal G3-c](#))

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

The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck ([Goal G2-b](#), [NDCC 40-51.2-03](#))

Yes. The area proposed annexation is clearly contiguous to the existing corporate boundaries. 20% of the proposed annexation's perimeter adjoins corporate limits. Generally, any proportion greater than 20% is considered unambiguously contiguous.

Proper administrative procedures related to the request are being followed ([NDCC 40-51.2](#))

Yes. All administrative procedures of the City Code of Ordinances and North Dakota Century Code have been followed to date. A written petition for the proposed annexation was submitted to the Community Development Department, which has been deemed valid by City staff. A public hearing, subject to all notice requirements, would be held with the City Commission.

Creation of any new lots in the City of Bismarck is subject to utility capital charges, which will be due upon creation of a street improvement district, annexation, or recordation of the plat, whichever is the latter.

The public health, safety and general welfare will not be adversely impacted by the proposed annexation ([Goal S10-a](#))

Yes. As a cumulative result of all findings contained in this staff report, City of Bismarck staff find that the proposed annexation would not

(continued)

adversely impact the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance map amendment from the A – Agricultural zoning district to the Conditional RM20 – Residential, R10 – Residential, and P – Public zoning districts, the final plat for Silver Ranch Fourth Addition, and the annexation of part of Silver Ranch Fourth Addition and Silver Ranch Third Addition.

Attachments

1. Draft Annexation Ordinance
2. Draft Zoning Ordinance
3. Zoning and Plan Reference Map
4. Proposed Zoning Map
5. Annexation Exhibit
6. Final Plat
7. Preliminary Plat
8. Area Concept Development Plan

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

CITY OF BISMARCK

ORDINANCE NO. 6536

First Reading _____

Second Reading _____

Final Passage and Adoption _____

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

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

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

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

The above described tract of land contains 40.84 acres, more or less.

Section 2. Provisions Applicable. From and after the final passage and adoption of this ordinance and upon recording of this ordinance with the Burleigh County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, North Dakota.

CITY OF BISMARCK

ORDINANCE NO. 6537

First Reading
Second Reading
Final Passage and Adoption
Publication Date

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

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

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

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

Lot 1, Block 2; and Lots 1 – 3, Block 3, Silver Ranch Fourth Addition.

This Conditional RM20 – Residential zoning district is subject to the following additional standards:

1. Every housing unit shall have at least one means of travel by a roadway meeting minimum fire apparatus access roadway standards to every other housing unit within the same block and zoning district.
2. Every housing unit shall have at least one safe means of pedestrian access to every other housing unit within the same block and zoning district.

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

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

Lots 1 and 3, Block 1; Lots 1 – 12, Block 4, Silver Ranch Fourth Addition.

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

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

Lot 2, Block 1, Silver Ranch Fourth Addition.

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

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

Zoning Districts

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

Future Land Use Plan

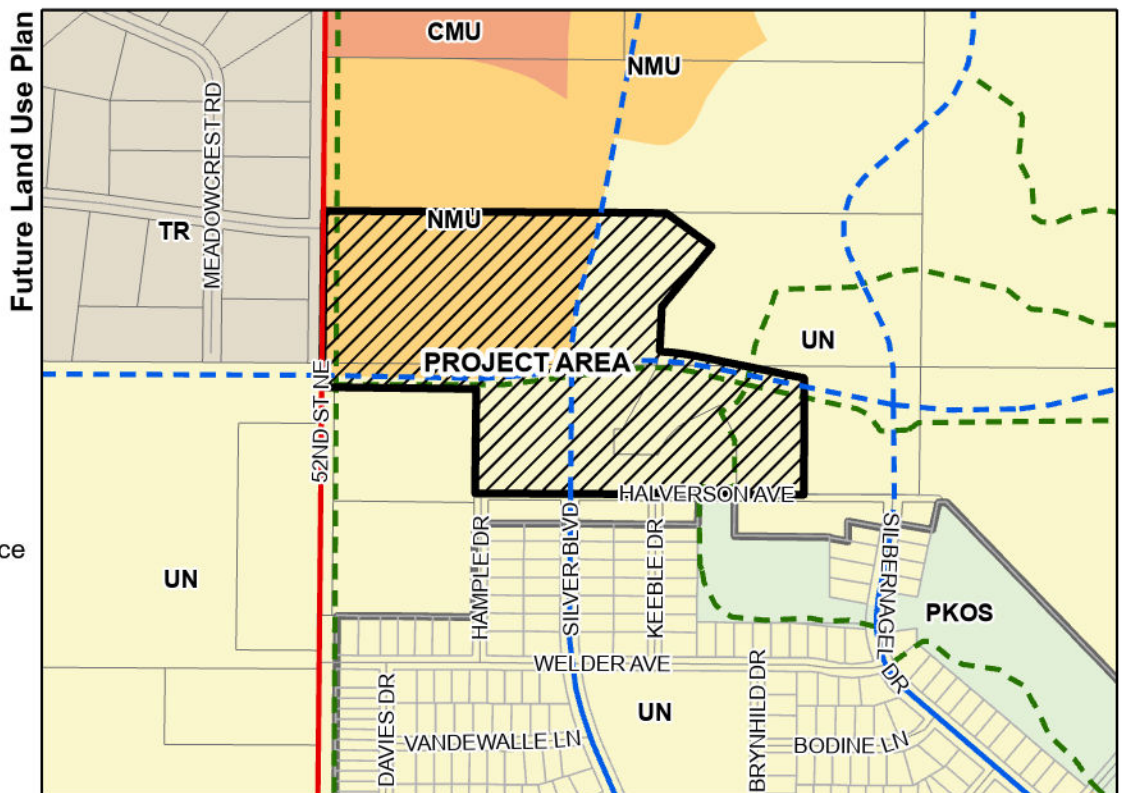
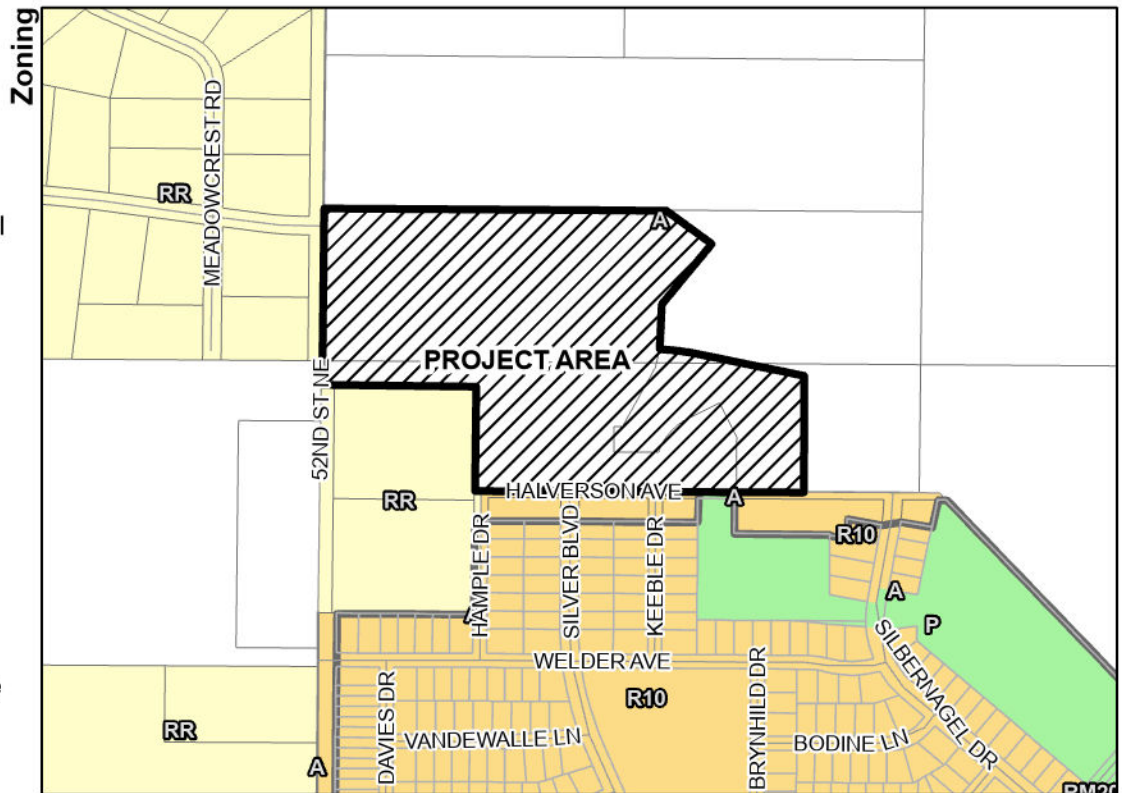
UN	Urban
NMU	Neighborhood Mixed Use
CMU	Community Mixed Use
DMU	Destination Mixed Use
DT	Downtown
IND	Industrial
IF	Industrial Flex
IMU	Industrial Mixed Use
INS	Institutional
RR	Rural
TR	Residential Transitional
PKOS	Parks/Open Space
URA/	Urban Reserve
URB	Mid/Long-Term

