

5. **Schilling First Addition (Klee)**
Major Planned Unit Development Amendment | PUDA2016-003.....19
Staff recommendation: approve approve continue table deny

6. **Lots 4 & 5, Block 4, Meadowlark Commercial Seventh Addition (Klee)**
Zoning Change (RT to CA) | ZC2016-01033
Staff recommendation: approve approve continue table deny

7. **Auditor's Lots 6A and 6B of Auditor's Lot 6 of the NE ¼ of Section 1, T138N-R80W/Lincoln Township (Klee)**
Zoning Change (A to Conditional MA) | ZC2015-03237
Staff recommendation: approve approve continue table deny

8. **Part of Wachters Addition, Wachters Addition Replat, part of Replat of Kavaney Commercial Park and part of Boutrous 2nd Addition (DN)**
City-Initiated Zoning Change (CR to CG) | ZC2016-01345
Staff recommendation: approve approve continue table deny

9. **Lots A and B of Lot 1 and Part of Lot 2, Block 1, Miriam Industrial Park 2nd Addition (JW)**
Special Use Permit (Motor Vehicle Parts Salvage Yard) | SUP2016-005.....51
Staff recommendation: approve approve continue table deny

10. **Lots 13 and 14, Block 122, Original Plat and Lot 4 and the South 40 feet of Lot 5, Block 24, Northern Pacific Addition (Klee)**
Special Use Permit (Building Demolition for Parking Lot) | SUP2016-00663
Staff recommendation: deny approve continue table deny

11. **Accessory Dwelling Units (DN)**
Zoning Ordinance Text Amendment | ZOTA2016-004.....69
Staff recommendation: approve approve continue table deny

OTHER BUSINESS

12. **Other**

ADJOURNMENT

13. **Adjourn.** The next regular meeting date is scheduled for **July 27, 2016.**

Enclosures: Meeting Minutes of May 25, 2016
 Building Permit Activity Month to Date Report for May 2016
 Building Permit Activity Year to Date Report for May 2016



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

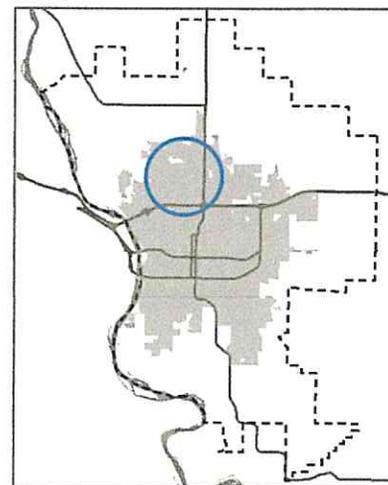
Agenda Item # 2
June 22, 2016

Application for: Zoning Change

TRAKiT Project ID: ZC2016-014

Project Summary

Title:	Sonnet Heights Subdivision, Lots 1-3, Block 1
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Boustead Enterprises, LLC
Project Contact:	Ken Nysether, SEH
Location:	In north Bismarck, on the south side of 57 th Avenue NE approximately a half mile west of US Highway 83.
Project Size:	2.25 Acres
Request:	Rezone three lots from PUD to RM15 to accommodate development.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	3	Number of Lots:	3
Land Use:	Undeveloped	Land Use:	Multifamily Residential
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	PUD – Planned Unit Development	Zoning:	RM15 – Residential
Uses Allowed:	PUD – Uses specified in PUD	Uses Allowed:	RM15 – Multi-family residential
Max Density Allowed:	PUD – Density specified in PUD	Max Density Allowed:	RM15 – 15 units / acre

Property History

Zoned:	RM 15 to PUD on 11/25/2014	Platted:	12/15/1980	Annexed:	04/10/2007
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Staff Analysis

Lots 1-3, Block 1 of Sonnet Heights Subdivision were rezoned from RM15 – Residential to PUD, in order to accommodate development that was proposed at the time. The PUD allowed greater density, but required

general conformance to a site plan, as well as certain landscaping and design standards. The existing PUD is attached to this report.

Prior to the PUD rezoning, the Planning and Zoning Commission had recommended denial of a rezoning of

(continued)

these properties from RM15 to RM30, because of incompatibility with the adjacent single and two-family residential uses. The property owner adjusted the request to RM20 the following year, and the Planning Commission also denied this request. These zoning decisions were made prior to the construction of 57th Avenue NE and the construction of other multifamily housing directly to the east.

The applicant's request is to return the zoning of the three lots to the original RM15 zoning district, which amounts to a reduction in the allowable density of the site but also more flexibility in the site design.

Required Findings of Fact

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

classification was established or by an error in the zoning map;

5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

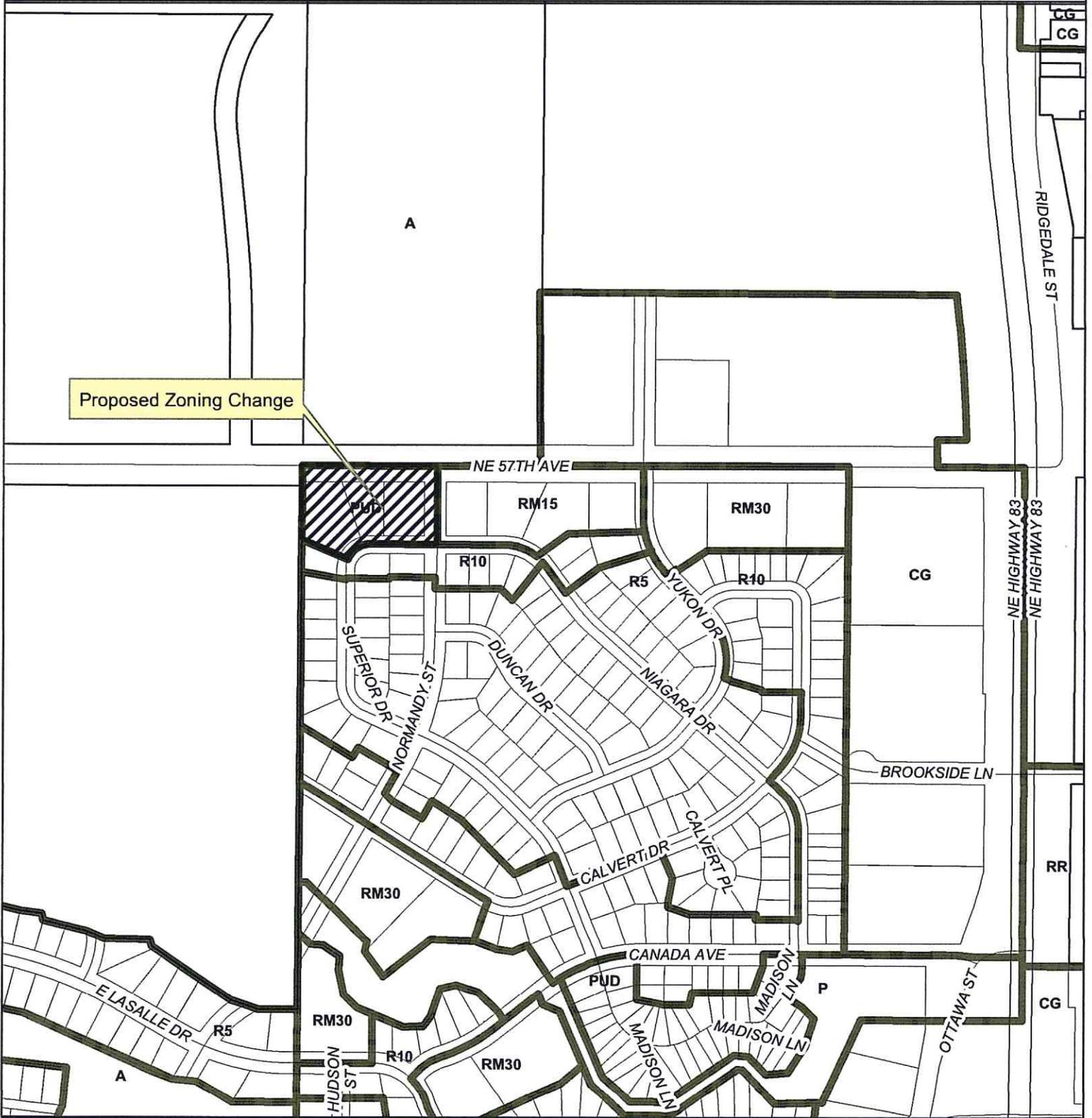
Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from PUD – Planned Unit Development to RM15 – Residential for Lots 1-3, Block 1 of Sonnet Heights Subdivision.

Attachments

1. Location Map
2. Zoning Map
3. Existing PUD Ordinance (proposed to be removed)

Proposed Zoning Change (PUD to RM15) Lots 1-3, Block 1, Sonnet Heights Subdivision



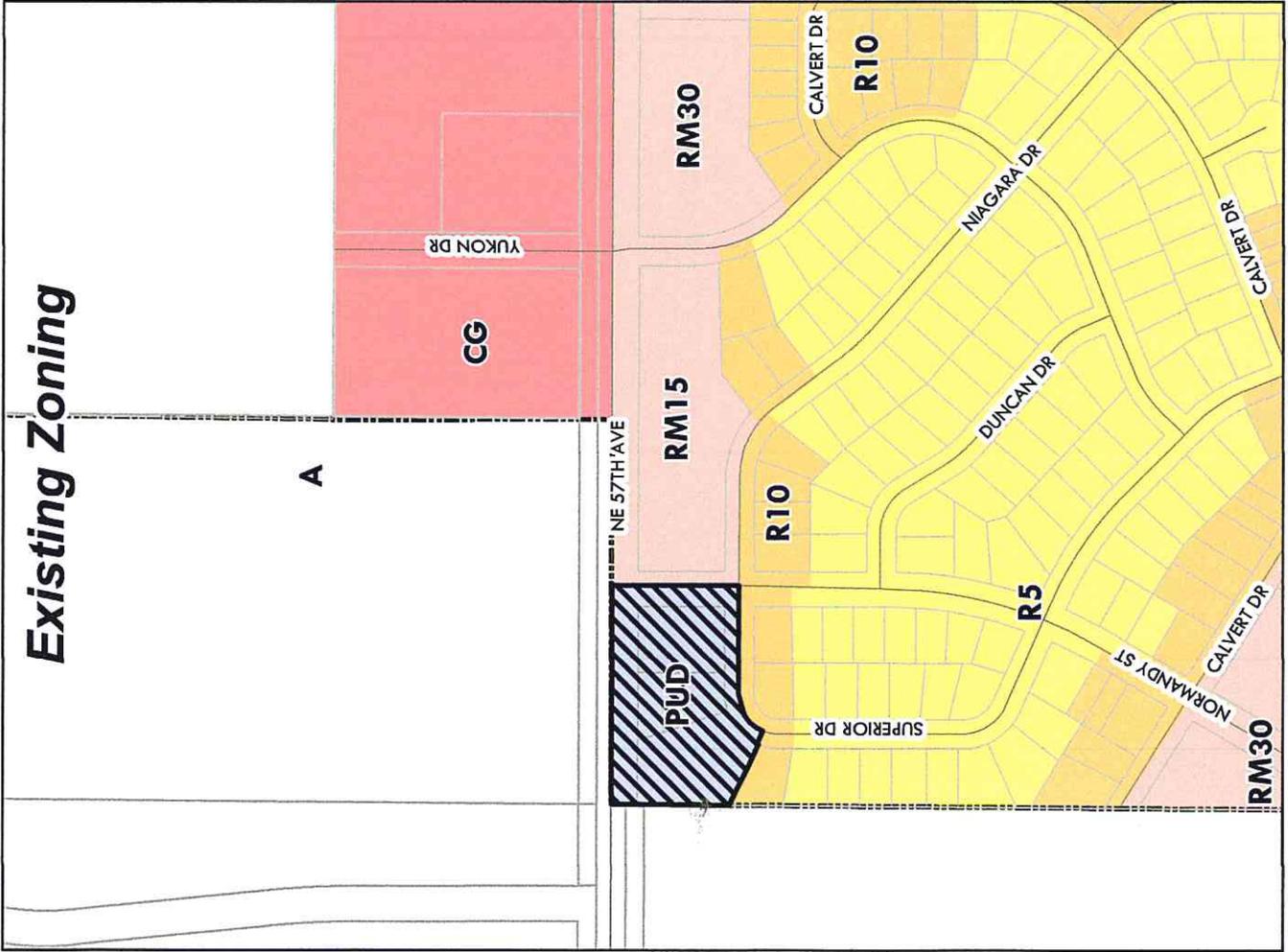
May 17, 2016 (h1b)

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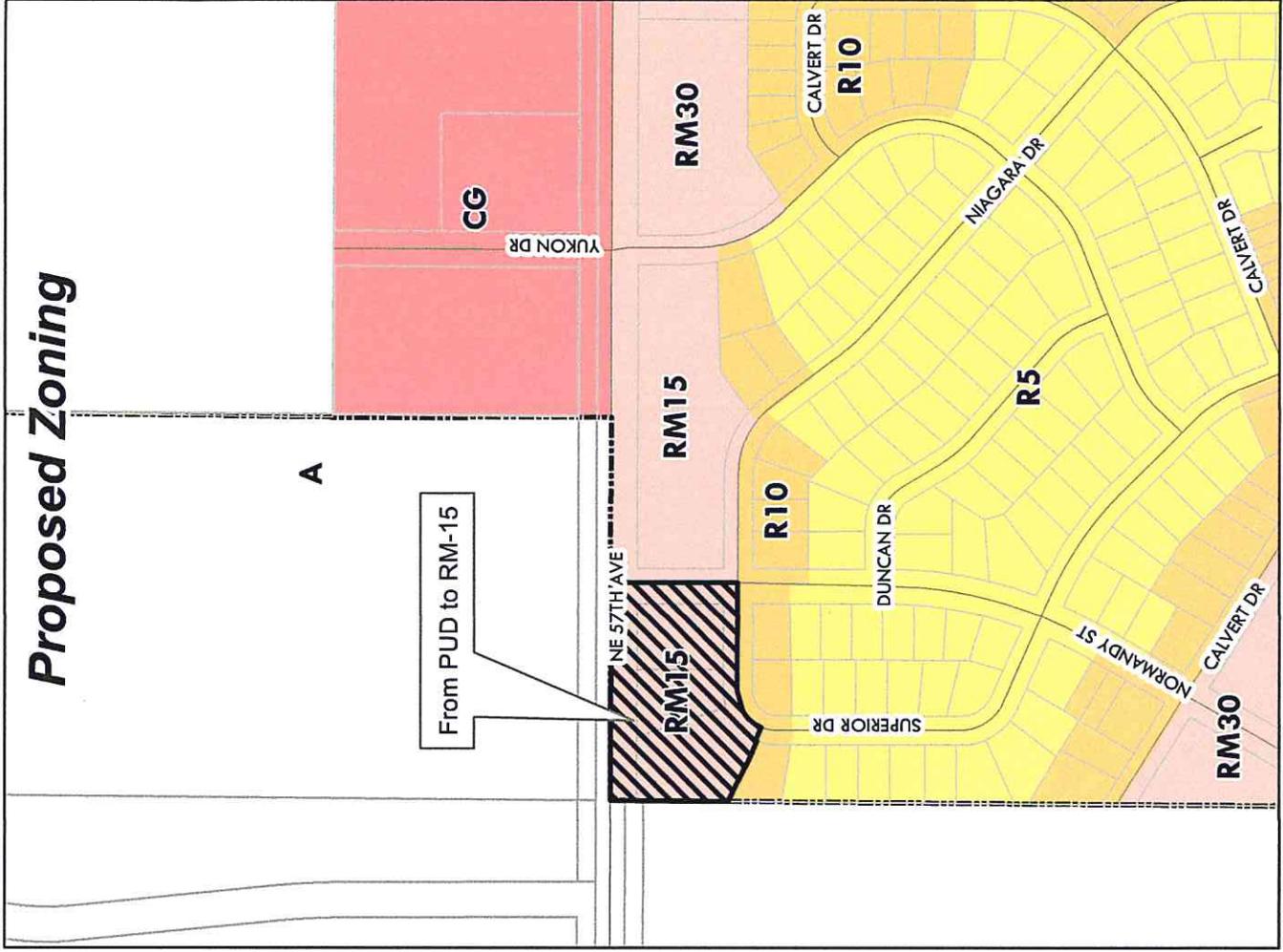


Sonnet Heights Subdivision, Lots 1-3, Block 1

Existing Zoning



Proposed Zoning



SonnetHeights_Rezone



Parcels to Rezone



City Limits



Extraterritorial Area



June, 2016



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.

ORDINANCE NO. 6092

<i>First Reading</i>	<u>November 11, 2014</u>
<i>Second Reading</i>	<u>November 25, 2014</u>
<i>Final Passage and Adoption</i>	<u>November 25, 2014</u>
<i>Publication Date</i>	<u>November 14 & 21, 2014</u>

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

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

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

The following described property shall be excluded from the RM15 – Residential District and included within the PUD – Planned Unit Development District.

Lots 1, 2, and 3, Block 1, Sonnet Heights Subdivision.

This PUD is subject to the following development standards:

1. *Uses Permitted.* The following uses are permitted within this Planned Unit Development:
 - a. A maximum of forty-five (45) residential units in a three-story multi-family building. The configuration of the site shall generally conform to the site plan submitted with the application dated September 8, 2014. Any change in the use of the property from that indicated above will require an amendment to this PUD.
2. *Dimensional Standards:*
 - a. Setbacks shall be provided in accordance with Section 14-04-07 of the City Code of Ordinances (RM District Regulations).
 - b. Heights. The maximum height of the building is thirty-seven (37) feet.
 - c. Lot Coverage. The maximum lot coverage for buildings and required off-street parking is fifty (50) percent of the total lot area.

3. *Design Standards:*

- a. Intent. It is the intent of the design standards to create and maintain a high visual quality and appearance for this development, encourage architectural creativity and diversity and create a lessened visual impact upon the surrounding land uses. Each building or structure shall utilize complementary building materials, colors and design features that will be present throughout the site. Exterior lighting shall be designed and installed in a manner intended to limit the amount off off-site impacts.

4. *Landscaping and Screening:*

- a. Landscaping and screening shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening). Additional landscape plantings and buffering, including a three (3) foot high by four (4) foot wide (top) berm along the south side of the property adjacent to Superior Drive, shall be installed as shown in the site plan dated September 8, 2014 with a combination of trees and shrubs with no less than two (2) shade trees and two (2) ornamental trees and two (2) large upright coniferous trees to help mitigate the visual impacts and provide a transition between the multi-family residential building and the existing single and two-family dwellings to the south.
- b. Screening of Mechanical Equipment and Solid Waste Collection Areas. Mechanical equipment and solid waste collection areas shall be screened in accordance with Section 14-03-12 of the City Code of Ordinances (Screening of Mechanical Equipment and Solid Waste Collection Areas).

5. *Off-Street Parking and Loading:* Off-street parking and loading will be required in accordance with Section 14-03-10 of the City Code of Ordinances (Off-Street Parking and Loading).

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

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

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



STAFF REPORT

City of Bismarck
 Community Development Department
 Planning Division

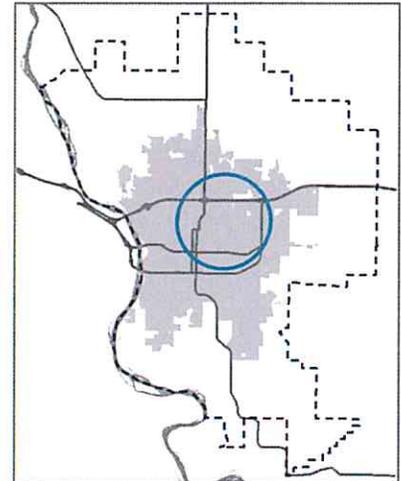
Agenda Item # 3
 June 22, 2016

Application for: Zoning Change

TRAKiT Project ID: ZC2016-016

Project Summary

Title:	Part of Lot 21, Lounsberry Outlots
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Bismarck Public Schools
Project Contact:	Darin Scherr, PE, Business and Operations Manager
Location:	In central Bismarck, along the east side of North 21 st Street between East Rosser Avenue and East Avenue B.
Project Size:	2.45 acres
Request:	Rezone property to allow the adaptive reuse of the former Saxvik Elementary School for educational programming and community services.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lots in 1 block	Number of Lots:	1 lots in 1 block
Land Use:	Elementary school	Land Use:	Adaptive reuse of building for pre-kindergarten through 12 th grade before and after school programming, adult education training room, community meeting space and office uses to support the proposed uses
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	P – Public Use	Zoning:	PUD – Planned Unit Development
Uses Allowed:	P – Parks, open space, stormwater facilities, and other public uses	Uses Allowed:	PUD – Uses specified in PUD
Max Density Allowed:	P – N/A	Max Density Allowed:	PUD – Density specified in PUD

Property History

Zoned:	Pre-1980	Platted:	Pre-1980	Annexed:	Pre-1980
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(continued)

Staff Analysis

The applicant is requesting a zoning change to allow the adaptive reuse of the Saxvik Elementary School property. The Board of Education decided to close this elementary school at the end of this school year and move the students to four neighboring schools. Although a final plan for the reuse of the property is still being developed, the School District would like to use the space for pre-kindergarten through 12th grade programming, including both before and after school programs, at the start of the upcoming school year. Other potential uses include adult education training room(s), community meeting space and office space to support these uses.