Active Mobility Plan

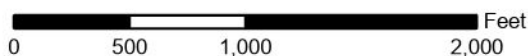
— Future Shared Trail

Major Street Plan

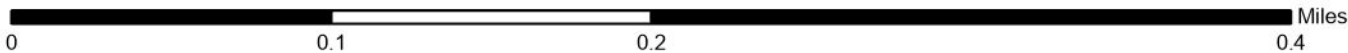
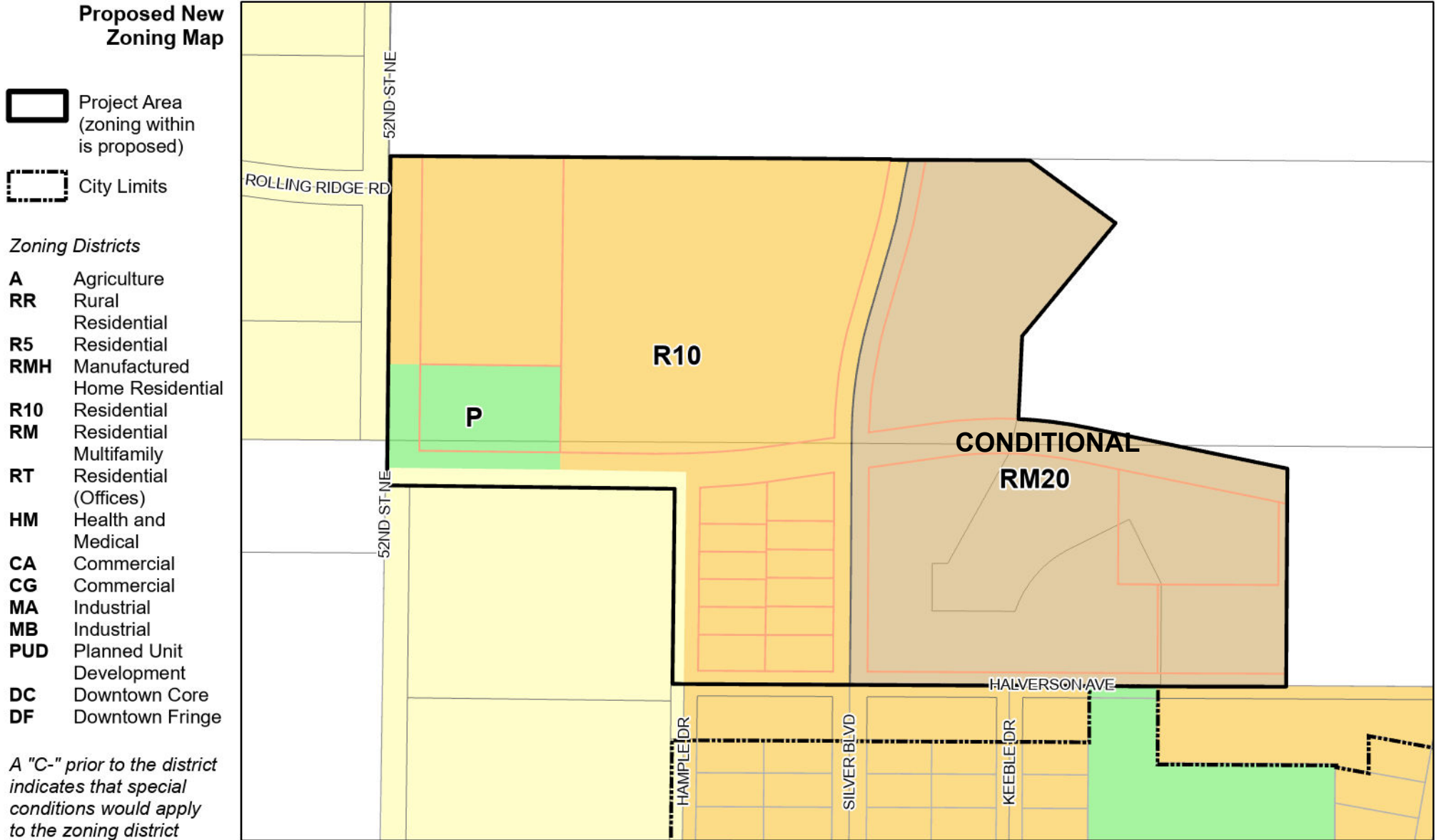
—	Existing Arterial
- - -	Future Arterial
—	Existing Collector
- - -	Future Collector
—	Existing Interstate
- - -	Future Interstate



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.



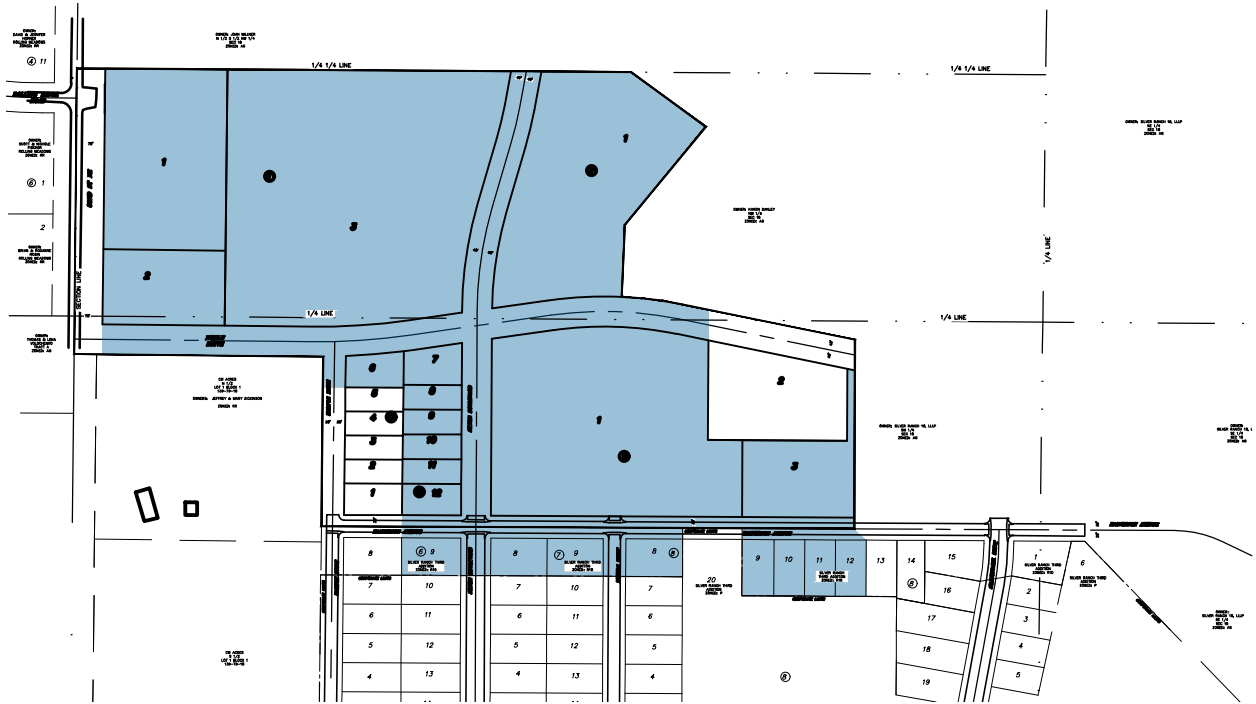
City of Bismarck
Community Development
Planning Division
October 17, 2023