West side of Saxvik Elementary School



Aerial of Saxvik Elementary School

It is anticipated that the final mix of uses will continue to be refined and will be finalized before a public hearing is scheduled for this request.

Required Findings of Fact

1. The proposed zoning change is outside of the area covered by the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located;
7. The proposed planned unit development would preserve the natural features of the site inasmuch as possible, including the preservation of trees and natural drainage ways;
8. The internal roadway circulation system within the planned unit development has been adequately designed for the type of traffic that would be generated;
9. Adequate buffer areas have been provided between the planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.

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

from the P – Public zoning district to the PUD – Planned Unit Development zoning district for part of Lot 21, Lounseberry Outlots (former Saxvik Elementary School). A draft PUD ordinance will be prepared for the public hearing.

Attachments

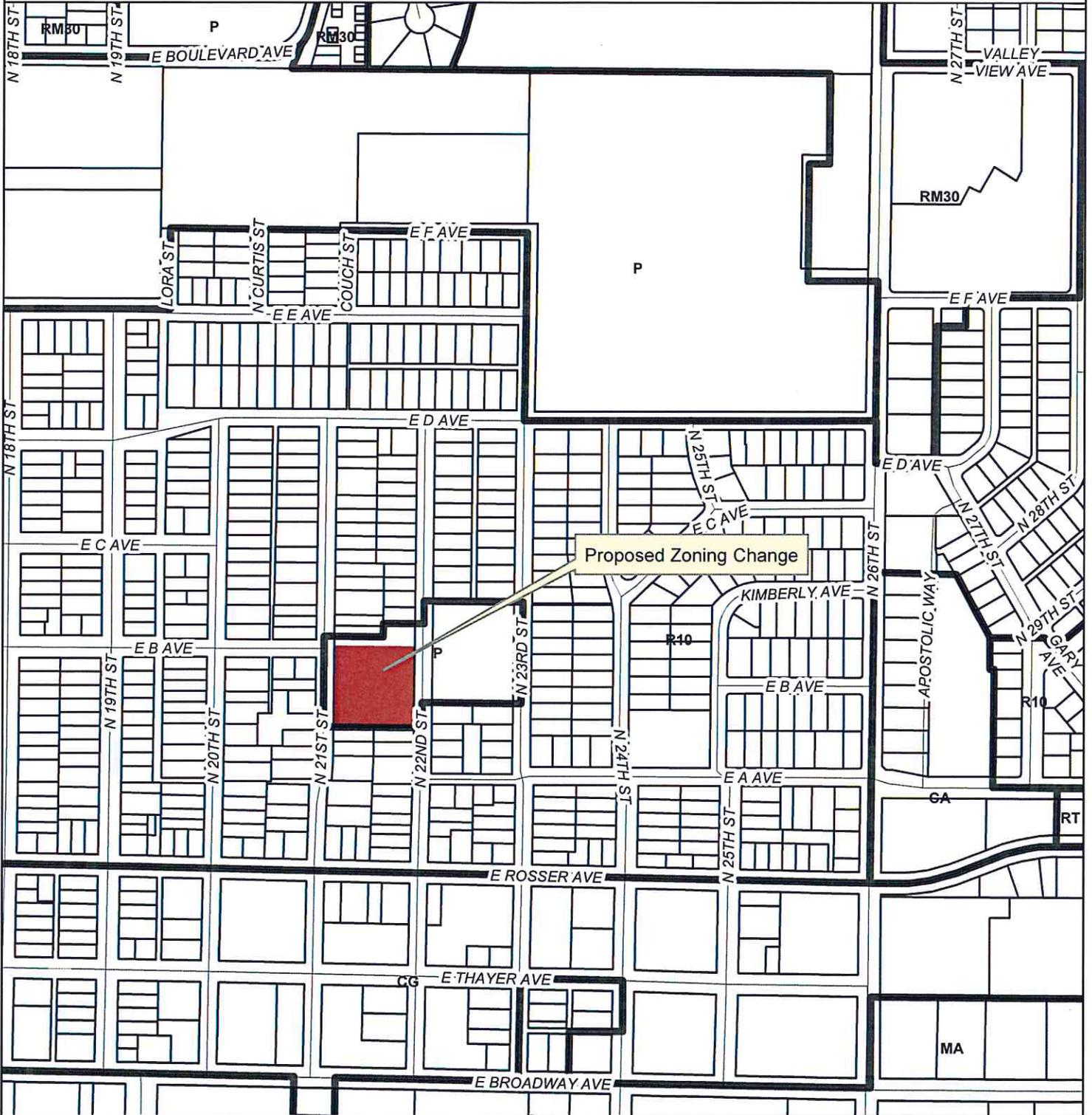
1. Location Map
2. Zoning Map
3. PUD Written Statement

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change

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

Proposed Zoning Change (P to PUD) Part of Lot 21, Lounsberry Outlots

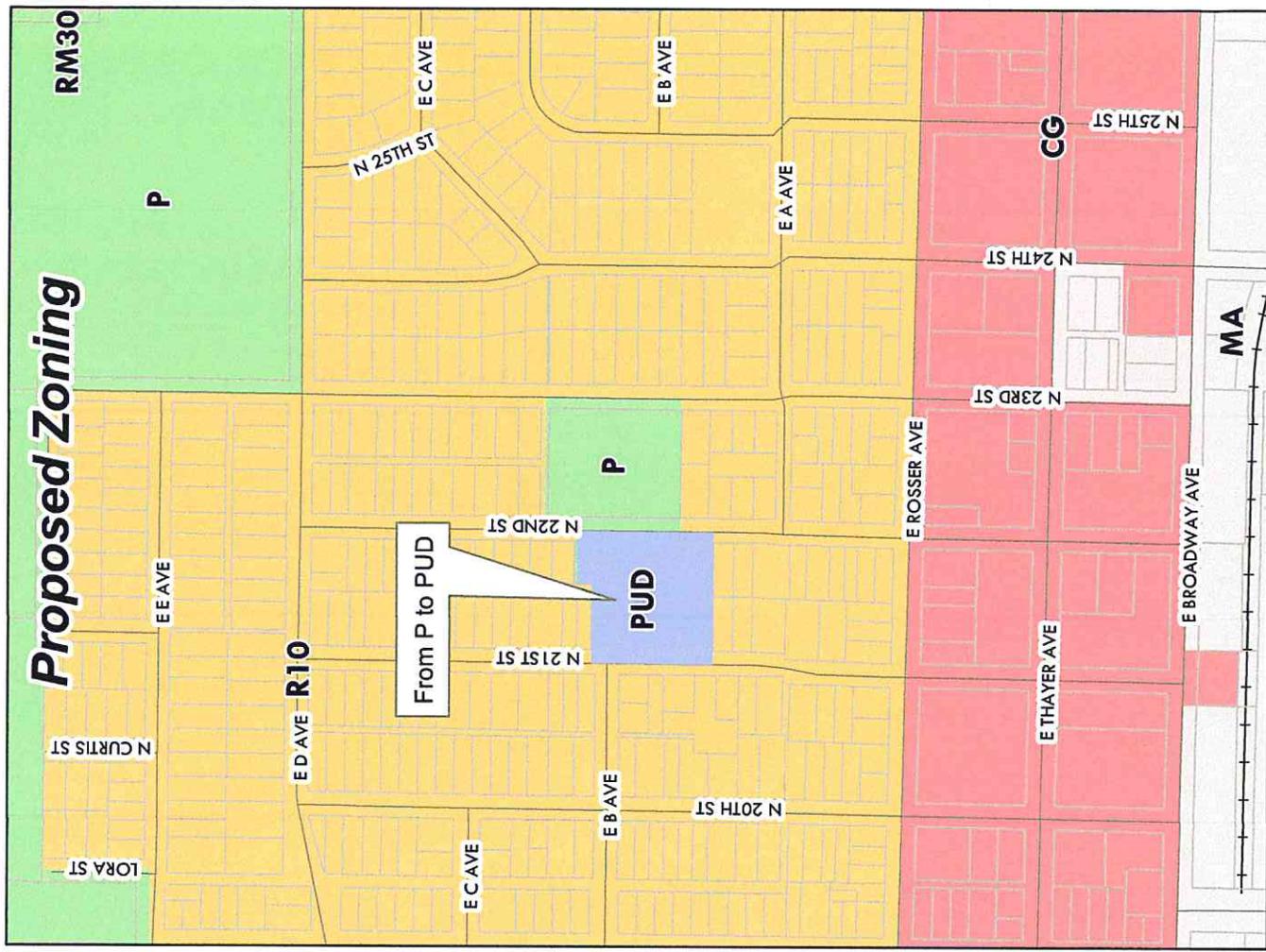
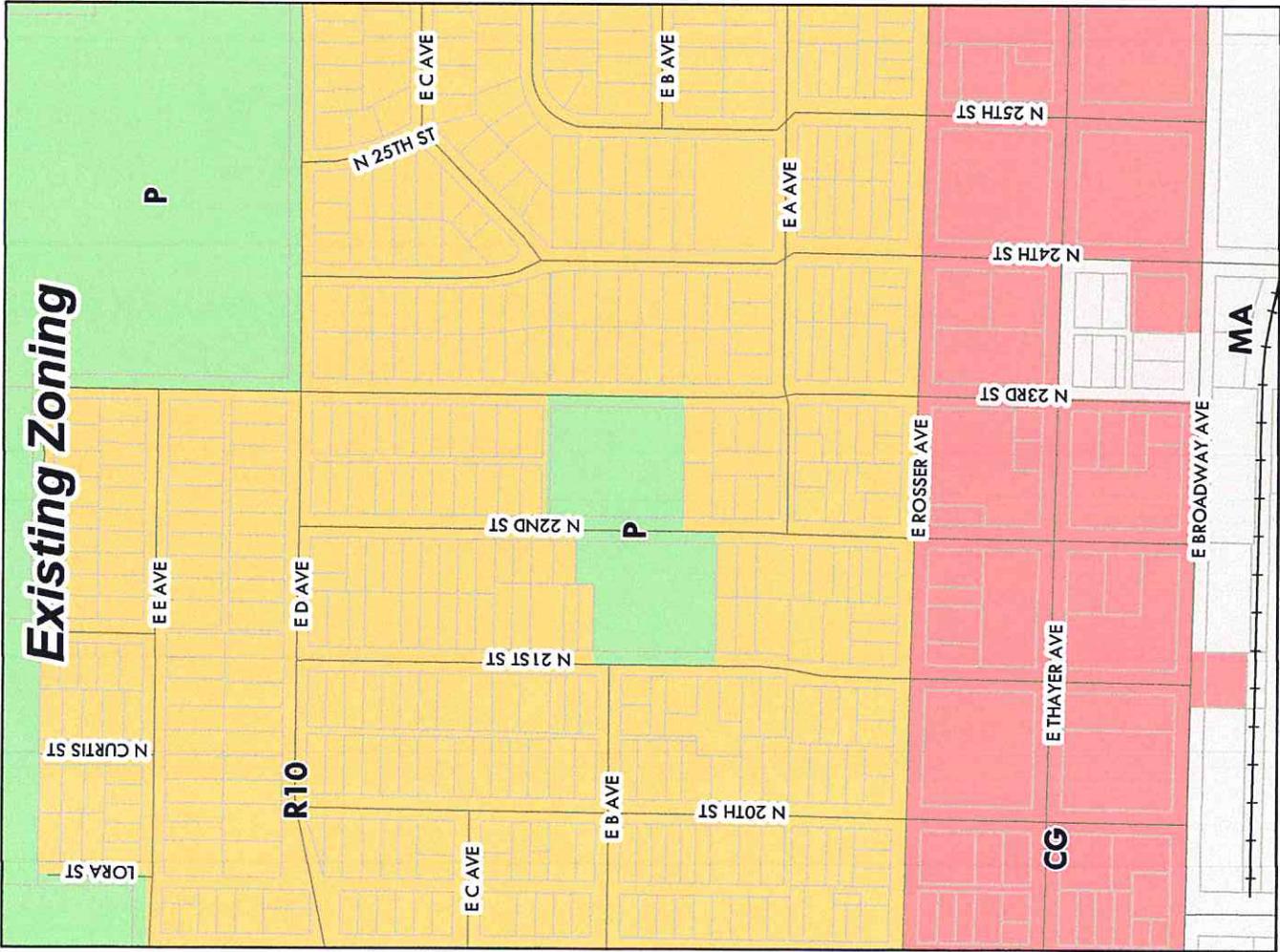


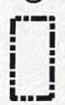
June 13, 2016 (h/b)

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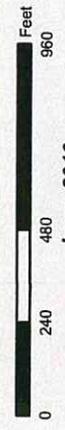


Lounsberry Outlots, Part of Lot 21



-  Parcels to Rezone
-  City Limits
-  Extraterritorial Area

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.



June, 2016

Saxvik School Building

Saxvik was an elementary school for Bismarck Public Schools. The board of education decided to close the school and move the students to four neighboring schools. The plan for Saxvik is being developed; however, we do know that we need to provide space for prek-12 programming at the start of next school year.

Old Use

k-5 elementary school.

Potential New Use

Pre k-12 student programming (before and after school)

Adult education training room

Community meeting space

Office space to support above items



STAFF REPORT

City of Bismarck
 Community Development Department
 Planning Division

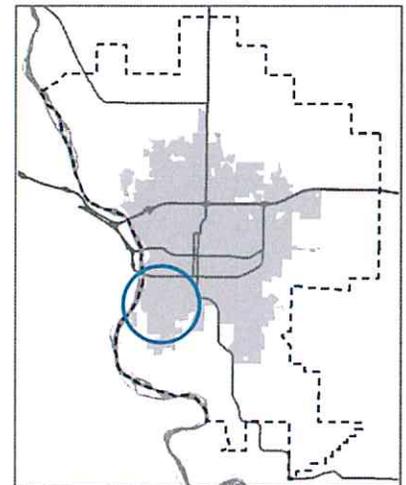
Agenda Item # 4
 June 22, 2016

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

TRAKiT Project ID: ZC2016-001
 MPLT2016-004

Project Summary

Title:	Cottonwood Lake Sixth Addition Second Replat
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Sattler Homes, Inc.
Project Contact:	Dave Patience, Swenson, Hagen & Co.
Location:	In south Bismarck, south of Wachter Avenue along the north side of Irvine Loop and east side of South Washington Street.
Project Size:	.9 acres (40,763 square feet)
Request:	Replat and rezone property from Conditional RM10 to RM10 for future development of 9 rowhouses.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2	Number of Lots:	9
Land Use:	Undeveloped	Land Use:	Multi-family residential
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	Conditional RM10 – Residential	Zoning:	RM10 – Residential
Uses Allowed:	One four-unit condo on Lot 1 and Lot 2, Block 1, Cottonwood lake 6 th Addition Replat	Uses Allowed:	RM10 – Multi-family residential
Max Density Allowed:	Conditional RM10 – two 4-unit condominiums	Max Density Allowed:	RM10 – 10 units / acre

Property History

Zoned:	08/2004 (Cottonwood Lake 6 th Addition) 08/2013 (Cottonwood Lake 6 th Addition Replat)	Platted:	08/2004 (Cottonwood Lake 6 th Addition) 08/2013 (Cottonwood Lake 6 th Addition Replat)	Annexed:	08/2004 (Cottonwood Lake 6 th Addition)
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(continued)

Staff Analysis

The proposed zoning change is being requested in conjunction with a minor subdivision final plat titled Cottonwood Lake Sixth Addition Second Replat. The proposed minor plat will reconfigure Lots 1 and 2, Block 2, Cottonwood Lake Sixth Addition Replat to allow the construction of a series of row houses on Lots 1-9, Block 1, of the proposed minor plat.

This property was zoned Conditional RM10 – Residential in 2013, as the applicant intended to construct two 4-unit condos on Lots 1 & 2, Block 1, Cottonwood Sixth Addition Replat. In addition, a 15 foot wide landscape buffer yard along the north line of the property was required to be installed in conjunction with the development of the condos. The applicant has indicated that the 15-foot wide buffer will be installed prior to the development of the proposed row houses associated with the proposed zoning change and replat.

The applicant has requested a waiver from the storm water management plan requirements for the proposed minor plat. A storm water management plan was approved for the underlying plat (Cottonwood Lake Sixth Addition Replat) in July 2013. The boundary of the proposed plat has not changed. The City Engineer has approved the requested waiver.

Required Findings of Fact

Zoning Change

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

classification was established or by an error in the zoning map;

5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Minor Plat

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. A storm water management plan waiver has been approved by the City Engineer;
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

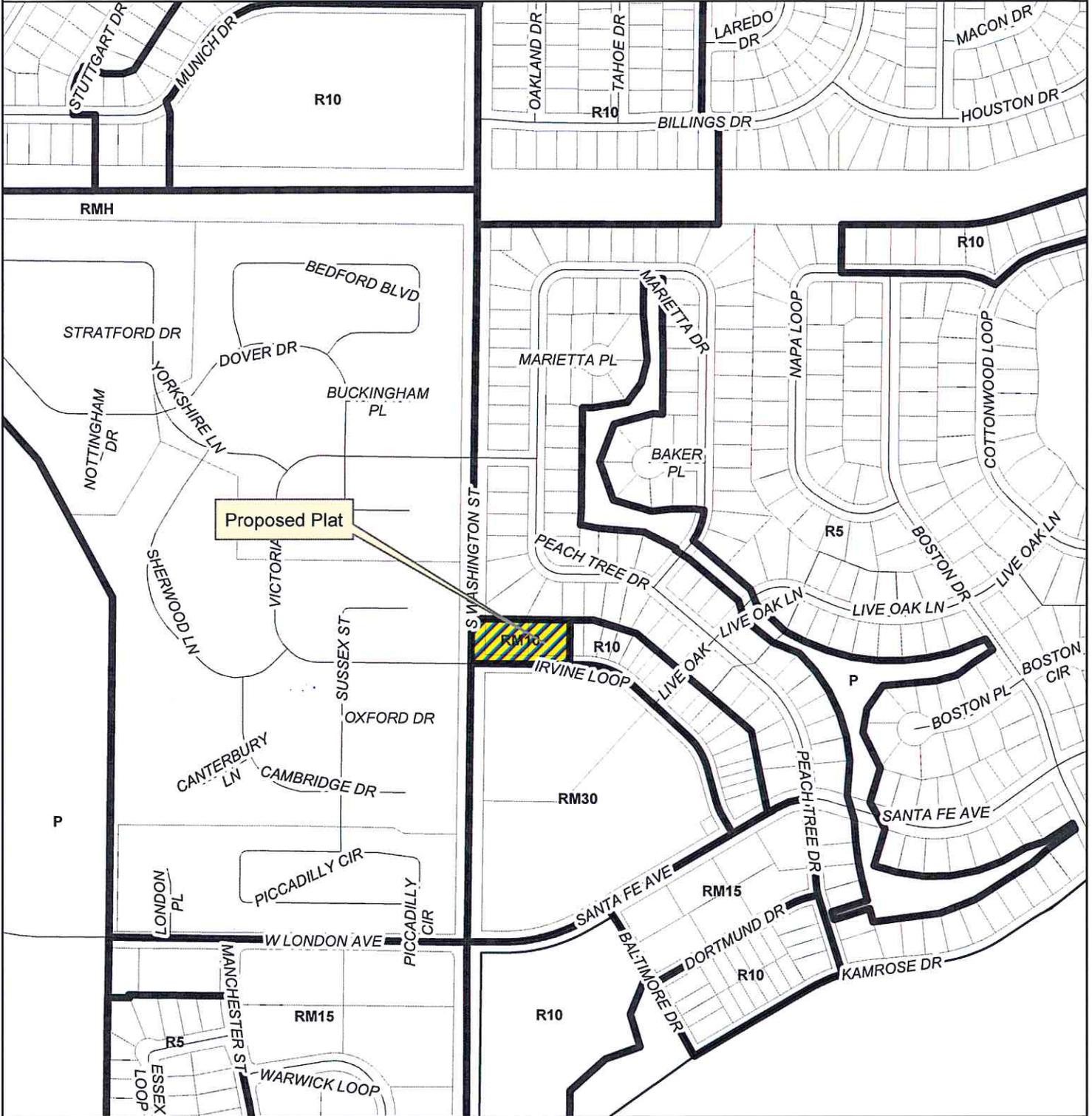
Based on the above findings, staff recommends approval of the zoning change from the Conditional RM10 – Residential zoning district to the RM10 – Residential zoning district and approval of the minor subdivision final plat for Cottonwood Lake Sixth Addition Second Replat.

Attachments

1. Location Map
2. Zoning Map
3. Minor Subdivision Final Plat

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

Proposed Minor Plat and Zoning Change (Conditional RM10 to RM10) Cottonwood Lake Sixth Addition Second Replat

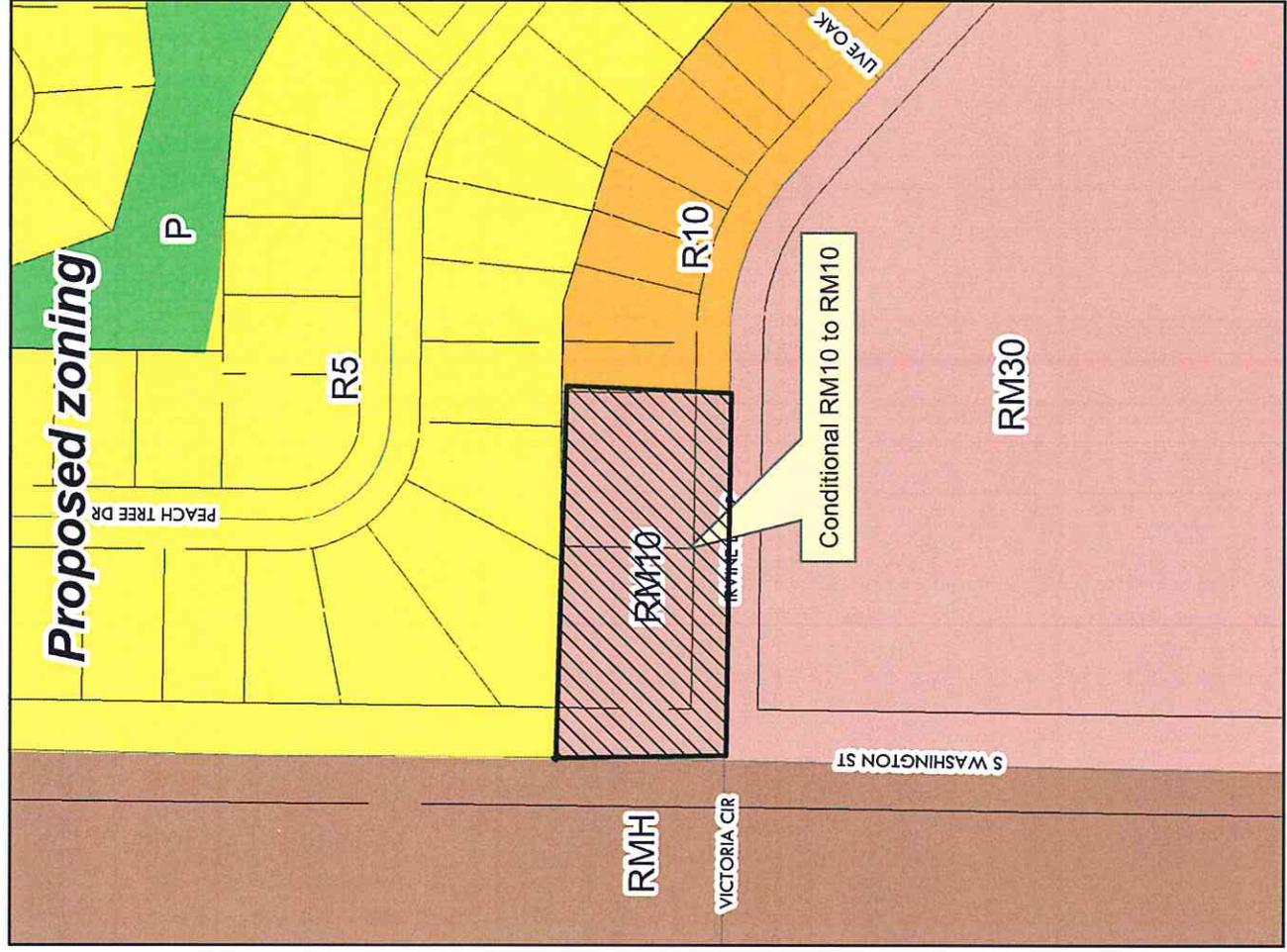
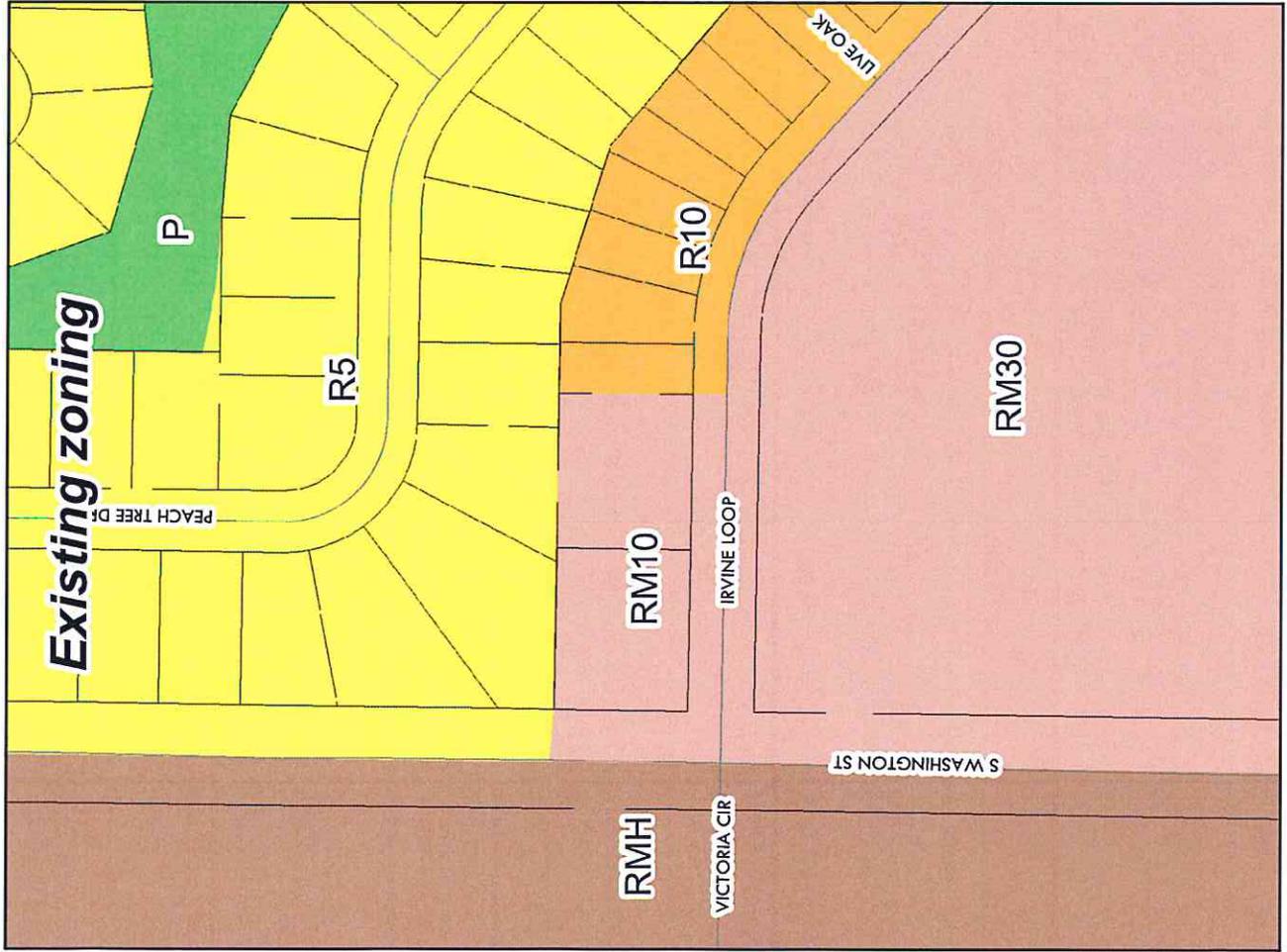


June 15, 2015 (h1b)

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**Cottonwood lake Sixth Addition Second Replat
(Conditional RM10 to RM10)**



May, 2016

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.



STAFF REPORT

City of Bismarck
 Community Development Department
 Planning Division

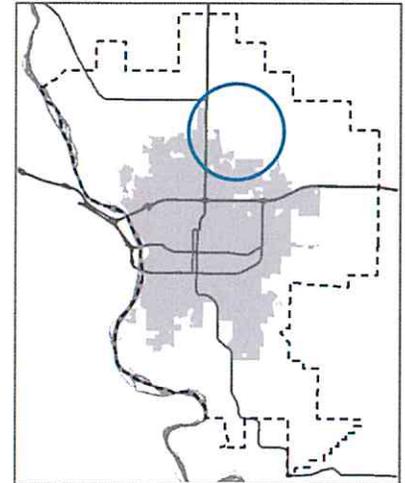
Agenda Item # 5
 June 22, 2016

Application for: Major Planned Unit Development (PUD) Amendment

TRAKiT Project ID: PUDA2016-003

Project Summary

Title:	Schilling First Addition PUD
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Schilling Properties, LLC (Harvey Schilling & Cary Schilling)
Project Contact:	Scott Nelson, DJR Architecture
Location:	In north Bismarck, along the east side of US Highway 83/State Street and the north side of 43 rd Avenue NE.
Project Size:	4.39 acres
Request:	Amend PUD to modify overall size and scale of mixed use building to be constructed on west side of property.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	Number of Lots:	1 lot in 1 block
Land Use:	Storage facility	Land Use:	Storage facility and mixed-use commercial building
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	PUD – Planned Unit Development	Zoning:	PUD – Planned Unit Development
Uses Allowed:	PUD – Uses specified in PUD	Uses Allowed:	PUD – Uses specified in PUD
Max Density Allowed:	PUD – Density specified in PUD	Max Density Allowed:	PUD – Density specified in PUD

Property History

Zoned:	11/2015 (PUDA) 09/2011 (PUDA) 09/1996 (PUD)	Platted:	09/1996	Annexed:	09/1996
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Staff Analysis

Section 14-04-18 of the City Code of Ordinances (Planned Unit Development) indicates that the intent of the City's Planned Unit Development (PUD) district is "to

encourage flexibility in development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the adequate and economical provision of

(continued)

streets and utilities; and to preserve the natural and scenic features of open space.” A copy of this section of the ordinance is attached.

The property was platted and zoned as PUD – Planned Unit Development in 1996 to allow the development of a storage facility on the eastern portion of the lot. In 2011, the PUD was amended to allow the construction of a five-story mixed-use building with office and residential uses on the western portion of the lot. In 2015, the PUD was again amended to reduce the size of the new mixed-use building and to eliminate the residential component of the project.

The proposed PUD amendment would accommodate the existing storage facilities on the property, and would allow the construction of mixed-use building up to four stories in height on the western portion of the property.

Required Findings of Fact

1. The proposed amendment is outside of the area included in the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed amendment is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed amendment at the time the property is developed;
4. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
5. The character and nature of the amended planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located;

6. The amended planned unit development would preserve the natural features of the site inasmuch as possible, including the preservation of trees and natural drainage ways;
7. The internal roadway circulation system within the amended planned unit development has been adequately designed for the type of traffic that would be generated;
8. Adequate buffer areas have been provided between the amended planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
9. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed amendment is consistent with the master plan, other adopted plans, policies and planning practice; and
11. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the major Planned Unit Development (PUD) amendment for Lot 1, Block 1, Schilling First Addition, as outlined in the attached draft PUD amendment document.

Attachments

1. Draft PUD amendment document
2. Location Map
3. Overall Site Plan
4. Site Plan for New Building
5. Building Elevations for New Building
6. Section 14-04-18 of City Code of Ordinances

**SCHILLING FIRST SUBDIVISION PLANNED UNIT DEVELOPMENT
ORDINANCE NO. 4783 (Adopted August 13, 1996)
MAJOR PUD AMENDMENT (Adopted September 28, 2011)
MAJOR PUD AMENDMENT (Adopted November 17, 2015)
MAJOR PUD AMENDMENT (Adopted _____)**

WHEREAS, Ordinance No. 4783 was adopted by the Board of City Commissioners on August 13, 1996; and

WHEREAS, Ordinance No. 4783 was amended by the Planning & Zoning Commission on September 28, 2011; and

WHEREAS, Ordinance No. 4783 was again amended by the Planning & Zoning Commission on November 17, 2015; and

WHEREAS, the ordinance indicates that any change in the uses outlined in the ordinance requires an amendment to the PUD; and

WHEREAS, Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments) outlines the requirements for amending a PUD; and

WHEREAS, Schilling Properties, LLC has requested an amendment to the Planned Unit Development for Schilling First Subdivision.

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

Lots 1, Block 1, Schilling First Subdivision

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

1. *Uses Permitted.* Permitted uses include the six cold storage facilities as constructed in 1997 & 2003, a 2-story multi-tenant mixed-use building up to four stories in height with below grade parking, and with a mix of retail, service, office and residential uses including a coffee shop/restaurant, offices and retail uses. One drive through facility is allowed along the north side of the building in conjunction with the coffee shop/restaurant. The configuration of the buildings on-site shall closely resemble generally conform to the site plan submitted with the application. Any change in the use of any building from that indicated above will require an amendment to this PUD.

~~2. *Residential Development Standards.* Residential uses are not permitted.~~

~~3. *Commercial Development Standards.* The six existing cold storage facilities on the east 330 feet of Lot 1 may remain as constructed, with a minimum front~~

yard setback of 15 feet along 43rd Avenue NE, a minimum side yard setback of 10 feet on the east side of the lot and a minimum rear yard setback of 10 feet on the south side of the lot. The cold storage facilities may not be expanded without amending the PUD in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments).

The new mixed-use building on the western portion of the lot shall have a footprint no larger than 13,000 square feet and be no more than four stories in height, with The setbacks for the 2-story building shall be a minimum front yard setback of 50 feet along 43rd Avenue NE, a minimum front yard setback of 50 feet along US Highway 83/State Street, a minimum side yard setback of 10 feet on the east and a minimum rear yard setback of 10 feet on the north side of the lot. The minimum building setback requirements for the existing storage facilities adjacent to 43rd Avenue NE shall be a front yard setback of 15 feet along 43rd Avenue NE, a minimum rear yard setback of 10 feet, and a minimum side yard setback of 10 feet. Setbacks between buildings within the PUD shall be the minimum allowed under the City's building code.

A minimum separation of twenty (20) feet shall be maintained between the new mixed-use building and the existing cold storage facilities.

43. *Design Standards.* The six existing cold storage facilities on the east 330 feet of Lot 1 may remain as constructed. Primary building materials for the 2-story new mixed-use building shall include brick, precast concrete panels or stone. Accent building materials shall may include EIFS or stucco.

54. *Parking and Loading.* Parking and loading areas shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. All off-street parking spaces required and all driveways on private property leading to such parking areas shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock or gravel shall not be considered an acceptable surfacing material. All parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement.

Underground parking may be provided on the site, with the entrance to any such underground parking located north of the new mixed-use building. The ramp to the underground parking may be covered with a structure that generally conforms to the site plan and elevations submitted with the application, constructed in accordance with any applicable requirements of Title 4 of the City Code of Ordinances (Building Regulations).

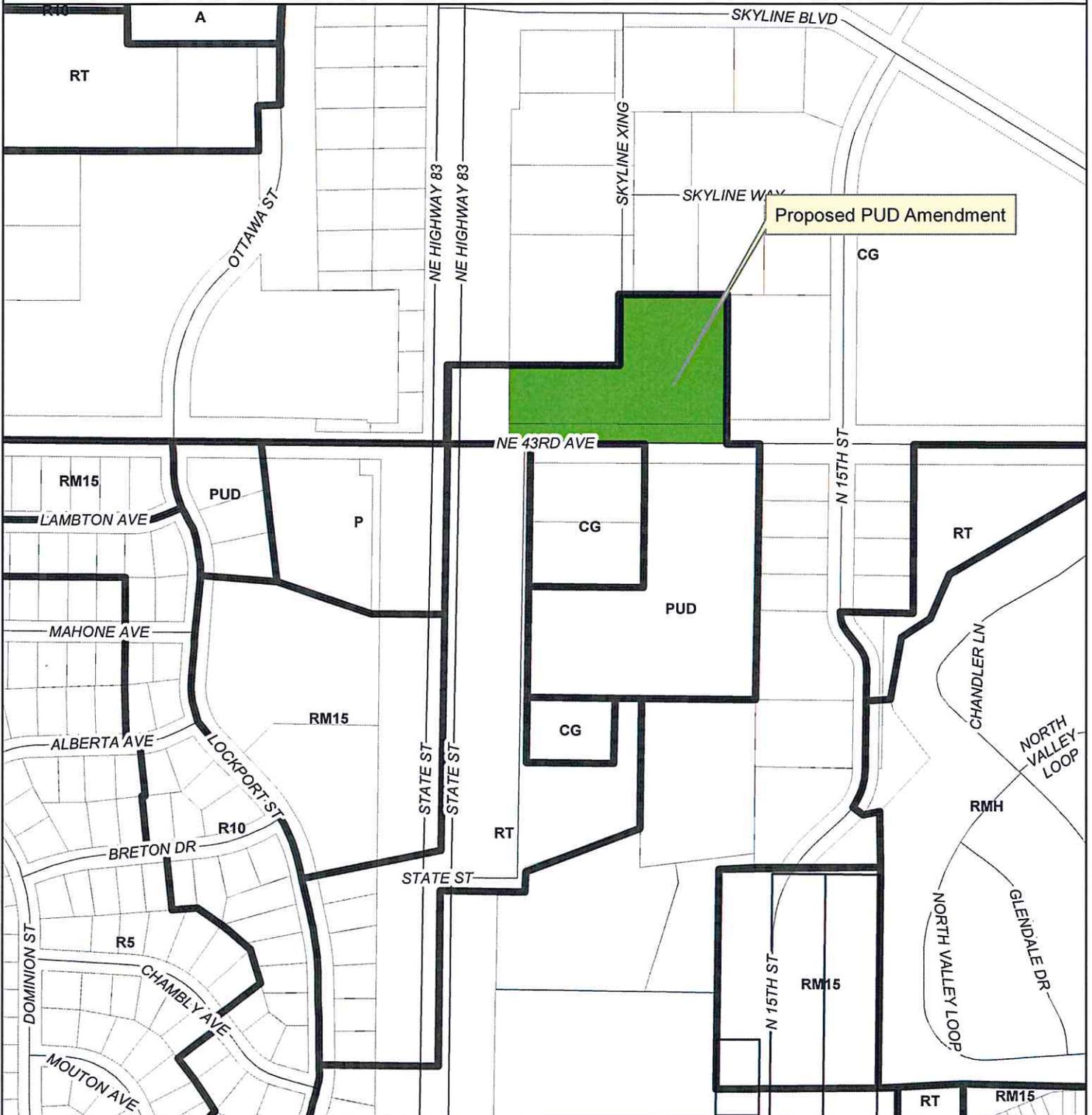
65. *Landscaping and Screening.* Landscaping shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening). The **remaining required** landscaping along the north side of the storage buildings ~~that has not yet been installed shall~~ **must** be installed in conjunction with ~~site~~ development **of the western portion of the site.**

76. *Screening of Mechanical Equipment and Solid Waste Collection Areas.* Mechanical equipment and solid waste collections areas shall be screened in accordance with Section 14-03-12 of the City Code of Ordinances (Screening of Mechanical Equipment and Solid Waste Collection Areas).

87. *Signage.* Signage for the development may be installed in accordance with the provisions of Section 4-04 (Signs and Outdoor Display Structures). Off-premise advertising signs (billboards) are specifically prohibited within this development.