*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.*



SILVER RANCH THIRD & FOURTH ADDITION ANNEXATION EXHIBIT



SILVER RANCH 4TH:

ALL OF BLOCK 1 & ADJOINING NOBLE DRIVE &
SILVER BOULEVARD RIGHTS-OF-WAY; ALL OF
BLOCK 2 AND ADJOINING NOBLE DRIVE & SILVER
BOULEVARD RIGHTS-OF-WAY; LOT 1 BLOCK 3
AND ADJOINING NOBLE DRIVE, SILVER BOULEVARD,
AND HALVERSON AVENUE RIGHTS-OF-WAY; Lot 3
Block 3 AND ADJOINING HALVERSON AVE
RIGHT-OF-WAY; LOTS 6-12 BLOCK 4 AND
ADJOINING NOBLE DRIVE, HAMPLE DRIVE, SILVER
BOULEVARD, & HALVERSON AVENUE
RIGHTS-OF-WAY

SILVER RANCH 3RD:

LOT 9 BLOCK 6 AND ADJOINING HALVERSON
AVENUE AND SILVER BOULEVARD RIGHTS-OF-WAY

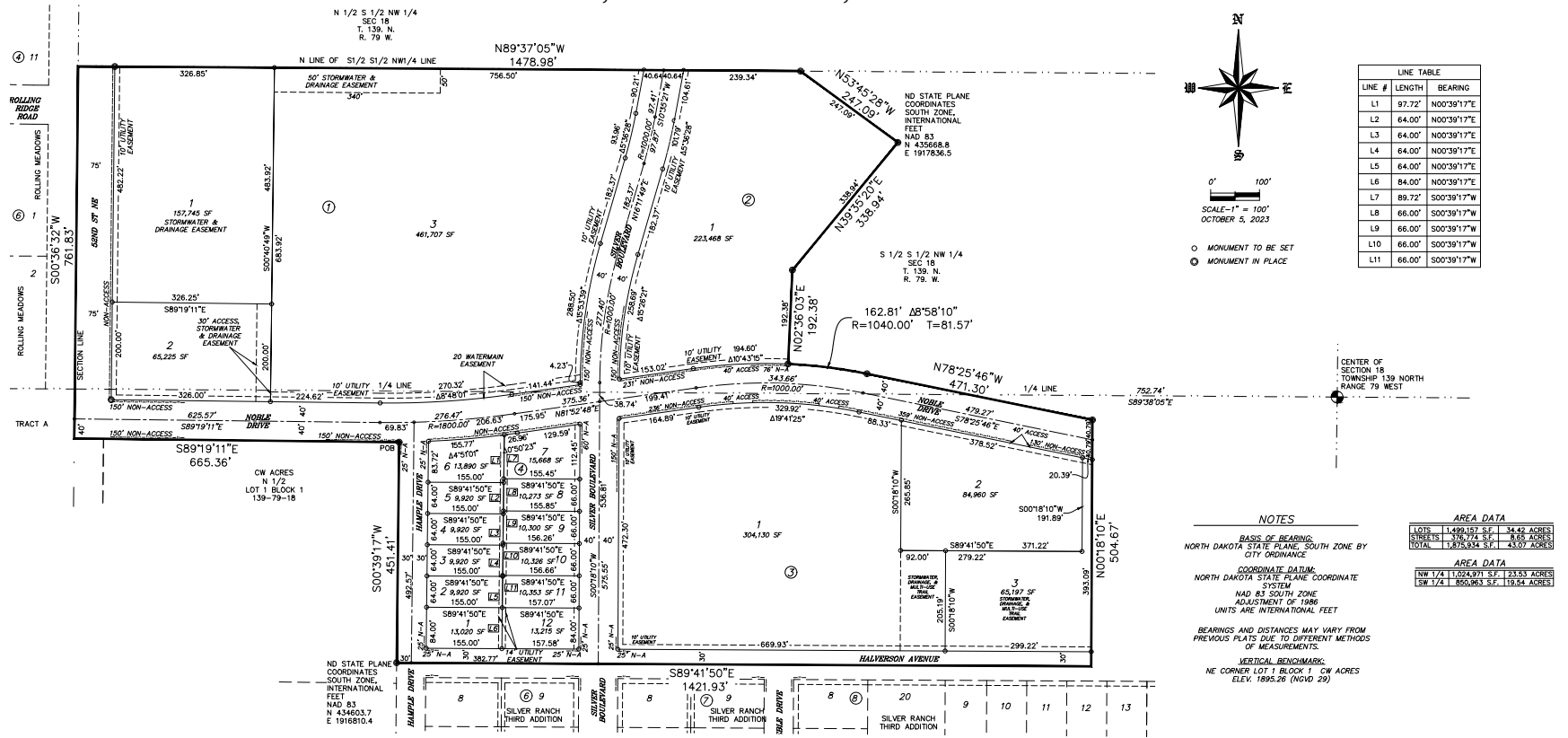
LOTS 8 & 9 BLOCK 7 AND ADJOINING HALVERSON
AVENUE, SILVER BOULEVARD, & KEEBLE DRIVE
RIGHTS-OF-WAY

LOT 8-12 BLOCK 8 AND ADJOINING HALVERSON
AVENUE & KEEBLE DRIVE RIGHTS-OF-WAY

SILVER RANCH FOURTH ADDITION

PART OF THE WEST 1/2 OF SECTION 18
TOWNSHIP 139 NORTH RANGE 79 WEST
OF THE FIFTH PRINCIPAL MERIDIAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



DESCRIPTION

PART OF THE WEST 1/2 OF SECTION 18, TOWNSHIP 139 NORTH, RANGE 79 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 1 BLOCK 1 CW ACRES; THENCE SOUTH 00 DEGREES 39 MINUTES 17 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 451.41 FEET TO THE NORTH LINE OF SILVER RANCH THIRD ADDITION; THENCE SOUTH 89 DEGREES 41 MINUTES 50 SECONDS EAST, ALONG SAID NORTH LINE, A DISTANCE OF 1421.93 FEET; THENCE NORTH 00 DEGREES 18 MINUTES 10 SECONDS EAST, A DISTANCE OF 504.67 FEET; THENCE NORTH 78 DEGREES 25 MINUTES 46 SECONDS WEST, A DISTANCE OF 471.30 FEET; THENCE WESTERLY AND TO THE LEFT, ON A 1040.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 162.81 FEET; THENCE NORTH 02 DEGREES 46 MINUTES 03 SECONDS EAST, A DISTANCE OF 192.38 FEET; THENCE NORTH 39 DEGREES 39 MINUTES 20 SECONDS EAST, A DISTANCE OF 338.94 FEET; THENCE NORTH 53 DEGREES 45 MINUTES 28 SECONDS WEST, A DISTANCE OF 247.09 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NW 1/4 OF SAID SECTION 18; THENCE NORTH 89 DEGREES 37 MINUTES 05 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 1478.98 FEET TO THE WEST LINE OF SAID SECTION 18; THENCE SOUTH 00 DEGREES 36 MINUTES 30 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 752.74 FEET TO THE NORTH LINE OF CW ACRES; THENCE SOUTH 89 DEGREES 19 MINUTES 11 SECONDS EAST, ALONG SAID NORTH LINE, A DISTANCE OF 665.36 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 43.07 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, TERRY BALZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE APPROVED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON 2023, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

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

TERRY BALZER
PROFESSIONAL LAND SURVEYOR
N.D. REGISTRATION NO. 3595

APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE 2023, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS, IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

MICHAEL J. SCHWARTZ - CHAIRMAN

ATTEST
BEN EIRETH - SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

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

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE ____ DAY OF ____ 2023.