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

Proposed PUD Amendment Schilling First Addition



June 15, 2015 (hlb)

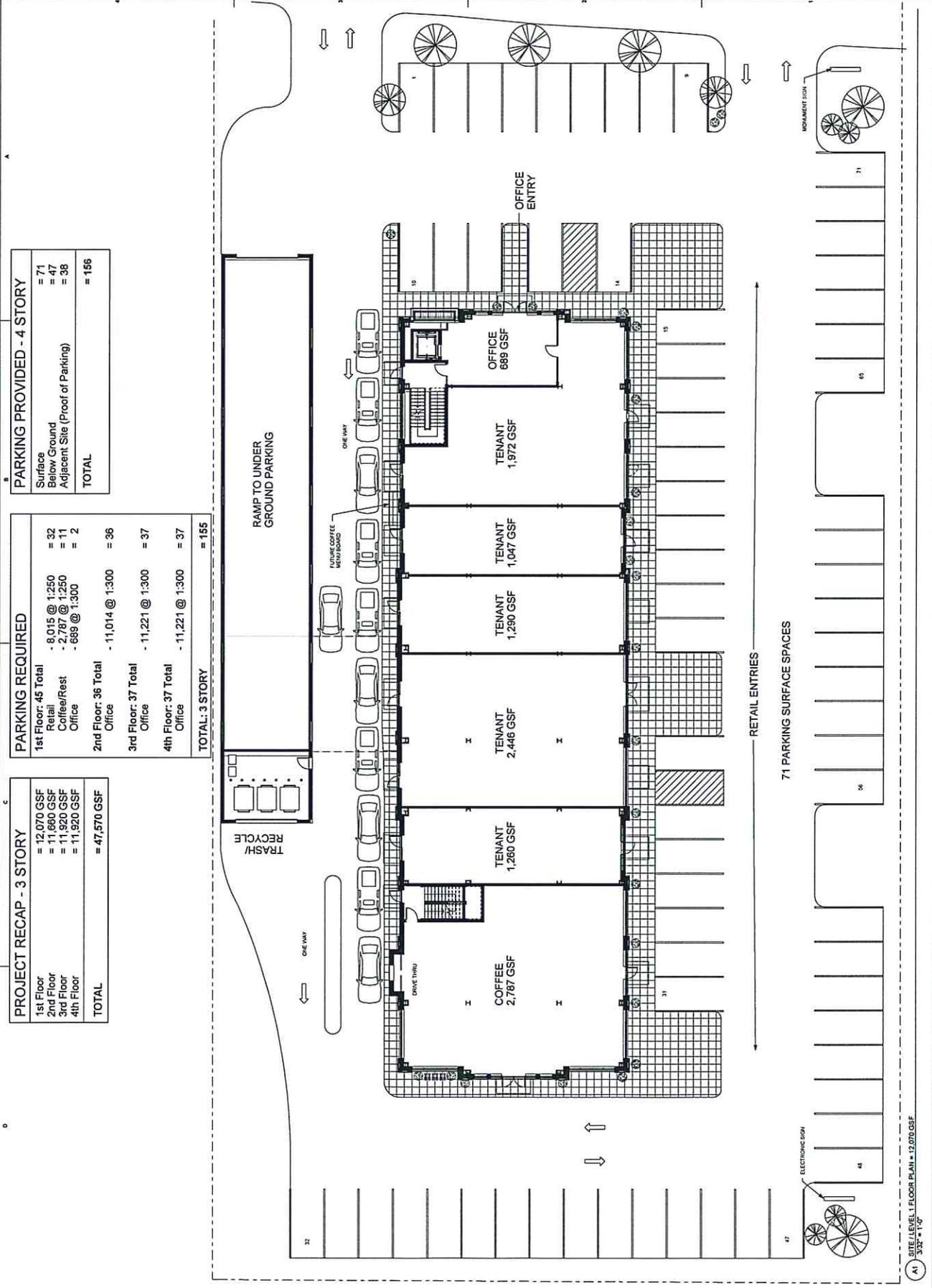
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



BISMARCK OFFICE / RETAIL - 4 STORY
PRELIMINARY - NOT FOR CONSTRUCTION

AS101

SITE & LEVEL 1 FLOOR PLAN



PROJECT RECAP - 3 STORY

1st Floor	= 12,070 GSF
2nd Floor	= 11,660 GSF
3rd Floor	= 11,920 GSF
4th Floor	= 11,920 GSF
TOTAL	= 47,570 GSF

PARKING REQUIRED

1st Floor: 45 Total	
Retail	= 32
Coffee/Rest	= 11
Office	= 2
2nd Floor: 36 Total	
Office	= 11,014 @ 1:300 = 36
3rd Floor: 37 Total	
Office	= 11,221 @ 1:300 = 37
4th Floor: 37 Total	
Office	= 11,221 @ 1:300 = 37
TOTAL: 3 STORY	= 155

PARKING PROVIDED - 4 STORY

Surface	= 71
Below Ground	= 47
Adjacent Site (Proof of Parking)	= 38
TOTAL	= 156

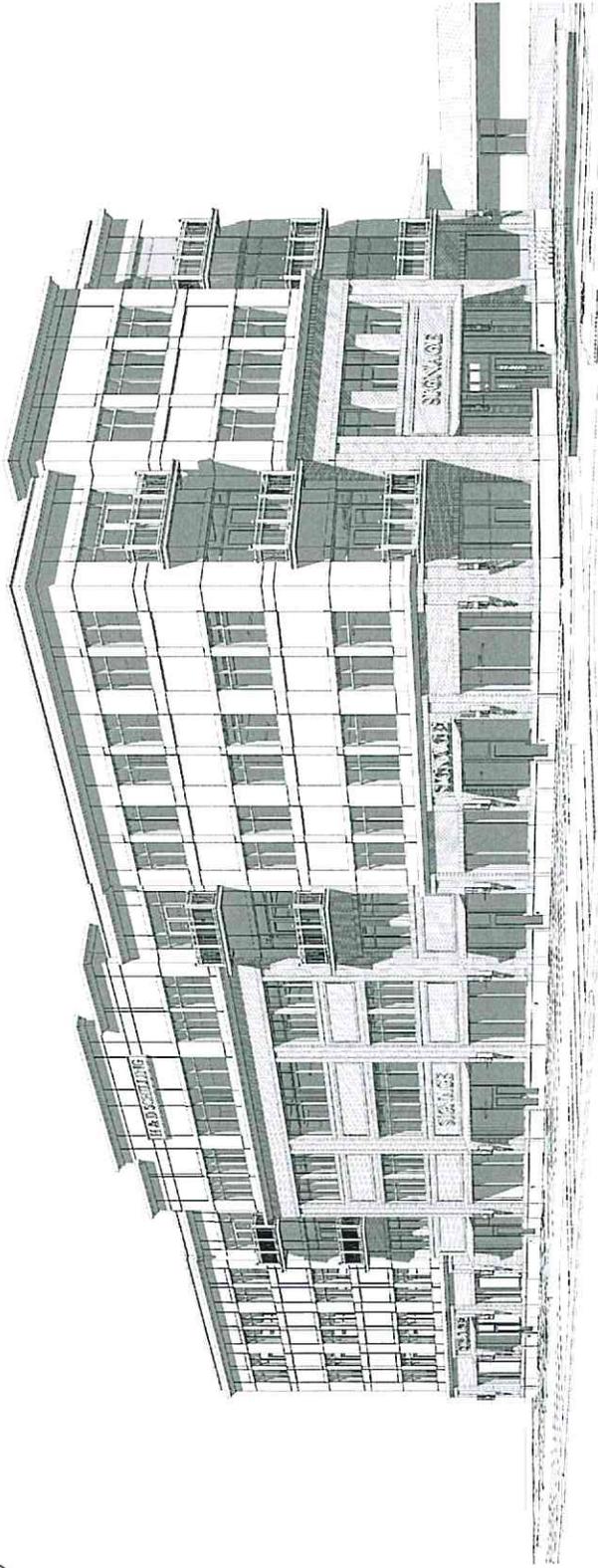
BISMARCK OFFICE / RETAIL - 4 STORY
PRELIMINARY - NOT FOR CONSTRUCTION

Client	15000
Design	06/07/16
Drawn by	SM
Checked by	SM

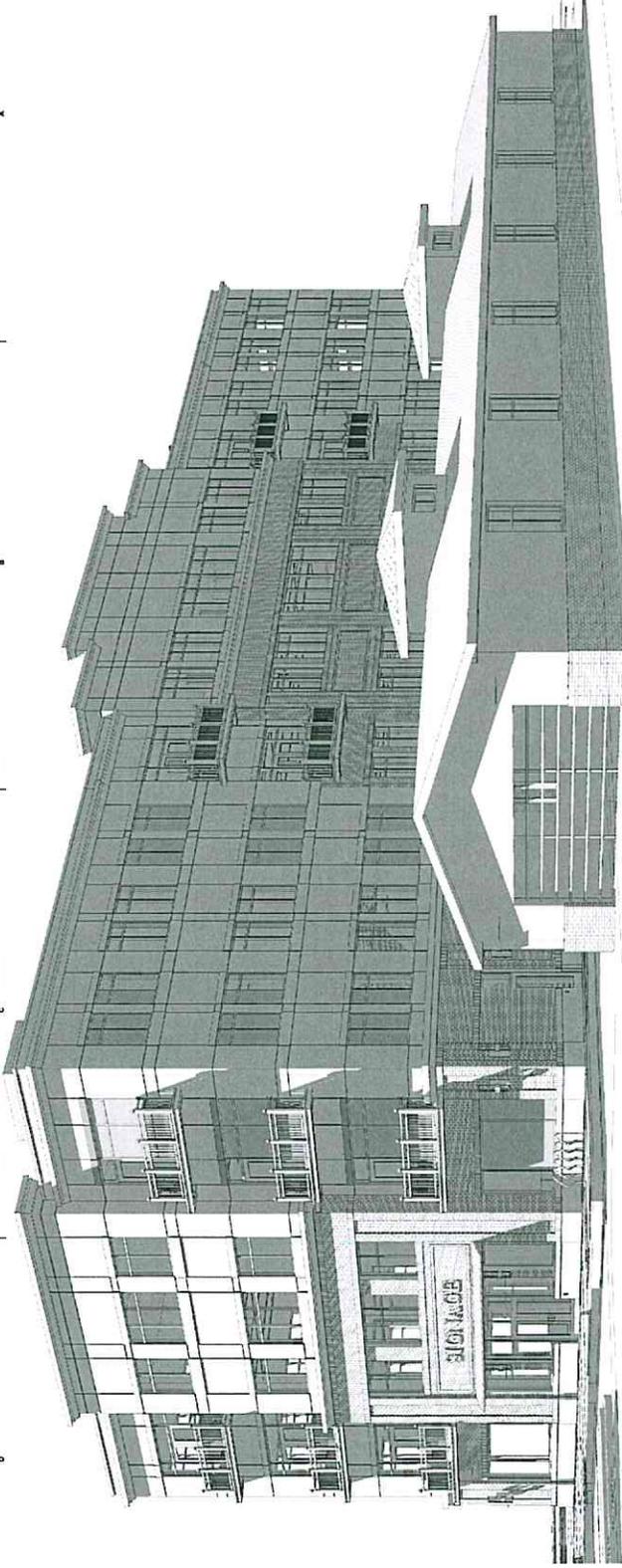
REVISIONS
 1. 06/07/16 - Initial Design
 2. 06/07/16 - Initial Design
 3. 06/07/16 - Initial Design

CONTRACTOR
 Bismarck Development LLC
 1500 15th Street, Suite 100
 Bismarck, ND 58501

ARCHITECT
 DJR ARCHITECTURE, INC.
 1500 15th Street, Suite 100
 Bismarck, ND 58501

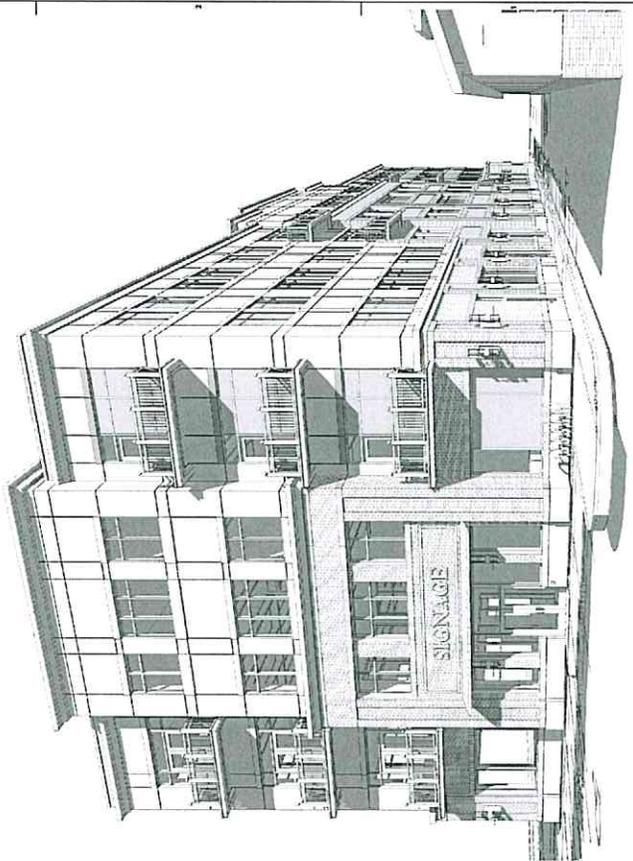


A1 OVERALL VIEW FROM SE

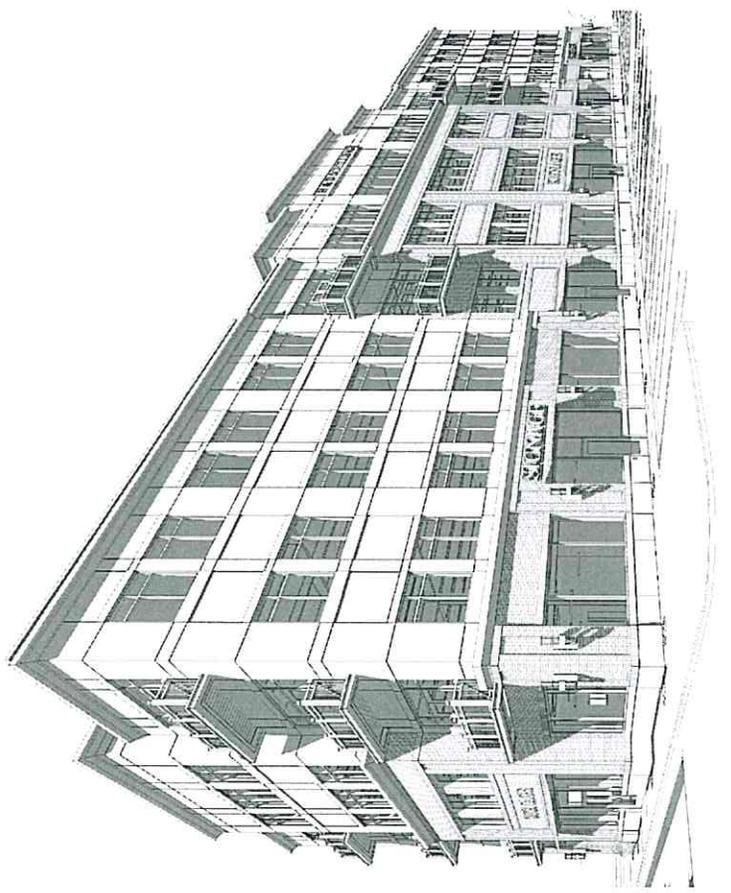


A2 OVERALL VIEW FROM NE

A1 VIEW OF OFFICE ENTRY, TOWARDS DRIVE/THRU



C1 VIEW OF CARBIDOU



A203

3D VIEWS

BISMARCK OFFICE / RETAIL - 4 STORY
PRELIMINARY - NOT FOR CONSTRUCTION

Client	AMV
Project #	062716
Date	13-04-2012
Checked By	DN
Drawn By	AMV

Having made the plan, sections, elevations and details, the Architect hereby certifies that the same conform to the requirements of the Building Code of the State of North Dakota, and that the same are in accordance with the approved plans and specifications.

Architect

Signature: _____
Date: _____

CLIENT
AMV
1000 1st Avenue, Suite 200
Bismarck, ND 58102

CONTRACTOR
Lundberg Construction
1000 1st Avenue, Suite 200
Bismarck, ND 58102

STRUCTURAL
The Bismarck Engineers
1000 1st Avenue, Suite 200
Bismarck, ND 58102

MECHANICAL, ELECTRICAL & PLUMBING
The Bismarck Engineers
1000 1st Avenue, Suite 200
Bismarck, ND 58102

GENERAL CONTRACTOR
The Bismarck Engineers
1000 1st Avenue, Suite 200
Bismarck, ND 58102

ARCHITECT
DJR ARCHITECTURE INC.
1000 1st Avenue, Suite 200
Bismarck, ND 58102



14-04-18. Planned Unit Developments. It is the intent of this section to encourage flexibility in development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the adequate and economical provision of streets and utilities; and to preserve the natural and scenic features of open space.

1. Site plan, written statement and architectural drawings. The application must be accompanied by a site plan, a written statement and architectural drawings:

a. Site plan. A complete site plan of the proposed planned unit prepared at a scale of not less than one (1) inch equals one hundred (100) feet shall be submitted in sufficient detail to evaluate the land planning, building design, and other features of the planned unit. The site plan must contain, insofar as applicable, the following minimum information.

- 1) The existing topographic character of the land;
- 2) Existing and proposed land uses;
- 3) The location of all existing and proposed buildings, structures and improvements;
- 4) The maximum height of all buildings;
- 5) The density and type of dwelling;
- 6) The internal traffic and circulation systems, off-street parking areas, and major points of access to public right-of-way;
- 7) Areas which are to be conveyed, dedicated or reserved as common park areas, including public parks and recreational areas;
- 8) Proposed interior buffer areas between uses;
- 9) Acreage of PUD;
- 10) Utility service plan showing existing utilities in place and all existing and proposed easements;
- 11) Landscape plan; and
- 12) Surrounding land uses, zoning and ownership.

b. Written statement. The written statement to be submitted with the planned unit application must contain the following information:

- 1) A statement of the present ownership and a legal description of all the land included in the planned unit;
- 2) An explanation of the objectives to be achieved by the planned unit, including building descriptions, sketches or elevations as may be required to described the objectives; and

3) A copy of all proposed condominium agreements for common areas.

c. Architectural drawings - the following architectural drawings shall be submitted in sufficient detail to allow evaluation of building height, form, massing, texture, materials of construction, and type, size, and location of door and window openings:

1) Elevations of the front and one side of a typical structure.

2) A perspective of a typical structure, unless waived by the planning department.

2. Review and approval.

a. All planned units shall be considered by the planning commission in the same manner as a zoning change. The planning commission may grant the proposed planned unit in whole or in part, with or without modifications and conditions, or deny it.

b. All approved site plans for planned units, including modifications or conditions shall be endorsed by the planning commission and filed with the Director of Community Development. The zoning district map shall indicate that a planned unit has been approved for the area included in the site plan.

3. Standards. The planning commission must be satisfied that the site plan for the planned unit has met each of the following criteria:

a. Proposal conforms to the comprehensive plan.

b. Buffer areas between noncompatible land uses may be required by the planning commission.

c. Preservation of natural features including trees and drainage areas should be accomplished.

d. The internal street circulation system must be designed for the type of traffic generated. Private internal streets may be permitted if they conform to this ordinance and are constructed in a manner agreeable to the city engineer.

e. The character and nature of the proposal contains a planned and coordinated land use or mix of land uses which are compatible and harmonious with adjacent land areas.

4. Changes.

a. Minor changes in the location, setting, or character of buildings and structures may be authorized by the Director of Community Development.

b. All other changes in the planned unit shall be initiated in the following manner:

1) Application for Planned Development Amendment.

a) The application shall be completed and filed by all owners of the property proposed to be changed, or his/their designated agent.

b) The application shall be submitted by the specified application deadline and on the proper form and shall not be accepted by the Director of Community Development unless and, until all of the application requirements of this section have been fulfilled.

2) Consideration by Planning Commission. The planning commission secretary, upon the satisfactory fulfillment of the amendment application and requirements contained herein, shall schedule the requested amendment for a regular or special meeting of the planning commission, but in no event later than sixty (60) calendar days following the filing and acceptance of the application. The planning commission may approve and call for a public hearing on the request, deny the request or table the request for additional study.

3) Public Hearing by Planning Commission. Following preliminary approval of an amendment application, the Director of Community Development shall set a time and place for a public hearing thereon. Notice of the time and place of holding such public hearing shall be published in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive weeks prior to the hearing. Not less than ten (10) days prior to the date of the scheduled public hearing, the City shall attempt to notify all known adjacent property owners within three hundred (300) feet of the planned unit development amendment. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Burleigh County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The Planning Commission may approve, approve subject to certain stated conditions being met, deny or table the application for further consideration and study, or, because of the nature of the proposed change, make a recommendation and send to the Board of City Commissioners for final action.

(Ord. 4364, 05-07-91; Ord. 4876, 11-25-97; Ord. 4946, 10-27-98; Ord. 5218, 11-26-02; Ord. 5343, 06-22-04; Ord. 5351, 08-24-04; Ord. 5728, 05-26-09)



STAFF REPORT

City of Bismarck
 Community Development Department
 Planning Division

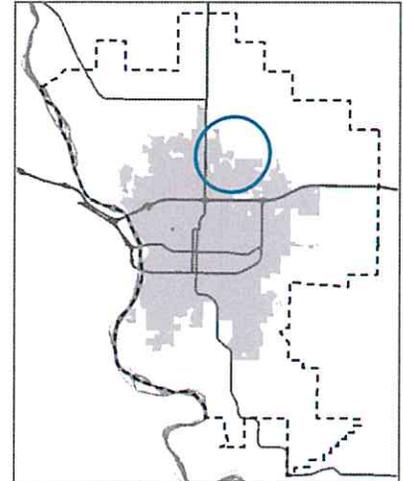
Agenda Item # 6
 June 22, 2016

Application for: Zoning Change

TRAKiT Project ID: ZC2016-010

Project Summary

Title:	Lots 4 & 5, Block 4, Meadowlark Commercial 7 th Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Skyline Properties, LLC
Project Contact:	Brian Zuroff, Wenck Associates, Inc.
Location:	In north Bismarck, along the east side of North 19 th Street north of Skyline Boulevard.
Project Size:	9.05 acres
Request:	Rezone property from RT – Residential to CA – Commercial to allow the development of office and neighborhood commercial uses.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2 lots in 1 block	Number of Lots:	2 lots in 1 block
Land Use:	Undeveloped	Land Use:	Neighborhood commercial
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	RT – Residential	Zoning:	CA – Commercial
Uses Allowed:	RT – Offices and multi-family residential	Uses Allowed:	CA – Neighborhood commercial
Max Density Allowed:	CA – 30 units / acre	Max Density Allowed:	CA – 30 units / acre

Property History

Zoned:	12/2014	Platted:	12/2014	Annexed:	12/2014
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Staff Analysis

The applicant is requesting a zoning change to allow the development of neighborhood commercial and office uses in this area, rather than office and multi-

family residential uses. The area to the south was recently rezoned to CA – Commercial in conjunction with Meadowlark Commercial 9th Addition (a replat that has been approved by the City but has not yet been

(continued)

recorded). This change is being requested to provide a northward continuation of the CA – Commercial zoning district from Skyline Boulevard to the southern end of the PUD zoning approved for a storage facility.

This area was originally zoned RT – Residential to provide a zoning transition between the CG – Commercial zoned property on the west side of North 19th Street and future medium-density residential uses on the east side of the Hay Creek corridor envisioned by the Future Land Use Plan. The presence of the Hay Creek corridor and the CP railroad also creates a distance separation between this property and the developable property to the east. The proposed CA – Commercial zoning, along with the physical separation of the proposed commercial land uses and the future residential land uses, would also be an acceptable zoning transition.

Required Findings of Fact

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

classification at the time the property is developed;

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

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning change from the RT – Residential zoning district to the CA – Commercial zoning district for Lots 4 & 5, Block 4, Meadowlark Commercial 7th Addition.

Attachments

1. Location Map
2. Zoning Map

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

Proposed Zoning Change (RT to CA) Lots 4-5, Block 4, Meadowlark Commercial 7th Addition

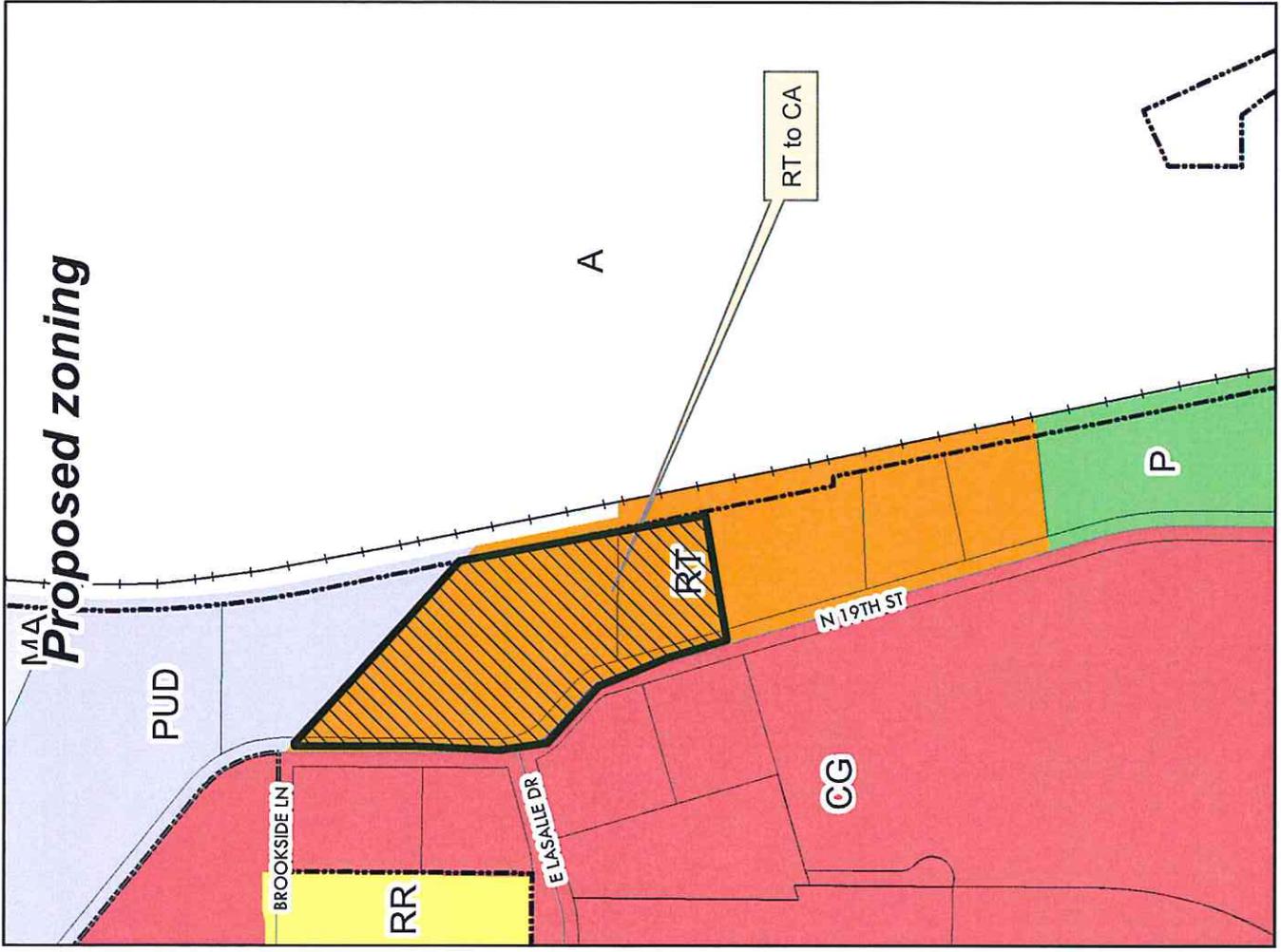
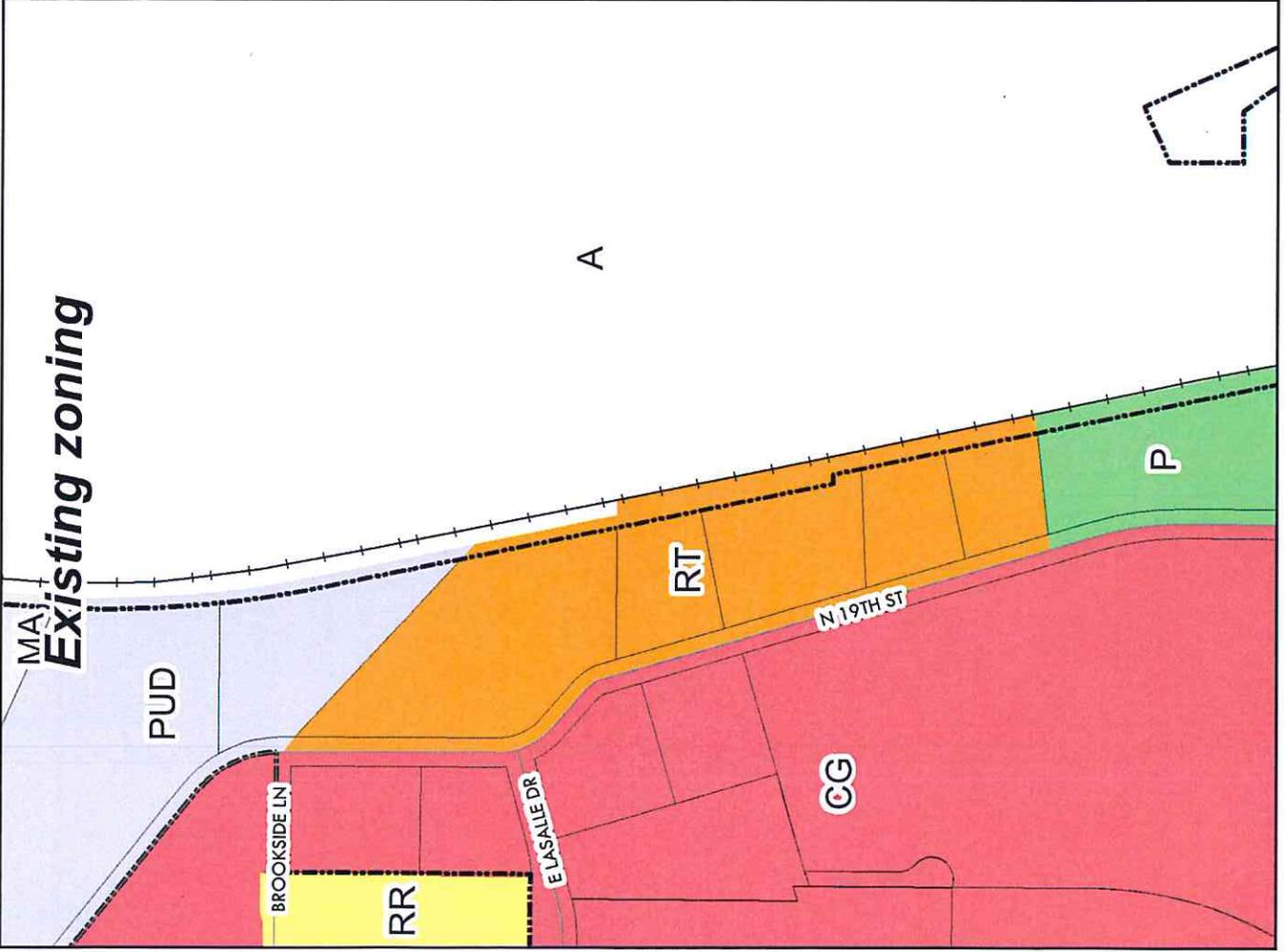


June 9, 2016 (h/b)

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Lots 4-5, Block 4, Meadowlark Commercial 7th Addition



May, 2016

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STAFF REPORT

City of Bismarck
 Community Development Department
 Planning Division

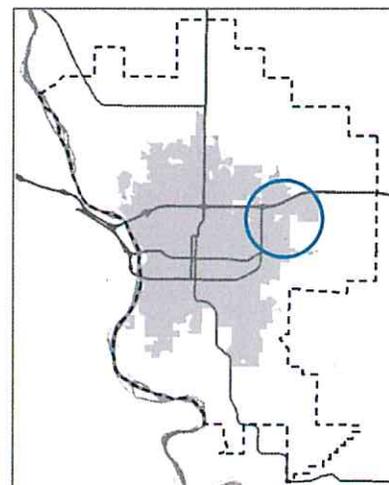
Agenda Item #7
 June 22, 2016

Application for: Zoning Change

TRAKiT Project ID: ZC2015-032

Project Summary

Title:	Auditor's Lots 6A and 6B of Auditor's Lot 6 of the NE1/4 of Section 1, T138N-R80W/ Lincoln Township
Status:	Planning Commission – Public Hearing
Owner(s):	Mark & Stephanie Swenson
Project Contact:	Mark Swenson
Location:	East of Bismarck, along the west side of 52 nd Street SE between County Highway 10/East Main Avenue and Apple Creek Road.
Project Size:	22.33 acres +/-
Request:	Reconsideration of modified request to rezone property to allow for future platting and development.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2 unplatted parcels	Number of Lots:	2 unplatted parcels
Land Use:	Vacant / Undeveloped	Land Use:	Light Industrial
Designated GMP	Industrial	Designated GMP	Industrial
Future Land Use:		Future Land Use:	
Zoning:	A – Agricultural	Zoning:	Conditional MA – Industrial
Uses Allowed:	A – Agriculture	Uses Allowed:	Conditional MA – Light industrial uses as specified in the draft ordinance
Max Density Allowed:	A – 1 unit / 40 acres	Max Density Allowed:	Conditional MA – N/A

Property History

Zoned:	11/2007	Platted:	N/A	Annexed:	N/A
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Staff Analysis

The applicant is requesting reconsideration of the Conditional MA – Industrial zoning that was

recommended for approval on this property in January 2016 in order to modify the uses allowed within the district. The Conditional MA recommended for

(continued)

approval at that time mirrored the Conditional MA – Industrial zoning adopted for the land to the north subsequently platted as Midwest Business Park Addition.

Staff has been working with the applicant on requested modifications and is supportive of the changes included in the revised draft ordinance. The modifications made include:

- Adding radio or television transmitting station, utility service group and religious institutions to the list of permitted uses;
- Adding small wind energy systems, animal hospital or kennel, recreational vehicle park and filling station to the list of special uses
- Eliminating the transition area and the transition area setback;
- Reducing the maximum height for the entire property from 60 feet to 40 feet, rather than having a maximum height of 25 feet in the transition area and 60 feet for the remainder of the property;
- Allowing wood-frame construction for both principal and accessory buildings; and
- Keeping the 50-foot buffer yard along the east side of the property, but eliminating the requirement for a berm of no less than 6 feet in height.

The elimination of the berm and the transition area are being supported by staff because of differing topography and the presence of an existing vegetative buffer on the east side of 52nd Street SE that is not present to the north. Prior to any building permits being issued, the property would need to be platted and annexed to the corporate limits.

Required Findings of Fact

1. The proposed zoning change generally conforms to the Future Land Use Plan in the

2014 Growth Management Plan, as amended;

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

Staff Recommendation

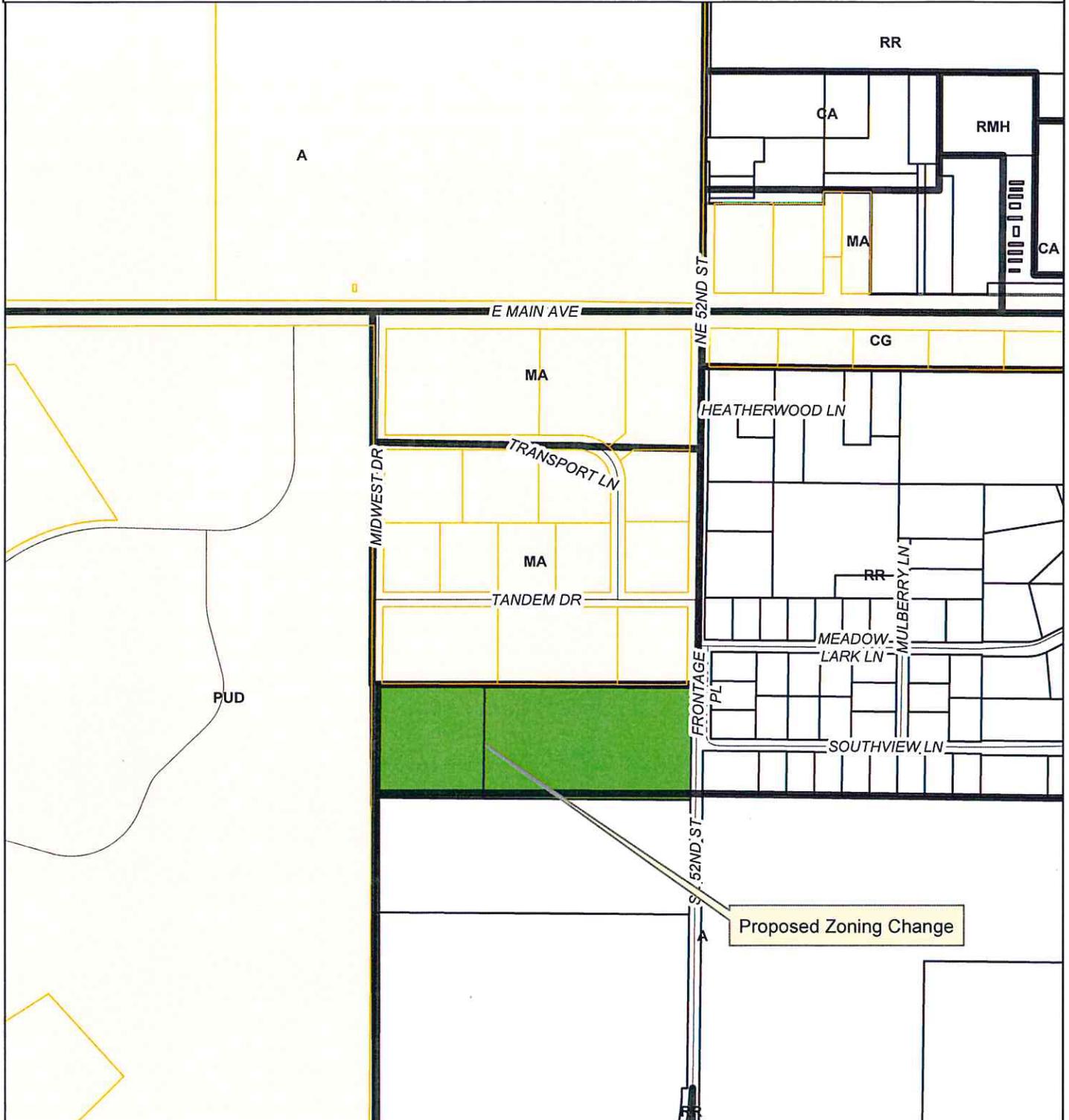
Based on the above findings, staff recommends approval the zoning change from RR – Residential zoning district to the Conditional MA – Industrial zoning district as outlined in the attached draft ordinance.

Attachments

1. Location Map
2. Zoning Map
3. Draft Ordinance

Proposed Zoning Change (RR to MA)

Auditor's Lots 6A and 6B of Auditor's Lot 6 of the NE1/4 of Section 1, T138N-R80W/Lincoln Township