ATTEST
KEITH J. HUNKE - CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

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

GABRIEL J. SCHELL
CITY ENGINEER

OWNERS' CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT INVESTORE, INC., BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "SILVER RANCH FOURTH ADDITION", BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

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

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

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

THEY FURTHER GRANT A WATERMAIN EASEMENT TO THE PUBLIC, SAID EASEMENT TO CONSTRUCT, OPERATE, MAINTAIN, AND REPAIR WATERMAIN FACILITIES UNDER OR UPON THE REAL PROPERTY DESIGNATED HEREON AS WATERMAIN EASEMENTS.

THEY ALSO DEDICATE A MULTI-USE TRAIL EASEMENT TO BISMARCK PARKS AND RECREATION DISTRICT, TO CONSTRUCT, INSTALL, MAINTAIN, AND REPAIR A MULTI-USE TRAIL OVER THE EASEMENT AREA, AND TO THE PUBLIC FOR THE USE THEREOF.

STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH)

CHAD WACHTER
INVESTORE, INC.

ON THIS ____ DAY OF ____ 2023, BEFORE ME PERSONALLY APPEARED CHAD WACHTER OF INVESTORE, INC., KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES ____

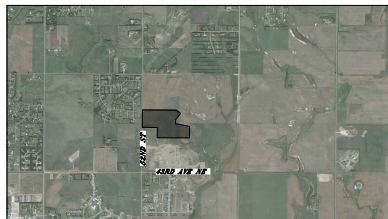
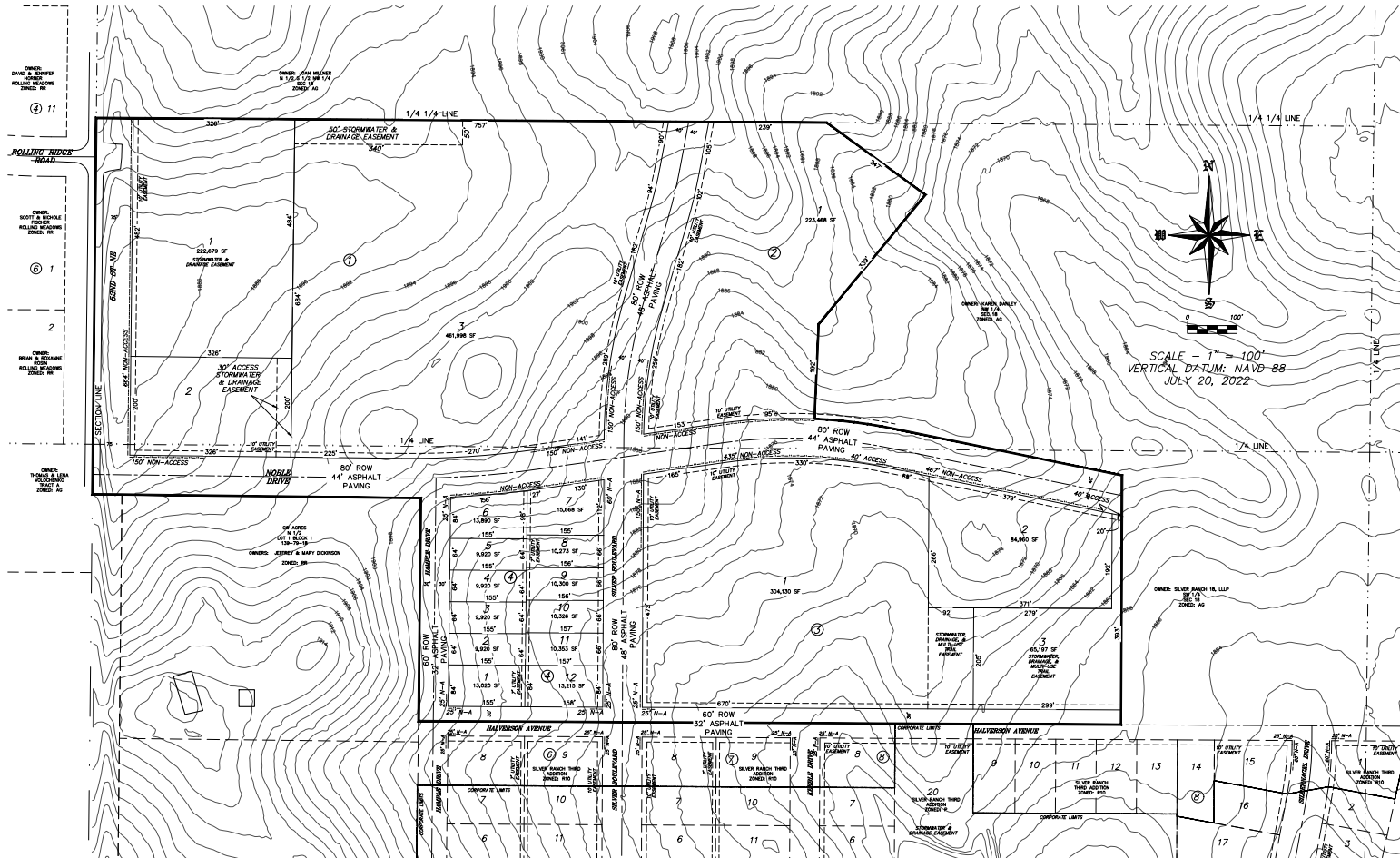


SWENSON, HAGEN & COMPANY P.C.
909 Basin Avenue
Bismarck, North Dakota 58504
deng@swensonghagen.com
Phone (701) 223-2600
Fax (701) 223-2606
Civil Engineering
Landscape & Site Design
Construction Management

SILVER RANCH FOURTH ADDITION

PART OF SECTION 18
TOWNSHIP 139 NORTH, RANGE 79 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



LOCATION MAP

43.1 ACRES
EXISTING ZONING: AG
PROPOSED ZONING: R10/RM20/P
19 LOTS

OWNER: INVESTCORE, INC./
CHAD WACHTER, LLC

CENTERLINE LENGTHS:

NOBLE DRIVE---2,100 LF (COLLECTOR)
SILVER BLVD---1,231 LF (COLLECTOR)
HAMBLE DRIVE---493 LF (LOCAL)
HALVERSON AVE---1,392 LF (LOCAL, HALF OF DEDICATED ROW)

MAXIMUM ALLOWABLE HOUSING UNITS:

R10 ---26 UNITS
RM20---281 UNITS

SILVER RANCH FOURTH ADDITION MASTERPLAN

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA





MEMORANDUM

DRAFT REQUEST FOR PROPOSALS FOR LAND DEVELOPMENT CODE

TO: Chair Schwartz and the Planning and Zoning Commission

FROM: Daniel Nairn, AICP, Planning Manager

DATE: November 9, 2023

The Community Development Department will be seeking assistance with amendments to Title 14 of the Bismarck Code of Ordinances, which currently contains zoning, subdivision, and related items. The Comprehensive Plan refers to this collectively as a "Land Development Code."

Please see the attached draft of a Request for Proposals for creation of a new Land Development Code for the City of Bismarck. The request is scheduled to be released on Friday, November 17. The Planning and Zoning Commission can expect to work closely with the selected firm from March 2024 to the end of 2025 on this important project.