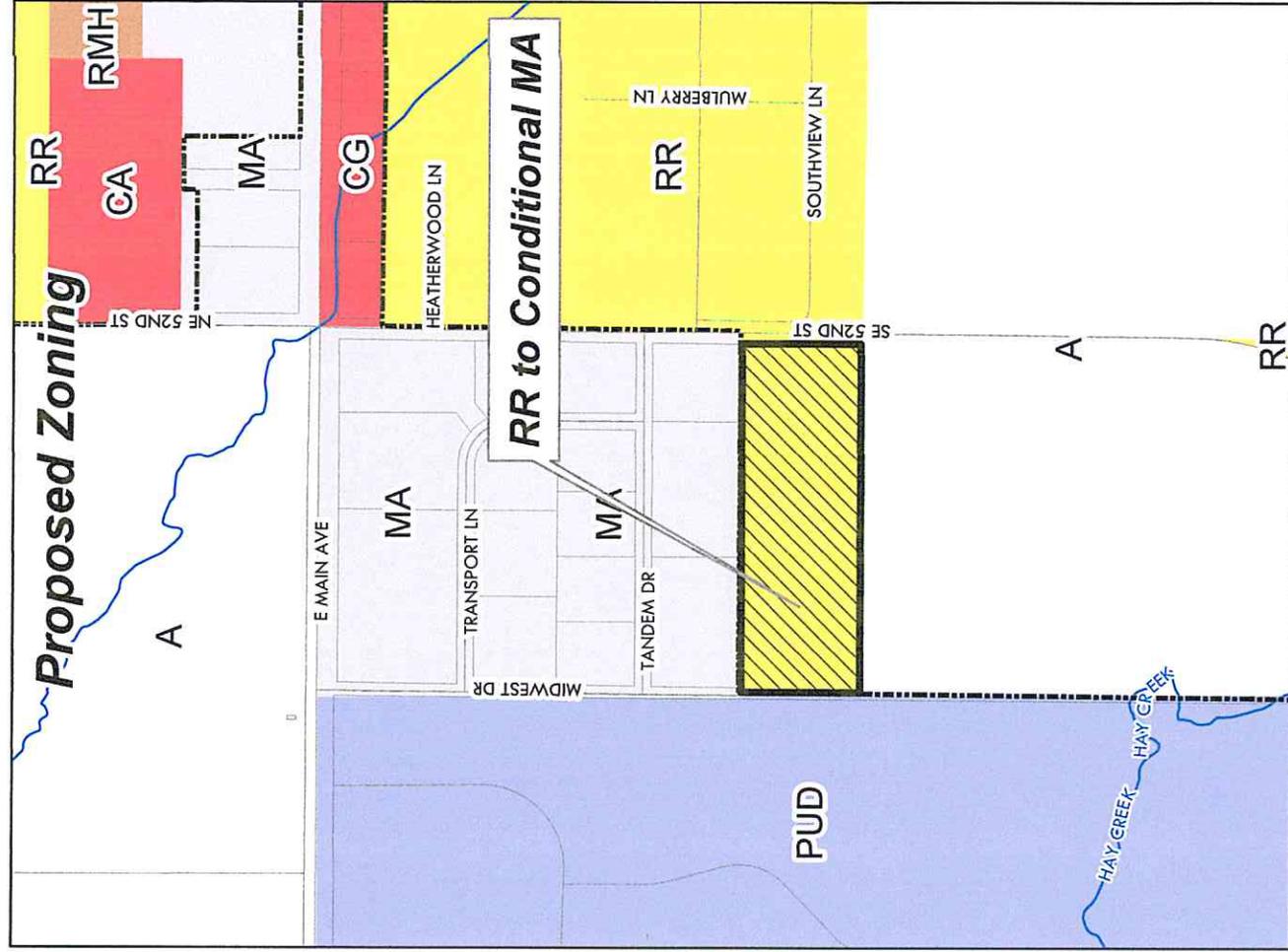
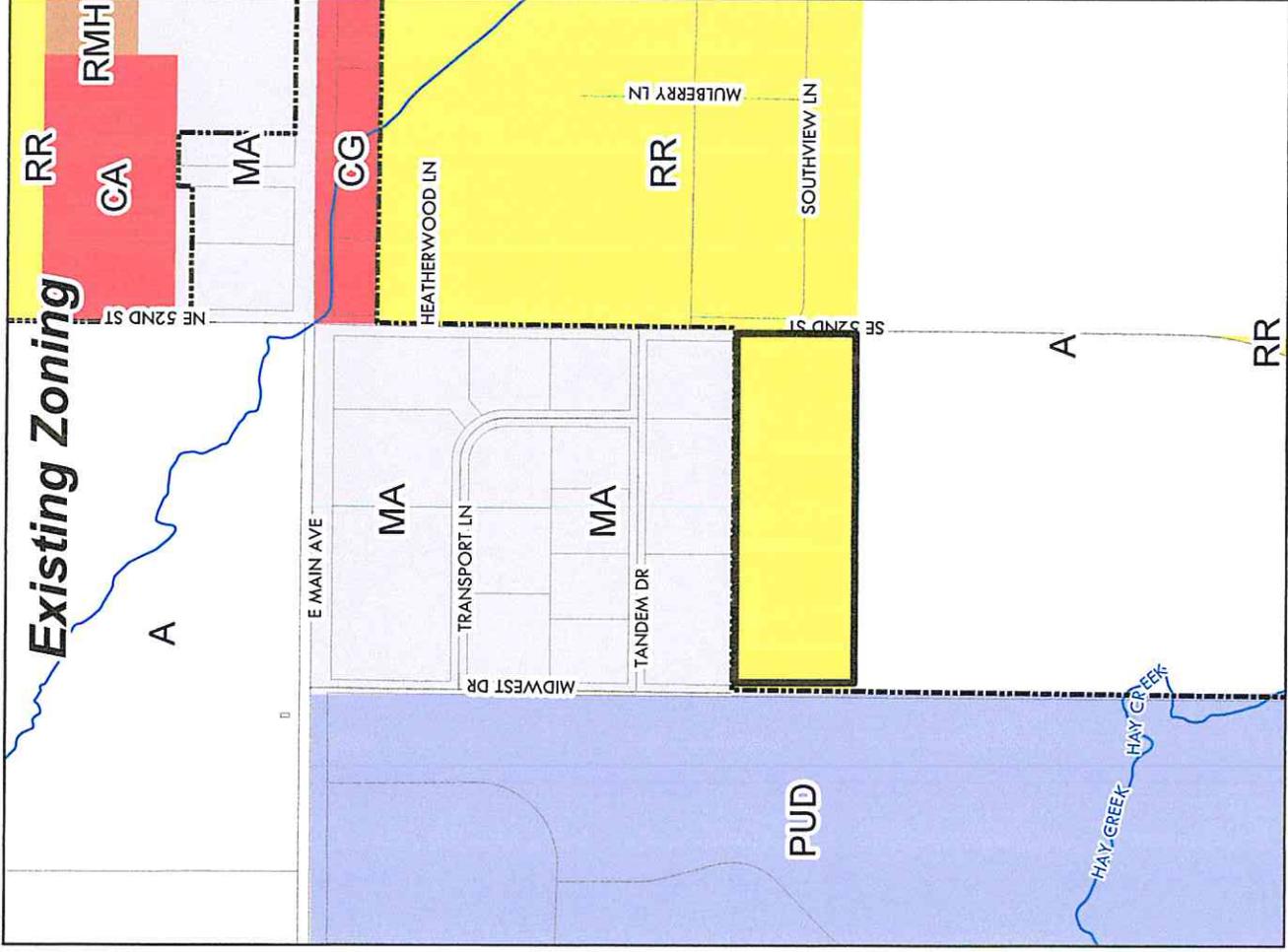


June 9, 2016 (klee)

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Auditor's Lots 6A & 6B of Auditor's Lot 6 of the NE1/4 of Sec 1, Lincoln Township - Zoning Change



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ORDINANCE NO.

Introduced by	_____
First Reading	_____
Second Reading	_____
Final Passage and Adoption	_____
Publication Date	_____

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

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

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

The following described property shall be excluded from the RR – Residential zoning district and included within the Conditional MA – Industrial zoning district:

Auditor's Lots 6A and 6B of Auditor's Lot 6, Section 1, T138N-R80W/Lincoln Township

This Conditional MA – Industrial zoning is subject to the following development standards:

1. *Uses Permitted.* The following uses are permitted:

- a. Hotel-motel.
- b. Retail group A.
- c. Retail group B.
- d. Service group A, excluding dry cleaning plants, mortuaries or funeral homes.
- e. Service group B.
- f. Wholesale group.
- g. Truck terminal.
- h. Industrial group A, excluding ice manufacturing, soft drink bottling plants and petroleum bulk plants.
- i. Commercial recreation group.
- j. Office-bank group.
- k. Health-medical group.
- l. Radio or television transmitting station.
- m. Utility service group.
- n. Religious institutions.

2. *Special Uses.* The following uses are allowed as special uses pursuant to Section 14-03-08 of the City Code of Ordinances:

- a. Temporary Christmas tree sales.
- b. Temporary religious meetings.

- c. Temporary farm and garden produce sales.
- e. Seasonal nursery and bedding stock sales.
- e. Small animal veterinary clinic.
- f. Drive-in retail or service establishments.
- g. Golf driving range.
- h. Small animal veterinary clinic.
- i. Auto laundry-car wash.
- j. Roadway maintenance facilities.
- k. Small wind energy systems.
- l. Animal hospital or kennel.
- m. Recreational vehicle park.
- n. Filling station.

3. *Dimensional Standards.*

- a. Lot Area. The minimum lot area is 10,000 square feet.
- b. Lot Width. The minimum lot width is sixty (60) feet.
- c. Front Yard Setback. The minimum front yard setback is fifteen (15) feet along interior roadways. The minimum front yard setback along 52nd Street is fifty (50) feet.
- d. Side Yard Setback. The minimum side yard setback is ten (10) feet.
- e. Rear Yard Setback. The minimum rear yard setback is ten (10) feet.
- f. ~~Transition Area. That portion of the Conditional MA – Industrial zoning district that lies within four hundred (400) feet of the centerline of 52nd Street NE is referred to as the “Transition Area.”~~
- g. ~~Transition Area Setback. The maximum setback within the Transition Area along 52nd Street NE shall be no more than seventy-five (75) feet from the east property line.~~
- hf. Height. The maximum building height is sixty (60) forty (40) feet; ~~except for buildings constructed within the Transition Area, which shall be limited to twenty-five (25) feet in height.~~
- ig. Lot Coverage. The maximum lot coverage for buildings and required parking is 80% of the total lot area.

4. *Design and Aesthetic Standards.*

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

- b. **Building Materials.** The main building facade facing a public street within this Conditional MA-Industrial zoning district must be designed with architecturally finished materials, with primary building materials being limited to modular masonry materials such as brick, stone or dimensional block; precast concrete or aggregate panels; stucco or stucco-like materials; or prefinished metal architectural panels. If prefinished metal architectural panels are used, no more than 70% of the front elevation and no more than 80% of any other elevations facing a public-right-of-way may consist of this material. The following building types and materials are expressly prohibited: ~~wood frame structures, except for accessory buildings;~~ wood as an exterior wall finish, except where used as an accent material; corrugated metal roofing or siding; and exposed, untextured, uncolored, unaugmented concrete.

The main entrance or façade of the buildings shall be given special treatment through the use of different materials, colors and/or architectural features to enhance the view from the public right of way.

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

- c. **Building Colors.** The main mass of the building shall be of a neutral, subtle color that reflects those found in the natural environment to help de-emphasize the overall mass of the building elevation. Design features that provide accents to the building façade may be of a brighter color that is vibrant but not garish, in a shade that complements colors utilized in the main mass of the building.
- d. **Enclosed Building Requirement.** All production, processing, storage, sales, display, or other business activity shall be conducted within a completely enclosed building except for outdoor storage areas.
- e. **Outdoor Storage Areas.** ~~Except as provided for in Section 4 (c) above,~~ Outdoor storage areas shall be placed to the rear or side of the principal structure and shall be subject to the building setback requirements. The storage area shall be fenced around its perimeter with a minimum six foot wall or fence and any storage area visible from the public right-of-way shall be screened with a vegetative buffer yard. Goods and materials shall be located on a paved or gravel surface and the outdoor storage area shall be maintained in an orderly fashion.
- f. The height of materials stored, excluding operable vehicles and equipment, shall not exceed the height of the fence, with the exception that the height of materials may be increased to two times the fence height if the stored material meets the building setback requirements. The outdoor storage area shall not reduce the amount of required parking on the site.

6. *Development Standards.*

- a. **Accessory Buildings.** Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure. Storage containers may not be used as Accessory Buildings.
- b. **Parking and Loading.** Parking and loading areas shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. Said parking areas shall be hard-surfaced and striped in conjunction with site development and regularly maintained. Concrete perimeter curbing of the parking areas will not be required. Loading areas within 400 feet of the centerline of 52nd Street shall be oriented away from 52nd Street.
- c. **Landscaping and Screening.** Parking lot landscaping and buffer yards shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).
- d. **Buffer Yards.** In addition to the requirements of Section 14-03-11, a 50 foot wide buffer yard shall be provided along the eastern boundary of the PUD zoning district. Said buffer yard shall be shown on the face of the plat as a landscape easement and shall include a berm of no less than 6 feet in height and be densely planted in conjunction with site development with the minimum number, species and size of trees and shrubs required for buffer yards in the City's landscaping ordinance (minimum of 6 trees and 25 shrubs per 100 linear feet, with at least 50% of the required trees and shrubs being evergreens).
- e. **Screening of Mechanical Equipment and Solid Waste Collection Areas.** Mechanical equipment and solid waste collections areas shall be screened in accordance with Section 14-03-12 of the City Code of Ordinances (Screening of Mechanical Equipment and Solid Waste Collection Areas).
- f. **Signage.** Signage for the development may be installed in accordance with the provisions of Sec14-03-05 (10) (Industrial Park Area Identification Signs). Signage for individual lots within the development shall be installed in accordance with the provisions of Chapter 4-04 of the City Code of Ordinances (Signs and Display Structures). Off-premise advertising signs (billboards) are specifically prohibited within this development.

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

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



STAFF REPORT

City of Bismarck
 Community Development Department
 Planning Division

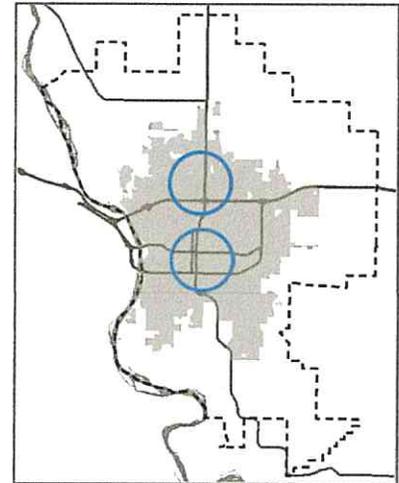
Agenda Item # 8
 June 22, 2016

Application for: Zoning Change

TRAKiT Project ID: ZC2016-013

Project Summary

Title:	CR – Commercial to CG – Commercial Rezoning	
Status:	Planning & Zoning Commission – Public Hearing	
Owner(s):	Gate City Bank Gateway Fashion Mall LLC Kirkwood Mall Acquisitions LLC McDonalds Corporation Dan’s Supermarket INC	EBD Nevada Food LLC Montana Dakota Utilities Target Corporation Boutrous Group LLP Michael Boutrous
Project Contact:	Daniel Nairn, AICP, Planner, City of Bismarck	
Location:	The Gateway Mall and Kmart Shopping Center areas on both sides of State Street, north of Interstate 94 and South of East Century Avenue; and Kirkwood Mall area bounded by South 3 rd Street, East Bismarck Expressway, South 7 th Street, and East Bowen Avenue	
Project Size:	120.24 acres	
Request:	Rezone all CR – Commercial zoning districts to CG – Commercial to allow the removal of CR – Commercial from the zoning ordinance to provide greater flexibility to property owners and to simplify the zoning regulations.	



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	19	Number of Lots:	19
Land Use:	Regional shopping mall, big-box retail, pad retail sites.	Land Use:	Regional shopping mall, big-box retail, pad retail sites.
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	CR – Commercial	Zoning:	CG – Commercial
Uses Allowed:	CR – General Commercial and offices	Uses Allowed:	CG – General commercial, multi-family residential, and offices
Max Density Allowed:	CR – N/A	Max Density Allowed:	CG – 42 units / acre

(continued)

Staff Analysis

Staff proposes to rezone all areas currently zoned CR – Commercial to CG – Commercial, and then to eliminate the CR – Commercial zoning district to simplify the zoning ordinance and map.

The CR – Commercial zoning district was established in 1974 with the following purposes:

- a. To prohibit residential, heavy commercial and industrial uses of the land, and to prohibit any other use which would substantially interfere with the development or continuation of commercial structures in the district.
- b. To discourage any use which, because of its character or size, would interfere with the use of land in the district as a shopping and service center for the regional area served.

The zoning district was only applied to three areas: the Gateway Mall area; the Kmart area; and the Kirkwood Mall area. Over the years the CR – Commercial zoning district has shrunk somewhat, as certain portions were rezoned to CG – Commercial to allow different forms of development.

The CR Zoning District was created in an era when the City wished to encourage and protect large-scale enclosed malls. Each CR District must be at least 40 acres in size, and the principal building must have at least 300,000 square feet of floor area. However, neither the Gateway Mall nor the Kmart Area CR districts currently meet the 40 acre standard, and the Kmart building is only a third the size of the minimum requirement.

An important difference between these two zoning districts is the uses allowed within each. The CR district is more restrictive than the CG – Commercial zoning district, as shown in the following chart:

	CG	CR
Multifamily Housing	P	X
Group dwelling	P	X
Multifamily high rise	P	X
Hotel-motel	P	X
Retail group A	P	P
Service group A	P	P
Office-bank group	P	P
Retail group B	P	X
Service group B	P	X
Commercial recreation group	P	P
Wholesale group	P	X
Health-medical group	P	P
Education group	P	X
Public recreation group	P	X
Railroad or bus passenger station	P	X
Commercial greenhouse	P	X
Commercial parking lot	P	X
Religious institution	P	P
Temporary Christmas tree sales	SUP	SUP
Temporary religious meetings	SUP	X
Temporary farm and garden produce sales	SUP	SUP
Seasonal nursery and bedding stock sales	SUP	SUP
Filling station	SUP	SUP
Drive-in retail or service establishment	SUP	SUP
Child care center	SUP	SUP
Small animal veterinary clinic	SUP	X
Golf driving range	SUP	X
Auto laundry - car wash	SUP	SUP
Retail liquor sales	SUP	SUP
Microbrewery	SUP	X
Off-premise advertising sign	SUP	X

P = Permitted
 X = Not Permitted
 SUP = Permitted with Special Use Permit

Setbacks and height limits are also significantly stricter in the CR than the CG Commercial zoning district, and the CR district includes its own minimum parking standards which contradict the updated parking requirements contained in Section 14-03-10.

Staff proposes this change to provide more flexibility for possible redevelopment opportunities within the districts currently zoned CR – Commercial. While there is still a market for the conventional enclosed malls that were built in the 1960s and 1970s, many of these sites around the country are also being redeveloped in a variety of ways. Staff does not see any reason to constrain the creativity of property owners with a zoning district that mandates a conventional retail mall model.

Furthermore, the elimination of a zoning district that is not widely utilized helps simplify the zoning ordinance and map, which enhances the ordinances accessibility to the public and general usability.

Required Findings of Fact

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;

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

Staff Recommendation

Based on the above findings, staff recommends approval for the zoning change from the CR – Commercial zoning district to the CG – Commercial zoning district for the properties described as:

- Tract of the land in the NW ¼ of the NW ¼ of Section 27, T139N-R80W/Hay Creek Township, described as: the East 40 feet of the West 140 feet of the South 50 feet of the North 1,162.84 feet of said quarter-quarter section.
- Parcel 1A-3 of the NW ¼ of the NW ¼ of Section 27, T139N-R80W/Hay Creek Township.
- Part of Lot 2, Block 1, Boutrous 2nd Addition, described as: Beginning at a point 175 feet South of the NW corner of Lot 1 of said Block, thence bearing East for a distance of 212 feet; thence bearing South for a distance of 95 feet; thence bearing West for a distance of 212 feet; thence bearing North for a distance of 95 feet to the point of beginning, and the East 40 feet of the West 140 feet of the South 120 feet of the North 929.2 feet of the NW ¼ of the NW ¼ of Section 27, T139N-R80W/Hay Creek Township.
- Part of Lot 3, Block 1, Boutrous 2nd Addition, described as: Beginning at the SW corner of said Lot 3; thence bearing North for a distance of 115 feet; thence bearing East for a distance of 145 feet; thence bearing South for a distance of 115 feet; thence bearing West for a distance of 145 feet to the point of beginning, and the East 40 feet of the West 140 feet of the South 60.8 feet of the North 1223.64 feet of the NW ¼ of the NW ¼ of Section 27 and the East 50 feet of the South

(continued)

54.2 feet of the North 1277.84 feet of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 27, T138N-R80W/Lincoln Township.

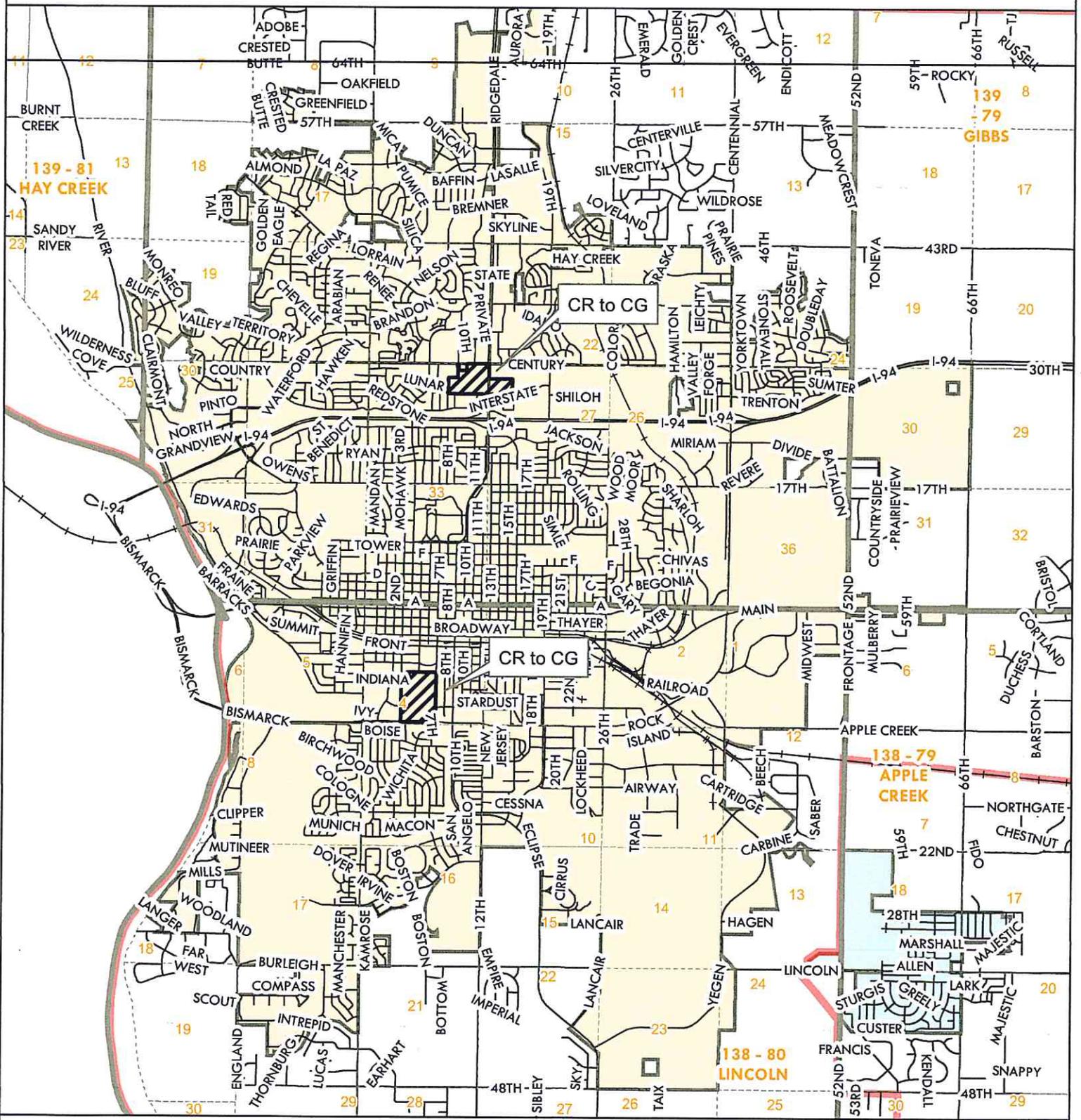
- Lots 1-2, Block 1, Boutrous 2nd Addition, Less part described as: Beginning at a point 175 feet South of the NW corner of Lot 1 of said Block, thence bearing East for a distance of 212 feet; thence bearing South for a distance of 95 feet; thence bearing West for a distance of 212 feet; thence bearing North for a distance of 95 feet to the point of beginning; and Part of Lot 3, Block 1, Boutrous 2nd Addition, Less part described as: Beginning at the SW corner of said Lot 3; thence bearing North for a distance of 115 feet; thence bearing East for a distance of 145 feet; thence bearing South for a distance of 115 feet; thence bearing West for a distance of 145 feet to the point of beginning.
- All of the Replat of Kavaney Commercial Park, Less that part taken for Lots 1-3, Block 1, Kavaney Commercial Park Second Replat.
- Lot 4, Block 1, Kavaney Commercial Park Second Replat.
- Auditors Lot A, C, and D, Blocks 3 and 4, Wachter's Addition, Less a part of Auditor's Lot A, described as: Beginning at the SW corner of Lot 8 of said Block 4; thence bearing East a distance of 207.14 feet; thence bearing South a distance of 203.75 feet; thence bearing West a distance of 207.66 feet; thence bearing North a distance of 200 feet to the Point of Beginning, and Less part taken for Wachter's Addition Replat.
- Lot 1, Block 1, Wachter's Addition Replat.
- The North 294.10 feet of Lot 8, Block 4, and Auditor's Lot E and F of Blocks 3 and 4, Wachter's Addition.

Attachments

1. Location Map
2. Zoning Map

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

Zoning Change of All CR-Commercial zoning districts to CG- Commercial zoning districts

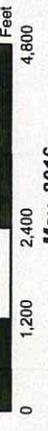
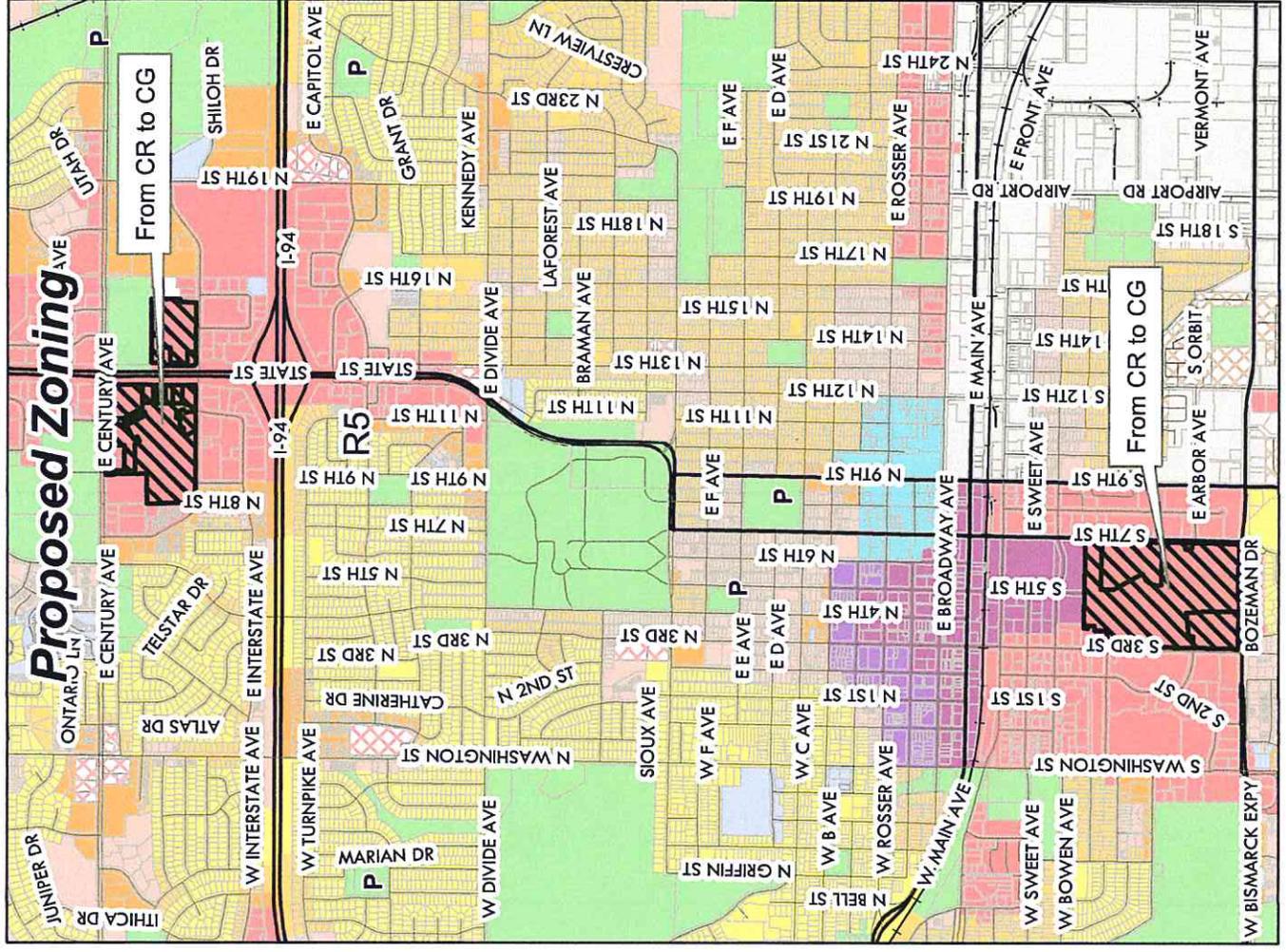
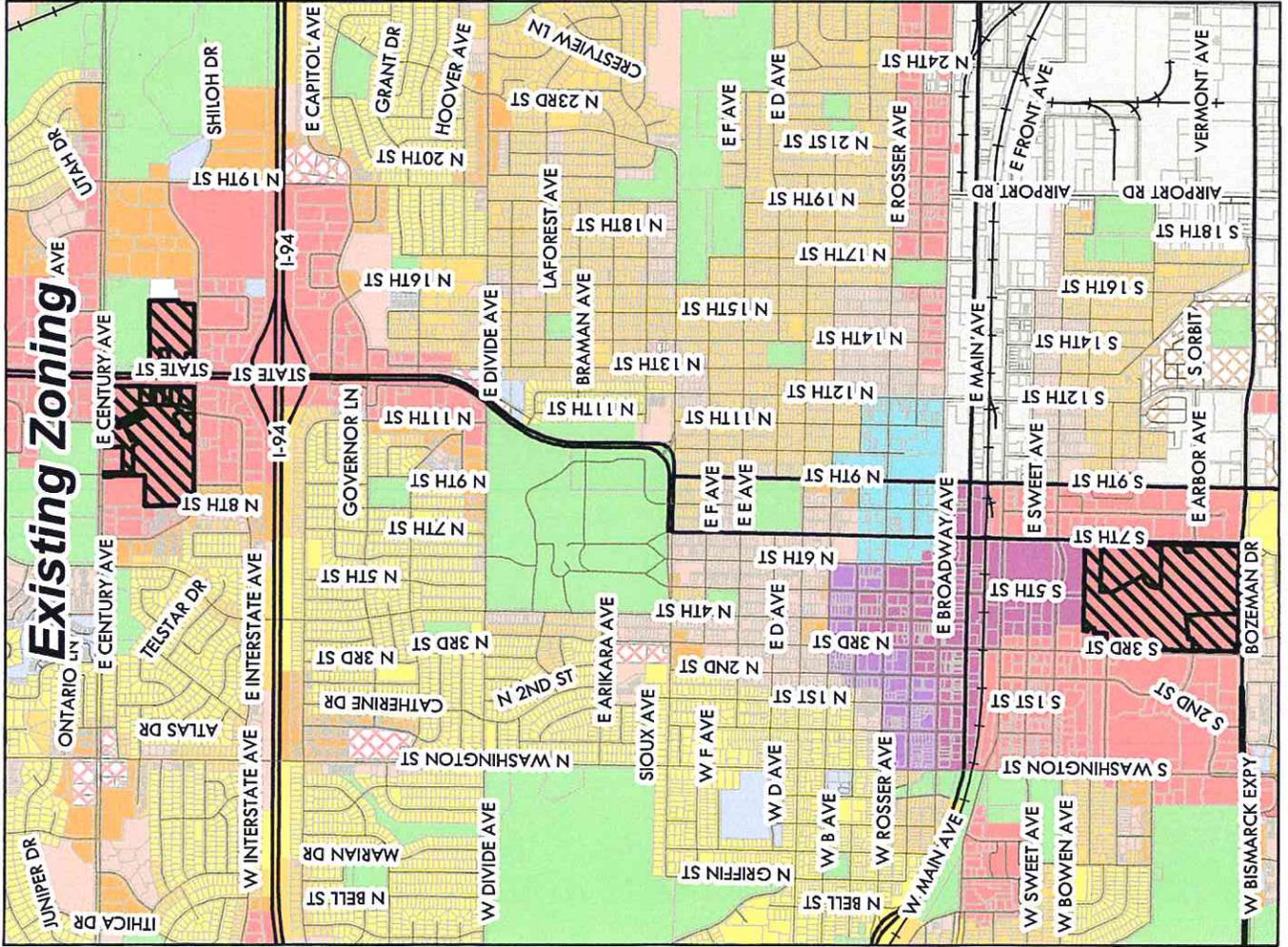


May 19, 2016 (DAN)

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.



Rezoning all CR - Commercial districts to CG - Commercial



May, 2016

-  Parcels to Rezone
-  City Limits
-  Extraterritorial Area

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.



STAFF REPORT

City of Bismarck
 Community Development Department
 Planning Division

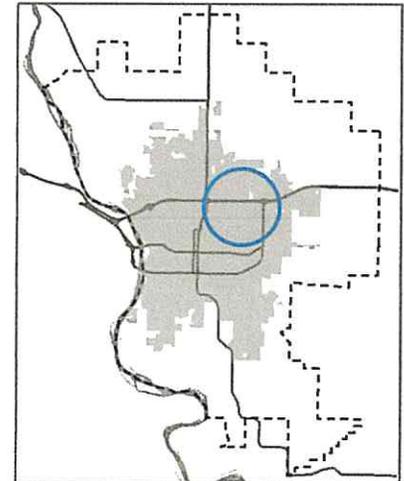
Agenda Item # 9
 June 22, 2016

Application for: Special Use Permit

TRAKiT Project ID: SUP2016-005

Project Summary

Title:	Lot A of Lot 1, Lot B of Lot 1 and Lot 2 less the Easterly 920 feet and less the North 40 feet of the West 405 feet taken for street right-of-way, Block 1, Miriam Industrial Park 2nd Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Chris Krein, CK Auto
Project Contact:	Jason Petryszyn, Swenson Hagen & Co.
Location:	The request includes three parcels located in east Bismarck on either side of East Divide Avenue: north of East Divide Avenue at the intersection with and west of Channel Drive (3405 East Divide Avenue); south of East Divide Avenue at the intersection with and east of a southerly extension of Channel Drive; and south of East Divide Avenue at the intersection with and west of a southerly extension of Channel Drive.
Project Size:	9.04 acres, more or less
Request:	Approval of a special use permit for a motor vehicle parts salvage yard.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	3 parcels	Number of Lots:	3 parcels
Land Use:	Motor vehicle parts salvage yard	Land Use:	Motor vehicle parts salvage yard
Designated GMP Future Land Use:	Not Applicable	Designated GMP Future Land Use:	Not Applicable
Zoning:	MA – Industrial	Zoning:	MA – Industrial
Uses Allowed:	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos, and motor vehicle parts salvage yard by special use	Uses Allowed:	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos, and motor vehicle parts salvage yard by special use
Max Density Allowed:	MA – N/A	Max Density Allowed:	MA – N/A

(continued)

Property History

Zoned:	Pre-1980	Platted:	09/1975	Annexed:	Pre-1980
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Staff Analysis

The applicant is requesting approval of a special use permit to operate a motor vehicle parts salvage yard for properties associated with CK Auto, Inc. (3405 East Divide Avenue, 1700 Channel Drive, and 1601 Channel Drive). A motor vehicle parts salvage yard is allowed as a special use in the MA – Industrial zoning district provided conditions outlined in Section 14-03-08(4)(h) are met. A copy of this section is attached.



A special use permit would legitimize the existing use of the properties associated with CK Auto, Inc. and allow the relocation of the salvage operations and storage to Lot 2 (1601 Channel Drive), which would create the additional space needed on Lots 1A and 1B (3405 East Divide Avenue and 1701 Channel Drive) to comply with provisions of the City Code of Ordinances and to separate differing aspects of the applicants business on separate parcels.

Current Operations

The applicant purchased Lot 1A and Lot 1B (3405 East Divide Avenue and 1700 Channel Drive) in 1995. According to the applicant, the properties were initially intended to be used for auto body repair and sales. However, over the years and in response to industry

demands, the properties have transformed into what is considered to be a motor vehicle parts salvage yard. The applicant purchased Lot 2 (1601 Channel Drive) in 2015 in order to expand his business.

A number of complaints, dating back to 1999, regarding abandoned or wrecked vehicles have been received by various departments and divisions within the City of Bismarck. Over the years requests were made of the applicant to bring the properties associated with CK Auto, Inc. into compliance.

A notice and order was sent to the applicant in 2007 regarding vehicle parts, frames and bodies being stored outside of buildings and required fencing. The applicant appealed the notice and order to the Board of Adjustment. At their meeting of September 6, 2007, the Board denied the appeal and required the applicant to correct all violations on the site and to submit an application for approval of a special use permit. A copy of the September 6, 2007 minutes of the Board of Adjustment is attached.

Proposed Operations

The applicant has submitted a narrative describing how all three sites associated with CK Auto, Inc. will function if the proposed special use is approved. Copies of the narrative and proposed preliminary site plan are attached.

Lot 1A (3405 East Divide Avenue), located at the northwest quadrant of the intersection of East Divide Avenue and Channel Drive, will function as it was originally intended, as an auto body repair and body shop.

Auto body repair and dismantling will take place in southern building on the property. Vehicles will initially be processed at this building and will temporarily be sent to the southern portion of Lot 2, referred to as site 2B to await dismantling. When vehicles are ready for dismantling, they will be moved back to the building and dismantled. Completed vehicles will then be sent

(continued)

back to site 2B and may remain there for up to three years before they are removed for recycling.

The Building located on the northern portion of the property will function as a body shop. Vehicles that have been processed and deemed to be repaired will be sent to building to this building. Once vehicles have been repaired they will be sent to the northern portion of Lot 2, referred to as site 2A for sales. Site 2A will primarily be a vehicle sales lot.

Lot 1B (1700 Channel Drive), located at the southwest quadrant of the intersection of East Divide Avenue and Channel Drive, will function as a future or overflow vehicle sales lot.

As indicated above, Lot 2 (1601 Channel Drive), located in the southeast quadrant of the intersection of East Divide Avenue and Channel Drive will function as a vehicle sales (site 2A) and storage (site 2B).

Existing Violations

The applicant has been notified that a number of violations of the City Code of Ordinances are occurring on the properties associated with CK Auto, Inc. In particular, partially-dismantled, non-operating, wrecked or junked vehicles, and fencing are located on the public right-of-way (East Divide Avenue, Channel Drive and Global Drive) and drainage ways. In addition the placement of fill, partially-dismantled, non-operating, wrecked or junked vehicles, fencing and storage containers are also located within floodway.

The City of Bismarck is a member of the National Floodplain Insurance Program (NFIP) and must comply with regulations regarding floodway encroachment. Representatives of the NFIP and the ND State Water Commission have visited the properties associated with CK Auto, Inc. and have instructed the City to bring the properties into compliance.

Conditions of Approval

Staff is recommending the approval of the proposed special use permit as it would legitimize the existing use of the properties associated with CK Auto, Inc. and would allow the applicant to relocate salvage operations and storage of salvaged vehicles to Lot 2

(1601 Channel Drive), which will create the additional space needed on Lots 1A and 1B (3405 East Divide Avenue and 1701 Channel Drive) to comply with provisions of the City Code of Ordinances and resolve existing violations. The following are conditions of approval.

1. All encroachments into the public right-of-way, drainage ways, and the floodplain must be removed no later than January 1, 2017.
2. All storage and salvage operations must be conducted within an enclosed building or within an area enclosed on all sides with an opaque wall or fence not less than eight (8) feet in height.
3. The required wall or fence must be set back at least fifteen (15) feet from the property lines of those portions of the properties associated with CK Auto, Inc. that function as storage or salvage operations that border the public rights-of-way.
4. All sites must be sufficiently cleared to provide adequate fire department access to all portions of existing and proposed buildings located on properties associated with CK Auto, Inc.
5. A completely and permanently landscaped setback strip of at least fifteen (15) feet must be installed around those portions of the properties associated with CK Auto, Inc. that function as storage or salvage operations that border public rights-of-way. All areas between the property line and the required wall or fence shall be landscaped and a buffer yard shall be installed where required in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening). In addition, the owner shall be responsible for providing, protecting and maintaining all landscaping materials in a healthy growing condition.
6. A site plan demonstrating the above conditions must be submitted for approval prior to the applicant continuing site development on any of the sites associated with CK Auto, Inc.

(continued)

Required Findings of Fact

1. If approved as proposed and conditions of approval are met, the proposed special use would comply with all applicable provisions of the zoning ordinance and would be consistent with the general intent and purpose of the zoning ordinance;
 2. The proposed special use would be compatible with adjacent land uses and zoning, provided the required wall or fencing and landscaping is installed adjacent to the public rights of way of all properties associated with CK Auto, Inc. and that buffer yards are installed where required.
 3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area, provided the conditions of approval are met;
 4. Adequate public facilities and services are in place or would be provided at the time of development;
 5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity, provided the required wall or fencing and landscaping is installed adjacent to the public-rights of way of all properties associated with CK Auto, Inc. and that buffer yards are installed where required;
 6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic and;
 7. The proposed special use would not adversely affect the public health, safety and general welfare, provided the required wall or fencing and landscaping is installed adjacent to the public-rights of way of all properties associated with CK Auto, Inc. and that buffer yards are installed where required.
1. All encroachments into the public right-of-way, drainage ways, and the floodplain must be removed no later than January 1, 2017.
 2. All storage and salvage operations must be conducted within an enclosed building or within an area enclosed on all sides with an opaque wall or fence not less than eight (8) feet in height.
 3. The required wall or fence must be set back at least fifteen (15) feet from the property lines of those portions of the properties associated with CK Auto, Inc. that function as storage or salvage operations that border the public rights-of-way.
 4. All sites must be sufficiently cleared to provide adequate fire department access to all portions of existing and proposed buildings located on properties associated with CK Auto, Inc.
 5. A completely and permanently landscaped setback strip of at least fifteen (15) feet must be installed around those portions of the properties associated with CK Auto, Inc. that function as storage or salvage operations that border public rights-of-way. All areas between the property line and the required wall or fence shall be landscaped and a buffer yard shall be installed where required in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening). In addition, the owner shall be responsible for providing, protecting and maintaining all landscaping materials in a healthy growing condition.
 6. A site plan demonstrating the above conditions must be submitted for approval prior to the applicant continuing site development on any of the sites associated with CK Auto, Inc.
 7. All applicable provisions of the zoning ordinance are met.
 8. Development of the properties associated with CK Auto, Inc. must generally comply with the submitted narrative and the approved site plan.

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit for the operation of a motor vehicle parts salvage yard provided the following conditions are met.