REQUEST FOR PROPOSALS:

A NEW LAND DEVELOPMENT CODE FOR CITY OF BISMARCK

Issued: November 17, 2023

Proposals Due: January 5, 2024



City of Bismarck
221 North 5th Street
P.O Box 5503
Bismarck, ND 58506

REQUEST FOR PROPOSALS (RFP):

A NEW LAND DEVELOPMENT CODE FOR CITY OF BISMARCK

Summary RFP Schedule:

RFP Issued	November 17, 2023
Proposal Deadline	January 5, 2024 at 5:00 p.m.
Selection of Proposal by City Commission	February 13, 2024

Any interested individual may request to be on an email list to receive updates on the RFP process, including addenda to the RFP if any are issued. The City may alter this RFP at any time.

Submittal Instructions

Proposals must be received by the City of Bismarck no later than **5:00 p.m. CST on January 5, 2024**. Proposals received after this deadline will not be accepted.

Send proposals and direct questions regarding the RFP to:

Daniel Nairn,
Planning Manager
City of Bismarck
PO Box 5503
Bismarck, ND 58504
dnairn@bismarcknd.gov

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Purpose for Request

The Comprehensive Plan for the City of Bismarck, adopted by the Board of City Commissioners in December of 2022, includes the following strategy:

“Develop and adopt a new land development code, including both zoning and subdivision ordinances, in accordance with all goals and objectives of this plan.”

The plan further states:

“A new Bismarck Land Development Code should be adopted as Title 14 of the Bismarck Code of Ordinances, replacing the existing zoning and subdivision ordinance. The last major update to the zoning and subdivision ordinance occurred in 1982, and substantial portions date back to 1953. Although zoning ordinance text amendments are regularly adopted, a systematic update has become necessary.”

Together 2045 – Bismarck’s Comprehensive Plan is [available here](#) from the City of Bismarck website. The new Land Development Code will serve as one tool to implement the overall vision established by this plan and should align with the general values of the community.

The current zoning and subdivision ordinance of Title 14 is [available here](#) from the City of Bismarck website. Portions of the ordinance were added or substantially revised in recent years, including Title 14.1 Stormwater Management, Chapter 14-03.1 Signs, and Section 14-03-10 Off-Street Parking and Loading, and may not require significant modifications.

Scope of Planning Services

The Bismarck Planning and Zoning Commission, through this Request for Proposals, seeks a qualified consultant to create a new Land Development Code for the City of Bismarck.

The scope of services includes the following tasks:

1. **Public Engagement.** Facilitate public engagement to solicit ideas and feedback throughout the Land Development Code creation process. Public engagement activities should be arranged to obtain meaningful and representative responses from residents of Bismarck and its extraterritorial area. This process will begin with the creation and acceptance of a public participation plan, which outlines means to effectively engage stakeholders and the general public. Public engagement, at a minimum, will include the following activities:
 - a. Provide direction to a steering committee and lead at least 8 meetings scheduled at regular intervals. Project manager should be present in-person for at least 2 meetings.

- b. Prepare for and hold public meetings during at least 2 stages of the process to provide opportunities to review concepts and provide feedback. Meetings are to be held in-person with remote options provided, although not necessarily in real-time. Meetings must follow the City of Bismarck Title VI Plan and meeting locations are required to be physically accessible for the general public and employees.
 - c. Create and host a website for the project and regularly update with drafts as produced. The website should provide user interaction through polling, comments, or other means. Unique project branding (e.g. logo) is not necessary.
 - d. Submit a report that documents all public participation activities and references sources for specific provisions of the Land Development Code. Sources may be the steering committee, plans, studies, comments received (without names), peer communities, and other input or research collected by the firm.
2. **Project Scope.** Propose and affirm an outline of which topics in the current Title 14 should be included or not within the Land Development Code, and whether any new topics should be added.
3. **Formatting.** Submit a memo on best practices for formatting, codification, and enhancing usability of the Land Development Code. This should be completed early in the process to inform creation of the draft.
4. **Organizing Concept.** Present and seek consensus on an organizing concept for the Land Development Code that supports the goals of the Comprehensive Plan and remains compliant with requirements of the North Dakota Century Code and other relevant law. This may be drawn from peer communities, academic literature, guidance documents from organizations, and/or the firm's professional expertise. This should be completed at an early stage in the process to inform drafting of the Land Development Code. The current Zoning Ordinance (Title 14) should not be used as a starting point for this investigation.
5. **Ordinance Text.** Draft language of the Land Development Code through an iterative process integrated with the public engagement process outlined above.
6. **Ordinance Visualizations.** Create visualizations of dimensional, design, or spatially-related requirements, either for direct incorporation into the Land Development Code or a separate guidance document, to be determined. Illustrations should be clear and simple, employ a consistent graphic design style throughout, and be delivered in a vector format editable by Adobe Creative Suite software.
7. **Code Adoption.** Following existing procedures, present final draft Land Development Code to the Planning and Zoning Commission and successfully obtain their recommendation. Present recommended draft Land Development Code to the Board of City Commissioners and successfully obtain adoption.

8. **Staff Communications.** Maintain regular communications with Planning Division staff through email, meetings, or phone throughout the process of drafting the ordinance language and project delivery, to include, at a minimum, monthly remote meetings with staff. The Bismarck Planning Division includes four professional planners, two of which are AICP-certified. The Community Development Director is also an AICP-certified planner. City staff in the Community Development Department will remain a local resource to the consultant throughout the process.
9. **Implementation Support.** Provide support for the implementation of the adopted Land Development Code for a period of one year, including training and education for city staff and the development community, monitoring the effectiveness of the new code, and recommending adjustments as needed. This will ensure that the new code is successfully implemented and achieves its intended outcomes.

Project Budget

A fixed fee contract of an amount to be specified in the proposal, not to exceed \$250,000, will be used. Project costs may be invoiced at regular intervals throughout the project. However, at least 20% of the total project budget will be retained until successful adoption of the Land Development Code is achieved.

Community Profile

Bismarck is the capital city of North Dakota, located on the banks of the Missouri River. The City of Bismarck has an estimated 2022 population of 74,445, which makes it the second most populous city in the state. The city is located near the Standing Rock and Mandan Hidatsa Arikara tribal nations - two of five native nations in the state.

Bismarck is a regional retail and medical center that experiences steady population growth and is consistently recognized as a great place to live for our quality schools, parks, open space, low crime, affordability and strong economy. The city has grown at an average rate of 1.2% per year since 1980, and this rate is expected to continue to approach a 100,000 population by 2045. The City of Bismarck shares a metropolitan statistical area with the cities of Mandan, Lincoln, and counties of Burleigh, Morton, and Oliver.

Bismarck became the first city in North Dakota to adopt a zoning ordinance in 1924. The zoning ordinance was rewritten in 1953, within innovative features for the time including categorization of use groups presented in a table format. Regular amendments occurred and were reflected in a 1973 ordinance. In 1982, several zoning districts were altered and renamed, and the ordinance was re-adopted. In recent years, certain sections of the ordinance were studied and significantly revised, as noted in the purpose section above. Bismarck has a tradition of openness to innovation in land use planning that will influence this Land Development Code.

Resources

The following resources should be reviewed prior to submittal of a proposal:

1. An outline of topics to be addressed in the Land Development Code is included on [page 71 of the Comprehensive Plan](#).
2. Two independent diagnostic evaluations of Bismarck's zoning code were completed in 2022 during the Together 2045 Comprehensive Plan process:
 - a. [Recommendations from Blue Zones for Bismarck](#)
 - b. [Enabling Better Places - A Coding Reform Roadmap for Bismarck](#)
3. A series of reports and studies conducted in 2021 and 2022 preparation for the Comprehensive Plan, including the following:
 - a. [Land Use and Development Capacity](#)
 - b. [Rural Development Timing](#)
 - c. [Household Survey Report](#)
 - d. [A Century of Planning in Bismarck](#)
 - e. [Overview of Public Outreach Activities](#)

Proposal Request and Selection Process

Schedule of Process

The schedule of the RFP issuance and evaluation process is intended to occur as follows. This schedule may be revised by the Community Development Director to accommodate unforeseen circumstances or contract negotiations.

Detailed RFP Schedule

Event/Process	Date(s)
RFP Issued	November 17, 2023
Interested parties may correspond with the City for clarification on the RFP, if necessary. Interested parties are encouraged to leave contact information for updates.	November – December, 2023
Proposal Deadline	January 5, 2024 at 5:00 p.m.
Proposal distributed to selection committee for review. The selection committee may conduct an initial cut-down of proposals based on evaluation criteria.	January 8-12, 2024

Firm interviews with selection committee. Interviews may be conducted in-person or remotely.	January 22 - February 2, 2024
Final recommendation of selection committee submitted to the City Commission for review in agenda packet.	February 6, 2024
Selection of proposal by City Commission.	February 13, 2024
Development of contract, including negotiation with the selected firm on terms, scope, conditions, and costs.	February – March, 2024
Contract approval by City Commission.	March 12, 2024
Notice to proceed.	March 13, 2024
Land Development Code adoption, not later than.	November 25, 2025
Implementation support period complete (anticipated, pending contract negotiation).	November 25, 2026

Submittal Instructions

All proposals should be submitted as computer files in pdf format, as well as seven (7) physical copies. Digital files may be transferred via email, and physical copies may be sent by mail or delivered in-person to:

Daniel Nairn,
 Planning Manager
 City of Bismarck
 PO Box 5503
 Bismarck, ND 58504
dnairn@bismarcknd.gov

Large files should be uploaded with a link to download files provided via email. The City is not responsible for communication errors. Consulting firms are advised to call the Planning office at 701-355-1840 to confirm that a submittal has been received.

Required Proposal Contents

Proposals should include sufficient information about the firm's qualifications and intended project approach to allow the selection committee to effectively evaluate the proposal. However, no proposal may be longer than 15 pages, excluding any attachments or linked documents. The following information should be provided, in no particular order:

1. **Firm Capacity.** Identify the size, history, and subject-matter expertise of the firm, as it relates to the purpose of this request. If any portion of the project would be subcontracted to additional firms, provide information about each subcontractor's qualifications.
2. **Work Products.** Provide the three most relevant examples of firm work products, as they related to this request. Ideally, examples will involve zoning or subdivision ordinances, form-based codes, design guidelines, or other work completed within the past ten years for a community with similar characteristics to Bismarck. However, projects in process or provided for larger cities may also be considered. Each community is different, and there is no expectation that the examples provided will align with Bismarck's own goals.
3. **Geographic Accessibility.** Describe the accessibility of the firm, and/or any proposed subcontractors, to the Bismarck geographic region. Describe travel, if necessary, which will be the responsibility of the selected firm.
4. **Individual Roles.** Identify the planners and other staff who would perform the work, and describe the role, qualifications, and availability of each person. A single project manager should be identified with contact information included.
5. **Project Approach.** Demonstrate an understanding of the purpose of this request and the local context of Bismarck by suggesting an approach to meet each task listed in the scope of work above, including public participation, an organizational concept, and the ordinance drafting and adoption process. Ensure that any approach will be compliant with any state and federal law that would intersect with provisions of a Land Development Code.
6. **Timeline.** Propose a timeline for completion of each item in the project scope with the goal of final project completion on, or prior to, November 25, 2025.
7. **Itemized Budget.** Identify the total estimated cost for completion of the proposal, not to exceed \$250,000, and provide proportional cost estimates for each task described in the project approach. The itemized budget should include travel expenses, if any, and any other incidentals necessary to complete the work.
8. **Staff collaboration.** Describe how the consultant intends to involve staff from the Planning Division, Planning and Zoning Commissioners, and staff from other divisions/departments in the project scope. A basic communication plan involving all parties should be included.
9. **Proof of Insurance.** Consultant will be required to carry, for the period of the contract, Comprehensive General Liability Insurance (personal injury, bodily injury, and property damage to a combined single limit of \$2,000,000 for each occurrence and \$500,000 per person) and comply with worker's compensation insurance and employer's liability insurance as required under the laws of the State of North

Dakota. The City of Bismarck must be listed as co-insured on these policies. Any and all sub-consultants must be similarly covered, either under their own or the general consultant's liability insurance policy.

10. **Conflict of Interest.** Describe any relationships involving the City of Bismarck and its employees with a statement explaining why the relationship does not constitute a conflict of interest relative to rendering services as requested.

Evaluation Criteria

The following criteria will be used as a standard to evaluate all proposals fairly. The evaluation will be conducted by a selection committee consisting of City officials and staff, and a recommendation will be presented to the Board of City Commissioners.

The following criteria, not in any particular order of priority, will be used:

1. **Firm Qualifications.** The qualifications and experience of the firm, demonstrated through previous performance and achievements with similar projects and clients. Any sub-consulting firms will also be considered in relation to their proposed role in the project.
2. **Grasp of Project.** The proposal of the firm is aligned with the purpose of this RFP, as outlined in Bismarck's Comprehensive Plan.
3. **Project Approach.** The ideas and methods proposed by the firm to complete the scope of services, as contained herein, demonstrate a clear understanding of the issues, creativity, and problem-solving ability.
4. **Project Team.** The qualifications, experience, and availability of the principal consulting staff proposed to work on the project, including the variety of relevant disciplines evident on the team, as well as the availability and qualifications of sub-consulting staff, if any.
5. **Public Participation.** The proposed public participation process may be expected to yield a broad and diverse range of feedback and ultimately lead to public acceptance of the final deliverable.
6. **Firm Reliability.** The firm has demonstrated the ability to complete the project within the stated timeline and budget.
7. **Project Cost.** Proposed cost to complete project.

Other Information

Modifications to the Request

The City of Bismarck reserves the right to reject any or all proposals, make counter proposals and/or engage in negotiations with any or all firms or individuals, waive any requirements or otherwise amend this RFP, or cancel the RFP in order to achieve the City's goals and objectives. Any changes in the status of the RFP will be brought to the attention of all parties that provide contact information for updates. The information contained in this RFP represent the City's best information at the time of the release of the RFP and the City reserves the right to modify any term or condition contained herein.

If no agreement is reached during contract negotiations in a reasonable timeframe, the City of Bismarck reserves the right to cancel the RFP or select the next most-qualified firm, according to the same procedures.

Responsibility for Proposal Preparation

Except as otherwise specifically agreed to in writing by the City, all firms submitting proposals shall provide and pay for all materials, labor, transportation, charges, levies, taxes, fees or expenses incurred, including all costs to prepare a response to this RFP, travel and presentation costs, and all other services and facilities of every nature whatsoever necessary for the preparation of the RFP.

It is neither the City's responsibility nor practice to acknowledge receipt of any proposals as a result of the RFP process. It is the proposer's responsibility to assure that a proposal is delivered and received in a timely manner.

Civil Rights

Title VI assures that no person or group of persons may, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs or activities administered by the City of Bismarck.

The City of Bismarck will consider every request for reasonable accommodation to provide:

- An accessible meeting facility or other accommodation for people with disabilities,
- Language interpretation for people with limited English proficiency (LEP), and
- Translations of written material necessary to access City of Bismarck programs and information.

Appropriate provisions will be considered when the City of Bismarck is notified at least 10 days prior to the meeting date or the date the written material translation is needed.

To request accommodations, contact the City of Bismarck Title VI and ADA Coordinator, at 701-355-1336. TTY users may use Relay North Dakota at 711 or 1-800-366-6888.

No Conflict of Interest

No member of the Board of City Commissioners, Bismarck Planning and Zoning Commission, member of the selection committee for this RFP, and any other officer, employee or agent of the City of Bismarck who exercises any functions or responsibilities in the selection of a proposal, shall have any personal interest, direct or indirect, in the project, unless said conflict is disclosed prior to any discussion and the member is recused from participation in selection of a firm.

Open Records/Proprietary Information

The City of Bismarck recognizes that in responding to this RFP, the proposer may desire to provide proprietary information in order to clarify and enhance their response. To the extent permitted by law, the City of Bismarck will keep confidential such information provided that:

1. The information submitted is arguably proprietary, and
2. The proprietary information is submitted in a separate file or section that is clearly identified as containing proprietary information

Only information that is credibly proprietary may be included in the sealed portions of the submittal. Inclusion of non-proprietary significant information in the sealed portions may render a submittal ineligible.

Responders should note that the City of Bismarck is a municipality, and as such its files are available for public review pursuant to the North Dakota Constitution Article XI, Section 6 and NDCC Chapter 44-04-18.

Ownership of Project Materials

Any and all deliverables, meeting notes, data, illustrations, and other materials created as final work products through an awarded project will be the sole property of the City of Bismarck as a public record.

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
October 25, 2023**

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

Commissioners present were Robert Field, Paul Levchak, Daniel Lukens, Gabe Schell, Mike Schmitz, Trent Wangen, and Paul Zent.

Commissioners Brian Bitner, Cole Johnson and Wendy Van Duyne were absent.

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

MINUTES

Chair Schwartz called for consideration of the minutes of the September 27, 2023 meeting.

MOTION: Commissioner Wangen made a motion to approve the minutes of the September 27, 2023 meeting, as presented. Commissioner Zent seconded the motion, and it was unanimously approved with Commissioners Field, Levchak, Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion.

CONSIDERATION

**2. SILVER RANCH FOURTH ADDITION – PRELIMINARY PLAT
ZONING MAP AMENDMENT**

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

**PUBLIC HEARING – ZONING MAP AMENDMENT
BREI ESTATES FIRST ADDITION, LOT 1, BLOCK 1**

Chair Schwartz called for the public hearing on the zoning map amendment from the RT – Residential zoning district to the Conditional CG – Commercial zoning district for Lot 1, Block 1, BREI Estates First Addition. The property is located in northwest Bismarck, in the northwest quadrant of the intersection of North Washington Street and West Lasalle Drive.

Ms. Wollmuth gave an overview of the request and stated that, 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.

Ms. Wollmuth said, based on the findings, staff recommends approval of the zoning map amendment from the RT – Residential zoning district to the Conditional CG – Commercial zoning district for Lot 1, Block 1, BREI Estates First Addition.

Commissioner Zent asked if the project is just a zoning map amendment. Ms. Wollmuth confirmed that this has already been platted and the request is only for a zoning map amendment and that the applicant will be requesting a reduction to the non-access line and access to the property would be from West LaSalle Drive.

Commissioner Schell asked Ms. Wollmuth to explain why staff does or does not consider the elementary school across the street and the arterial roadway when recommending approval. Ms. Wollmuth explained that North Washington Street is a wide roadway and Bismarck has several elementary schools adjacent to a variety of zoning districts and staff does not believe it has a negative impact.

Chair Schwartz opened the public hearing.

Randy Bakke, the applicant, came forward to address any questions or concerns.

Commissioner Levchak asked if there is any prospective client or operation for the property. Mr. Bakke replied there is not.

There being no further comments or questions, 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 the zoning map amendment from the RT – Residential zoning district to the Conditional CG – Commercial zoning district for Lot 1, Block 1, BREI Estates First Addition. Commissioner Schmitz seconded the motion, and the motion was unanimously approved with Commissioners Field, Levchak, Lukens, Schell, Schmitz, Schwartz, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – MAJOR SUDVISION FINAL PLAT AND ZONING MAP AMENDMENT PARADISE VALLEY SECOND ADDITION

Chair Schwartz called for the public hearing on a zoning map amendment from the R5 – Residential, RM15 – Residential and Conditional CG – Commercial zoning districts to the R5 – Residential, R10 – Residential, RM15 – Residential, Conditional CG – Commercial and P – Public zoning districts and major subdivision final plat for Paradise Valley Second Addition. The property is located in south Bismarck, in the southeast quadrant of the intersection of South Washington Street and East Burleigh Avenue (A replat of Lot 1 and Lot 20, Block 4, all of Block 5 and all of Block 6, Paradise Valley Addition).

Ms. Wollmuth gave an overview of the request and stated that, as a cumulative result of all findings contained in the staff report, City of Bismarck staff find that the proposed major

subdivision final plat and zoning map amendment would not adversely impact the public health, safety, and general welfare.

Ms. Wollmuth said, based on the findings, staff recommends approval of the proposed zoning map amendment from the R5 – Residential, RM15 – Residential and Conditional CG – Commercial zoning districts to the R5 – Residential, R10 – Residential, RM15 – Residential, Conditional CG – Commercial and P – Public zoning districts and major subdivision final plat for Paradise Valley Second Addition, with the following condition:

1. Revisions to the Development Agreement for Paradise Valley Second Addition are approved in conjunction with Bismarck City Commission review of the final plat.

Commissioner Schell asked whether the reference to existing zoning districts in the proposed draft zoning ordinance is being repetitive. Ms. Wollmuth stated that the language used is the standard for zoning map amendment ordinances.

Chair Schwartz opened the public hearing.

Andrew Thill, with Lowry Engineering, came forward to respond to any questions or concerns.

Commissioner Schell asked for the main goal of the replat. Mr. Thill said the pond plans had to be modified to help with the efficiency of the stormwater system.

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

Mayor Schmitz left the meeting.

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the zoning map amendment from the R5 – Residential, RM15 – Residential and Conditional CG – Commercial zoning districts to the R5 – Residential, R10 – Residential, RM15 – Residential, Conditional CG – Commercial and P – Public zoning districts and major subdivision final plat for Paradise Valley Second Addition, with the condition that revisions to the Development Agreement for Paradise Valley Second Addition are approved in conjunction with Bismarck City Commission review of the final plat. Commissioner Zent seconded the motion, and the motion was unanimously approved with Commissioners Field, Levchak, Lukens, Schell, Schwartz, Wangen, and Zent voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT – ACCESSORY BUILDING LOT 1, BLOCK 1, SUNNY-VIEW ACRES NINTH SUBDIVISION

Chair Schwartz called for the public hearing on a special use permit to increase the allowable size of accessory structures to 3,200 square feet on Lot 1, Block 1, Sunny-view Acres Ninth Subdivision. The property is located north of Bismarck, along the north side of 76th Avenue NE, between Stone Loop and Moonstone Lane.

Mr. Johnson gave an overview of the request, stating that the proposed special use would not adversely impact the public health, safety, and general welfare.

Mr. Johnson said, based on the findings, staff recommends approval of the proposed special use permit to increase the maximum allowable size of accessory structures up to 3,200 square feet on Lot 1, Block 1, Sunny-view Acres Ninth Subdivision.

Commissioner Zent asked if the property contained any other buildings. Mr. Johnson stated, to staff's knowledge, no additional buildings are on site. Commissioner Zent then asked what the use of the building will be. Mr. Johnson stated that staff's understanding is the building is to be used for personal storage and not a commercial use.

Commissioner Schell asked about the exhibit showing 3,200.5 feet. Mr. Johnson replied that the exhibit is a concept drawing, and the special use permit would allow the maximum 3,200 square feet only.

Chair Schwartz opened the public hearing.

Tim Klein, an adjacent property owner, came forward to voice his concern that allowing oversized buildings at one residence would lead to more residences having oversized buildings overpowering the homes in the neighborhood.

Chair Schwartz asked Mr. Klein if he had any accessory buildings on his property. Mr. Klein replied that he does not, but if he did, he would make it 1,500 square feet.

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

MOTION: Based on the findings contained in the staff report, Commissioner Levchak made a motion to recommend approval of the special use permit to increase the allowable size of accessory structures to 3,200 square feet on Lot 1, Block 1, Sunny-view Acres Ninth Subdivision. Commissioner Field seconded the motion, and the motion was unanimously approved with Commissioners Field, Levchak, Lukens, Schell, Schwartz, Wangen, and Zent voting in favor of the motion.

OTHER BUSINESS

Vance Reinbold came forward to address the Commission to propose a zoning amendment to change the definition of family, regarding unrelated individuals, to reduce the number of unrelated individuals residing in a home from four to three. He stated street parking is congested and with the allowance of four individuals, houses are being rented to five or six non-related individuals. Mr. Reinbold then stated Mr. Ehreth researched other communities and Fargo and Sioux Falls have a limit of three, while Grand Forks, Dickinson, and Minot all shared the limit of four. Commissioners and Mr. Reinbold held a discussion including impacts to the property owners and ability to enforce the ordinance. Mr. Ehreth stated complaints on this topic are infrequent and staff have not received other requests to change the ordinance. The general consensus of the Commission was to not pursue a change to the ordinance relating to the definition of family at this time. Chair Schwartz stated his appreciation for any residents coming to the commission with ideas.

ADJOURNMENT

There being no further business, Chair Schwartz declared the Bismarck Planning & Zoning Commission adjourned at 6:00 p.m. to meet again on November 15, 2023.

Respectfully submitted,

Sarah Fricke
Recording Secretary

Mike Schwartz
Chair

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 10/2023

*****City*****

*****ETA*****

	10/2023		10/2022		10/2023		10/2022	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	11	\$3,365,376.30	12	\$3,308,100.68	2	\$391,669.95	2	\$1,036,299.46
ROWHOUSE (2) 1-HR FIRE SEPARATION	0	\$0.00	41	\$8,570,988.33	0	\$0.00	0	\$0.00
MULTI FAMILY RESIDENTIAL	11	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	4	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL ADDITION	2	\$61,718.10	2	\$33,975.72	0	\$0.00	1	\$76,175.00
DETACHED GARAGE	1	\$50,400.00	3	\$56,800.00	2	\$68,400.00	4	\$267,249.91
DECKS\PORCHES & COVERED PORCHES	7	\$324,607.50	9	\$27,548.10	0	\$0.00	0	\$0.00
SWIMMING POOLS	3	\$277,400.00	1	\$90,000.00	1	\$70,000.00	0	\$0.00
RESIDENTIAL ALTERATION/OTHER	9	\$249,318.29	2	\$88,680.00	0	\$0.00	0	\$0.00
BASEMENT FINISH	2	\$49,987.50	2	\$40,850.00	0	\$0.00	1	\$21,500.00
COMMERCIAL	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	20	\$223,935.00	6	\$80,000.00	2	\$3,000.00	0	\$0.00
SIGN ALTERATION	2	\$11,075.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	7	\$5,004,318.00	39	\$19,468,090.00	0	\$0.00	0	\$0.00
COMMERCIAL ADDITION	1	\$562,000.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL ALTERATION	8	\$17,917,915.30	4	\$1,571,666.00	0	\$0.00	1	\$65,000.00
Total	88	\$28,098,050.99	124	\$33,336,698.83	7	\$533,069.95	9	\$1,466,224.37

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 10/2023

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	10/2023		10/2022		10/2023		10/2022	
Trade Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	68	\$0.00	87	\$1,500.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	153	\$2,413,883.14	154	\$2,730,976.27	8	\$30,100.00	8	\$41,534.12
BUILDING PLUMBING	50	\$1,276,849.00	66	\$1,736,092.00	4	\$70,670.00	13	\$241,400.00
BUILDING SEPTIC	1	\$0.00	0	\$0.00	8	\$7,500.00	5	\$0.00
Total	272	\$3,690,732.14	307	\$4,468,568.27	20	\$108,270.00	26	\$282,934.12

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 10/2023

	*****City*****		*****ETA*****	
	10/2023	10/2022	10/2023	10/2022
Living Units	Units	Units	Units	Units
MANUFACTURED HOMES	4	2	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	0	37	0	0
SINGLE FAMILY DETACHED	11	12	1	2
SWIMMING POOLS	0	0	0	0
Total	15	51	1	2

PERMIT ACTIVITY REPORT - YTD
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	10/2023		10/2022		10/2023		10/2022	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	73	\$26,221,801.92	155	\$45,859,572.58	24	\$8,910,992.34	29	\$11,061,011.81
ROWHOUSE (2) 1-HR FIRE SEPARATION	70	\$16,121,503.33	109	\$23,410,389.10	8	\$2,395,976.11	0	\$0.00
MULTI FAMILY RESIDENTIAL	45	\$23,149,556.90	5	\$8,996,526.51	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	17	\$0.00	7	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL ADDITION	16	\$771,770.40	11	\$383,241.76	8	\$848,864.43	10	\$1,156,033.10
DETACHED GARAGE	20	\$423,850.10	28	\$329,333.75	39	\$1,740,180.00	45	\$2,045,677.91
DECKS\PORCHES & COVERED PORCHES	116	\$699,064.65	75	\$237,795.65	14	\$381,773.50	9	\$252,803.45
SWIMMING POOLS	15	\$1,334,788.00	11	\$945,286.00	6	\$493,400.00	7	\$714,601.00
RESIDENTIAL ALTERATION/OTHER	55	\$2,056,581.00	37	\$1,438,058.85	9	\$730,002.07	10	\$506,459.22
HOME OCCUPATION	3	\$0.00	3	\$0.00	0	\$0.00	0	\$0.00
STORAGE SHED	13	\$34,852.50	9	\$30,955.00	5	\$13,260.00	2	\$12,000.00
BASEMENT FINISH	40	\$881,817.00	40	\$1,045,833.50	5	\$133,945.00	11	\$250,151.50
RESIDENTIAL	2	\$0.00	2	\$0.00	1	\$0.00	0	\$0.00
COMMERCIAL	5	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
FIREWORKS SALES	0	\$0.00	0	\$0.00	9	\$0.00	8	\$0.00
NURSERY STOCK SALES	4	\$0.00	4	\$0.00	0	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	1	\$0.00	3	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	73	\$1,218,041.53	64	\$555,178.00	3	\$9,600.00	3	\$46,866.00
SIGN ALTERATION	26	\$193,303.64	2	\$36,000.00	0	\$0.00	0	\$0.00
ELECTRONIC MESSAGE CENTER	1	\$309,234.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL NEW CONSTRUCTION	88	\$94,950,017.38	95	\$95,487,245.00	4	\$1,450,000.00	22	\$8,921,426.00
COMMERCIAL ADDITION	5	\$4,341,890.00	7	\$16,613,387.00	0	\$0.00	2	\$7,118,268.00
COMMERCIAL ALTERATION	85	\$46,716,830.64	65	\$20,741,149.88	7	\$1,003,547.00	3	\$3,780,000.00
Total	773	\$219,424,902.99	734	\$216,109,952.58	142	\$18,111,540.45	161	\$35,865,297.99

**PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 10/2023**

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	10/2023		10/2022		10/2023		10/2022	
Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	770	\$0.00	872	\$203,000.00	2	\$0.00	5	\$0.00
BUILDING MECHANICAL	1236	\$20,985,413.33	1268	\$26,050,380.27	224	\$2,500,027.64	227	\$2,005,458.11
BUILDING PLUMBING	326	\$9,015,992.04	413	\$12,536,587.92	61	\$930,054.14	83	\$1,216,564.00
BUILDING SEPTIC	1	\$0.00	0	\$0.00	33	\$32,500.00	25	\$2,000.00
Total	2333	\$30,001,405.37	2553	\$38,789,968.19	320	\$3,462,581.78	340	\$3,224,022.11

**PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 10/2023**

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	10/2023	10/2022	10/2023	10/2022
Living Units	Units	Units	Units	Units
DECKS\PORCHES & COVERED PORCHES	0	0	0	0
MULTI FAMILY RESIDENTIAL	131	60	0	0
MANUFACTURED HOMES	16	5	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	68	101	6	0
SINGLE FAMILY DETACHED	71	150	21	23
SWIMMING POOLS	0	0	0	0
Total	286	316	27	23