(continued)

Attachments

1. Location Map
 2. Preliminary Site Plan
 3. Section 14-03-08(4)(H) of the City Code of Ordinances
 4. September 6, 2007 Board of Adjustment meeting minutes
 5. Proposed operations narrative
-

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

Proposed Special Use Permit
Lot A of Lot 1, Lot B of Lot 1 and Lot 2 less the easterly 920 feet
and less the north 40 feet of the west 405 feet taken
for street right-of-way, Block 1, Miriam Industrial Park 2nd Addition



May 17, 2016 (hlb)

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



6/7/16
Christkneir

DATE	REVISION

SITE PLAN
PORTION OF LOT 2, BLOCK 1
MURRAY INDUSTRIAL PARK SECOND ADDITION
BISMARCK, NORTH DAKOTA

SWENSON, HAGEN & COMPANY P.C.
Landscape Architecture
1000 East 10th Street
Bismarck, North Dakota 58102
Phone: (701) 221-2200
Fax: (701) 221-2204

DRAWN BY: JG	CHECKED BY: JG
DATE: 4/28/16	FILE DESC: SITE PLAN
COMPUTER FILE: SWENSON_HAGEN_16_01.dwg	SHEET FILE: SITE PLAN

SHEET
3 OF 3

GENERAL LANDSCAPING NOTES FOR ALL SHEETS

- RESURFACE ALL EXISTING DRIVEWAYS AND SIDEWALKS TO MATCH ADJACENT DRIVEWAYS AND SIDEWALKS.
- PROTECT THE APPROVED DRIVE AND ALL ADJACENT DRIVEWAYS FROM DAMAGE AND TO MAINTAIN DRIVEWAY SURFACE TO PREVENT DAMAGE TO DRIVEWAY SURFACE DURING CONSTRUCTION AND INSTALLATION.
- ALL LANDSCAPING PLANTING AND INSTALLATION SHALL BE IN ACCORDANCE WITH THE CITY OF BISMARCK PLANTING SPECIFICATIONS.
- PLANTING SHALL BE DONE IN ACCORDANCE WITH THE CITY OF BISMARCK PLANTING SPECIFICATIONS AND THE CITY OF BISMARCK PLANTING SPECIFICATIONS.
- CONTRACTOR SHALL PROVIDE WATER MAINS, SANITARY MAINS, AND SEWER MAINS TO ALL PLANTING AREAS AND TO ALL PLANTING AREAS.
- CONTRACTOR SHALL PROVIDE WATER MAINS, SANITARY MAINS, AND SEWER MAINS TO ALL PLANTING AREAS AND TO ALL PLANTING AREAS.

PLANT PALETTE

SYM.	COMMON NAME	SCIENTIFIC NAME	SIZE	QTY.
12	AMERICAN BIRCH	Betula papyrifera	14'-17' Dia.	12
13	POINCIFFA BIRD	Pinus strobus	14'-17' Dia.	12

NOTES

- INSTALL 8" CONCRETE DRIVEWAY PER CITY OF BISMARCK SPECIFICATIONS.
- INSTALL 8" CONCRETE DRIVEWAY WITH SLATS AND BLOWING CURBS AT EACH DRIVEWAY.
- INSTALL 8" CONCRETE DRIVEWAY WITH SLATS AND BLOWING CURBS AT EACH DRIVEWAY.
- INSTALL 8" CONCRETE DRIVEWAY WITH SLATS AND BLOWING CURBS AT EACH DRIVEWAY.



LEGEND

- EXISTING CURB
- EXISTING DRIVE
- EXISTING FENCE
- PROPOSED CURB
- PROPOSED DRIVE
- PROPOSED FENCE
- PROPOSED CONCRETE

DATE: APRIL 28, 2016
VERTICAL DATUM: NAVD 83

SEEDING NOTES

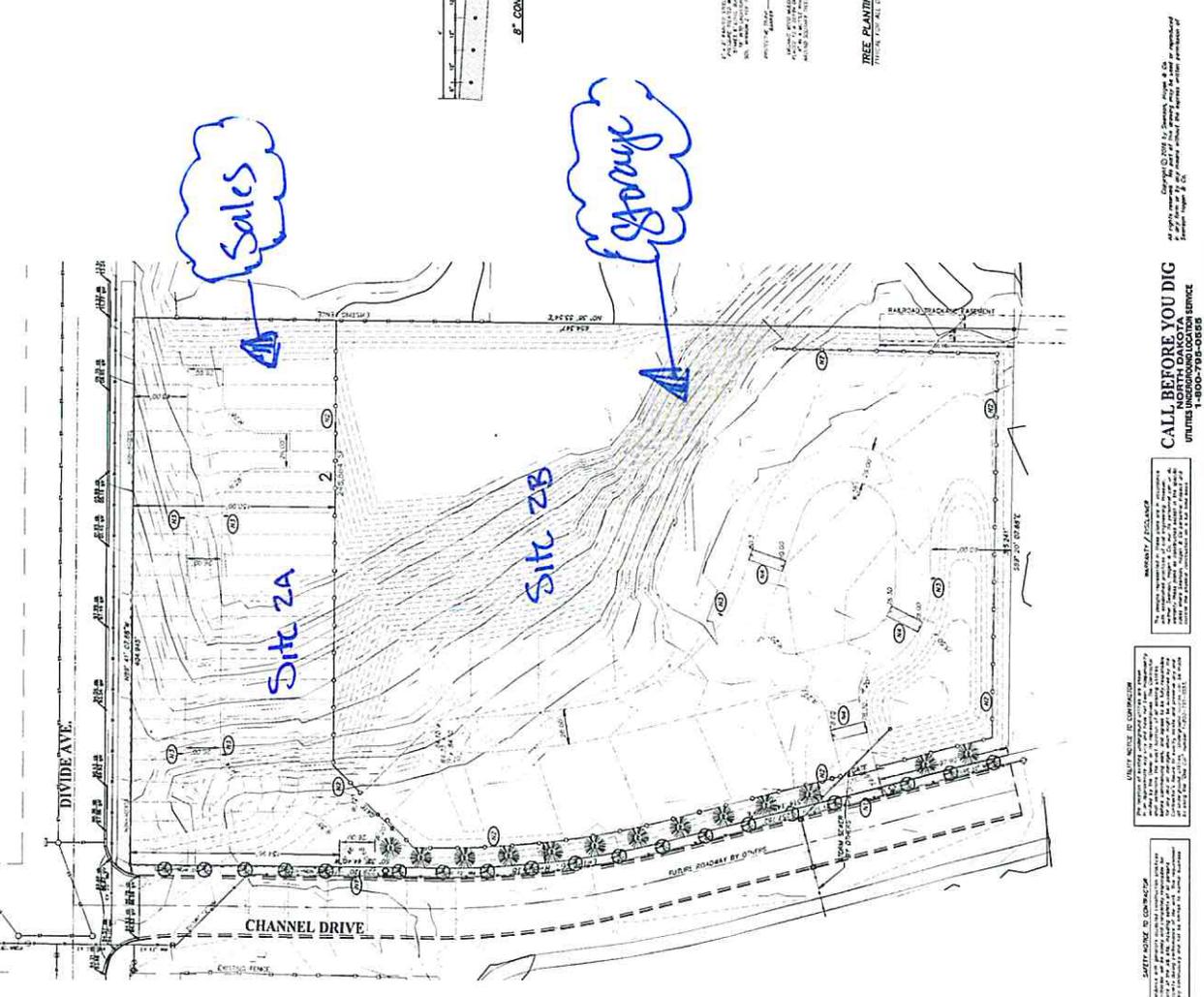
- SEEDING SHALL BE DONE IN ACCORDANCE WITH THE CITY OF BISMARCK SEEDING SPECIFICATIONS.
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- SEEDING SHALL BE DONE IN ACCORDANCE WITH THE CITY OF BISMARCK SEEDING SPECIFICATIONS.



LEGEND

- EXISTING CURB
- EXISTING DRIVE
- EXISTING FENCE
- PROPOSED CURB
- PROPOSED DRIVE
- PROPOSED FENCE
- PROPOSED CONCRETE

DATE: APRIL 28, 2016
VERTICAL DATUM: NAVD 83



CALL BEFORE YOU DIG
NORTH DAKOTA
UNIFORM UNDERGROUND UTILITY SERVICE
1-800-4-A-DIG

WARRANTY / LIABILITY

LIABILITY NOTICE TO CONTRACTOR

DATE: APRIL 28, 2016

14-03-08(4)(h)

h. Motor Vehicle Parts Salvage Yard. In addition to other provisions of Title 14 of the revised ordinances of the City of Bismarck, a motor vehicle parts salvage yard may be operated in the MA or MB industrial districts as a special use, provided:

1. That the special use permit granted under the provisions of this article shall be revoked by the Zoning Administrator if the holder violates any provisions of this ordinance or any special provision imposed by the city planning and zoning commission.
2. That all storage and salvage operations be conducted within an enclosed building or within an area enclosed on all sides with an opaque wall or fence not less than eight (8) feet in height or as approved by the city planning and zoning commission.
3. That the wall or fence be set back at least fifteen (15) feet from those property lines which border public rights-of-way.
4. That there shall be no burning of wrecked motor vehicles and that there shall be no stacking of motor vehicles.
5. There shall be no parts handled other than for motor vehicles.
6. That a completely and permanently landscaped setback strip of at least fifteen (15) feet be installed around those portions of the salvage yard perimeter which border public rights-of-way. All area between the property line and the required wall or fence shall be landscaped. The primary landscaping materials used in the setback strip shall be trees, shrubbery, ground cover, hedges, lawn, and other live planting materials. The land owners shall be responsible for providing, protecting and maintaining all landscaping materials in healthy growing condition.
7. That the total area of the premises shall be a minimum of two (2) acres and a maximum of five (5) acres in size.

APPEAL OF NOTICE AND ORDER – Christopher Krein – 3405 East Divide Avenue

Mike Marback stated that it appears that there have been several inspection reports on file for Chris Krein dating back to 1999. Mr. Marback stated that Mr. Krein has complied with the request in the past. Mel Fischer, Environmental Health stated that was correct.

Larry Thompson stated that he has driven by the property and he seems to comply for 60-days and then it goes back to the way it was before or worse. He added that the inspections don't seem to help.

Mr. Fischer stated that they are continually inspecting the property and seem to have the same problem with vehicles. He added that Mr. Krein does not have a special use permit to operate a salvage yard.

Dan Mattern, Fire and Inspections, stated that the property has had some improvements, but they have received complaints in the fall of 2006 that there were large amounts of vehicles in the area.

Chris Krein, property owner, explained why the additional vehicles were on the property. Mr. Thompson stated that it is an ongoing problem. Mr. Krein stated that his business is growing. Mr. Thompson stated that these vehicles should be fenced in. Mr. Krein stated that he is unable to put up a fence on the west side because of the floodway.

Mr. Marback stated that Mr. Krein needs to rack his vehicles and get them off of the road. He also needs to apply for a special use permit to operate the salvage yard and be in compliance.

MOTION: A motion was made by Larry Thompson and seconded by Duane Berger to deny the request for an appeal of the Notice and Order. Mike Marback, Warren Tvenge, Duane Berger, and Larry Thompson voted in favor of the motion. Blair Ihmels voted against the motion. The motion was approved



SWENSON, HAGEN & CO. P.C.

civil engineering . surveying . land planning . hydrology
landscape & site design . construction management

May 19, 2015

Jenny Wollmouth
Community Development Department
221 North 5th Street
Bismarck, ND, 58506-5503

RE: Special Use Permit for Lots 1A, 1B and 2, Miriam Industrial Park 2nd Addition

Jenny:

Below is the business operations of the above described lots and the timelines for construction activities and the moving of the vehicles after the construction activities on Lot 2 and Channel Drive.

Operations

When a vehicle comes in, it needs to be assessed whether it will be recycled or refinished. Vehicles may be held for a short time at Lot 2, site 2B until they go to be either dismantled or refinished.

LOT 1A, BLDG 1A - AUTO REPAIR / AUTO DISMANTLING

When vehicles initially get to the business, they will be processed at building 1A. The vehicles will be temporarily sent to Lot 2, site 2B to wait for dismantling. When the vehicles are ready for dismantling, they are brought back to Building 1A and all fluids and greases are removed from the vehicle. The drivetrain is also removed from the vehicle. When completed the vehicles are sent back to Lot 2, site 2B.

LOT 1A, BLDG 1B - AUTO BODY REPAIR & REFINISHING

Vehicles which are classified to be refinished end up at Building 1B. These vehicles will be refinished and sent to Lot 2, site 2A for auto sales.

LOT 1B - EXISTING VEHICLE STORAGE

This lot currently houses existing vehicles for storage. The proposed plan for this lot is to convert the lot to an additional vehicle sales lot.

LOT 2, SITE 2A - RETAIL CAR SALES

The lot will be utilized into two individual uses separated by fencing. The site 2A will be used for retail car sales. The area is adjacent to Divide Avenue and access provided off of Channel Drive, south of Divide Avenue. No buildings are proposed is this location.

LOT 2, SITE 2B - LONG TERM STORAGE

As indicated above, vehicle may temporarily be stored in this location before they are either dismantled or refinished. After the vehicles are dismantled at Building 1A, they are returned to site 2B and may remain there for up to 3 years before they are shipped out for recycling.

Timeline

Currently a site plan has been developed for Lot 2 and is at the City for review and approval. Plans and specifications are also at the City for water and storm sewer and paving, for Channel Drive, south of Divide Avenue.

As plans are approved the owner will bid out the grading of Channel Drive & Lot 2. The owner would like to grade the right-of-way of Channel Drive initially and move to Lot 2 to finish grading operations. The utility project will be bid and awarded by a 3-way contract, and anticipated to start on or around June 20th with a July 22nd completion date.

The paving project will be bid and awarded with an anticipated start around the end of July and a completion date of 26th. Gravel operations will be completed by August 12th. The landscaping, fencing and signage will occur from mid August to the beginning of September.

During the summer, the site grading for Lot 2 will wrap up and graveling of the access lanes can start. Graveling should be completed in August. When Channel Drive construction is completed the owner could start moving the operations around. Operation conversions will begin with the vehicles on Lot 1A. These vehicles will be removed and placed on Lot 2, site 2B. Sales vehicles will be moved to Lot 2, site 2A. Lastly the vehicles located in Lot 1B will be moved to Lot 2, site 2B. Once all vehicles are removed from Lot 1B, the site will begin conversion to a future Retail Sales Lot.

It is expected that the conversion of all the properties will take until April 15th, 2017 to complete.

Sincerely,



Jason Petryszyn, PE



STAFF REPORT

City of Bismarck
 Community Development Department
 Planning Division

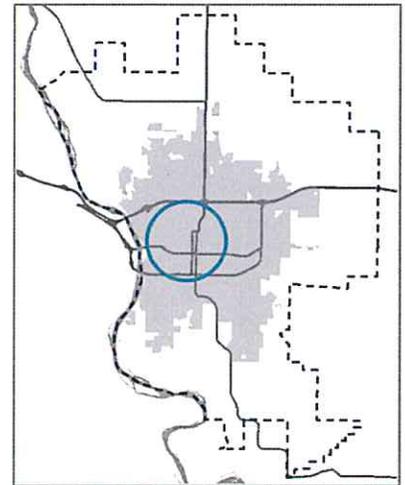
Agenda Item # 10
 June 22, 2016

Application for: Special Use Permit

TRAKiT Project ID: SUP2016-006

Project Summary

Title:	Lots 13 and 14, Block 122, Original Plat and Lot 4 and the South 40 feet of Lot 5, Block 24, Northern Pacific Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	American Bank Center
Project Contact:	Jonus Elson, American Bank Center
Location:	In central Bismarck, along the east side of North 4 th Street between East Rosser Avenue and East Avenue A.
Project Size:	16,419 square feet (both parcels)
Request:	Allow demolition of the building at 411 North 4 th Street and the creation of an accessory parking lot.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2 parcels	Number of Lots:	2 parcels
Land Use:	Office building and accessory parking lot	Land Use:	Accessory parking lot
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	DC – Downtown Core	Zoning:	DC – Downtown Core
Uses Allowed:	DC – Mixed-use development including retail, multi-family residential, commercial and office uses	Uses Allowed:	DC – Mixed-use development including retail, multi-family residential, commercial and office uses
Max Density Allowed:	DC – 42 units / acre	Max Density Allowed:	DC – 42 units / acre

Property History

Zoned:	09/2006	Platted:	OP – 01/1879 NP – 06/1879	Annexed:	Pre-1940
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(continued)

Staff Analysis

The applicants are requesting special use permits to allow the demolition of an existing structure and the creation of an accessory parking lot on properties in the DC – Downtown Core zoning district. Both the demolition of an existing structure and the creation of accessory parking are identified as special uses in this zoning district.

Section 14-04-21.4 (2) of the City Code of Ordinances (Use Standards/Demolition of Existing Buildings and Structures) includes the following standards:

- a. A special use permit is required prior to the demolition of any building or structure classified as historically significant or as a contributing structure in the Historical Architectural Inventory and Evaluation of Downtown Bismarck, North Dakota within the DC – Downtown Core or DF – Downtown Fringe zoning districts, unless the building has been significantly damaged beyond repair or condemned by the Building Official. A special use permit is also required prior to the demolition of any building or structure for the creation of an off-street parking facility or structure within the DC – Downtown Core or DF – Downtown Fringe zoning districts. When requesting a special use permit to demolish a building or structure within the DC – Downtown Core or DF – Downtown Fringe zoning districts, the owner/applicant must provide the following information:
 - i. The historical significance or contributing status of the building.
 - ii. Current assessed value of the building.
 - iii. Current use of the building.
 - iv. Current building condition assessment.
 - v. Intended re-use of the property.
 - vi. Site plan for re-use of the property.
- b. Any new off-street surface parking lot must comply with the Landscaping and Screening Ordinance and the Downtown Streetscape Standards.

Section 14-04-21.4(8) of the City Code of Ordinances (Use Standards/Parking, Accessory) includes the following standards:

- a. For surface parking lots, landscaping must be provided in accordance with the provisions of Section 14-03-11 of this ordinance.
- b. For surface parking lots adjacent to a residential use, a buffer yard must also be provided in accordance with the provisions of Section 14-03-11 of this ordinance.
- c. For parking structures in the downtown area, the design standards for buildings shall apply.



Demolition of Existing Building

The building at 411 North 4th Street was constructed in 1951 and was originally occupied by a Red Owl grocery store. In 1972, the building was converted to office space. The building itself is 9,100 square feet in area and the property’s assessed valuation is \$459,900. According to the City Assessor, the value of the property has been steadily increasing over the past 15 years and the building is in average condition. The building is not located within the Downtown Historic District and is not listed on the National Register of Historic Structures.

The purpose of the Downtown Core zoning district is to preserve and enhance the mixed-use, pedestrian-oriented nature of the City’s downtown area. The demolition of a viable building in order to create accessory parking is inconsistent with the spirit of the

(continued)

Downtown District and is contrary to the goal of creating a strong and distinctive sense of place.

It should be noted that American Bank Center has had two Renaissance Zone projects in this area. The building at 320 North 4th Street was designated as a Renaissance Zone project in 2005, with completion in August 2009. The building at 401 North 4th Street was designated as a Renaissance Zone project in 2011, with completion in October 2012. Through 2015, these two projects have received \$318,529 in property tax exemptions, as well as state income tax exemptions. If preserving and enhancing the downtown is the City's goal, it would not make sense to provide tax incentives to a business to make investment in the downtown area, and then allow the same business to tear down a building to create a surface parking lot, especially when parking in ramps is available within a few blocks of the property.

This property was purchased by American Bank Center in 2011, the same year they constructed the new three story building at 401 North 4th Street, with the plan to use the property for parking needed to accommodate their additional customers and employees. Planning Division staff has had several conversations with various representatives of American Bank Center since that time and has been consistent in our message that we could not support the demolition of a viable building for the construction of an accessory parking lot in this location.

Creation of Accessory Parking Area

In order to support the demolition of an existing building for the purpose of creating an accessory parking area, staff would expect there to be a demonstrated need for such accessory parking. As of June 9, 2016, the Bismarck Parking Authority reported that both the 3rd Street Ramp and the Parkade Ramp each had 50 spaces set aside daily for hourly use by customers of downtown businesses. In addition, the five ramps and lots operated by the Parking Authority within the downtown area have a total of 1754 spaces, of which 1599 spaces are rented on a monthly basis. That means there is a minimum of 155 parking spaces available within those ramps and lots for monthly rental for employees of downtown businesses.

The current lot on the northern portion of the parcel has 26 parking spaces (counted from aerial photograph). The proposed layout for the accessory parking lot that was submitted with the application for a special use permit shows a total of 47 parking spaces, which would be a net increase of 21 spaces. However, the proposed plan does not include required perimeter landscaping and, because the site plan does not include a scale, it is not clear if the spaces shown meet the minimum size of 9 feet wide by 18 feet deep. It is expected that the total number of spaces will be reduced when landscaping is included and perhaps even more if parking spaces shown do not meet the minimum requirements.

Required Findings of Fact

Demolition of Existing Building

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

Creation of Accessory Parking Lot

1. The proposed special use does not comply with all applicable provisions of the zoning

(continued)

ordinance and is not consistent with the general intent and purpose of the zoning ordinance;

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

Staff Recommendation

Based on the above findings, staff recommends denial of the special use permit to allow the demolition of an existing building in the DC – Downtown Core zoning district and denial of the special use permit to allow the creation of an accessory parking lot on Lots 13 and 14, Block 122, Original Plat and Lot 4 and the South 40 feet of Lot 5, Block 24, Northern Pacific Addition.

The building is located within the Renaissance Zone and could be rehabilitated for use as updated office space or for retail or service uses. In addition, perhaps the City and owner could work together with other businesses in the area to redevelop the City-owned surface lot at the intersection of North 3rd Street & East Rosser Avenue as a mixed-use building with parking included. Such a project would provide additional parking for this business as well as others in the area and would eliminate the need to demolish a viable building for a surface parking lot.

Attachments

1. Location Map
2. Proposed Site Plan

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

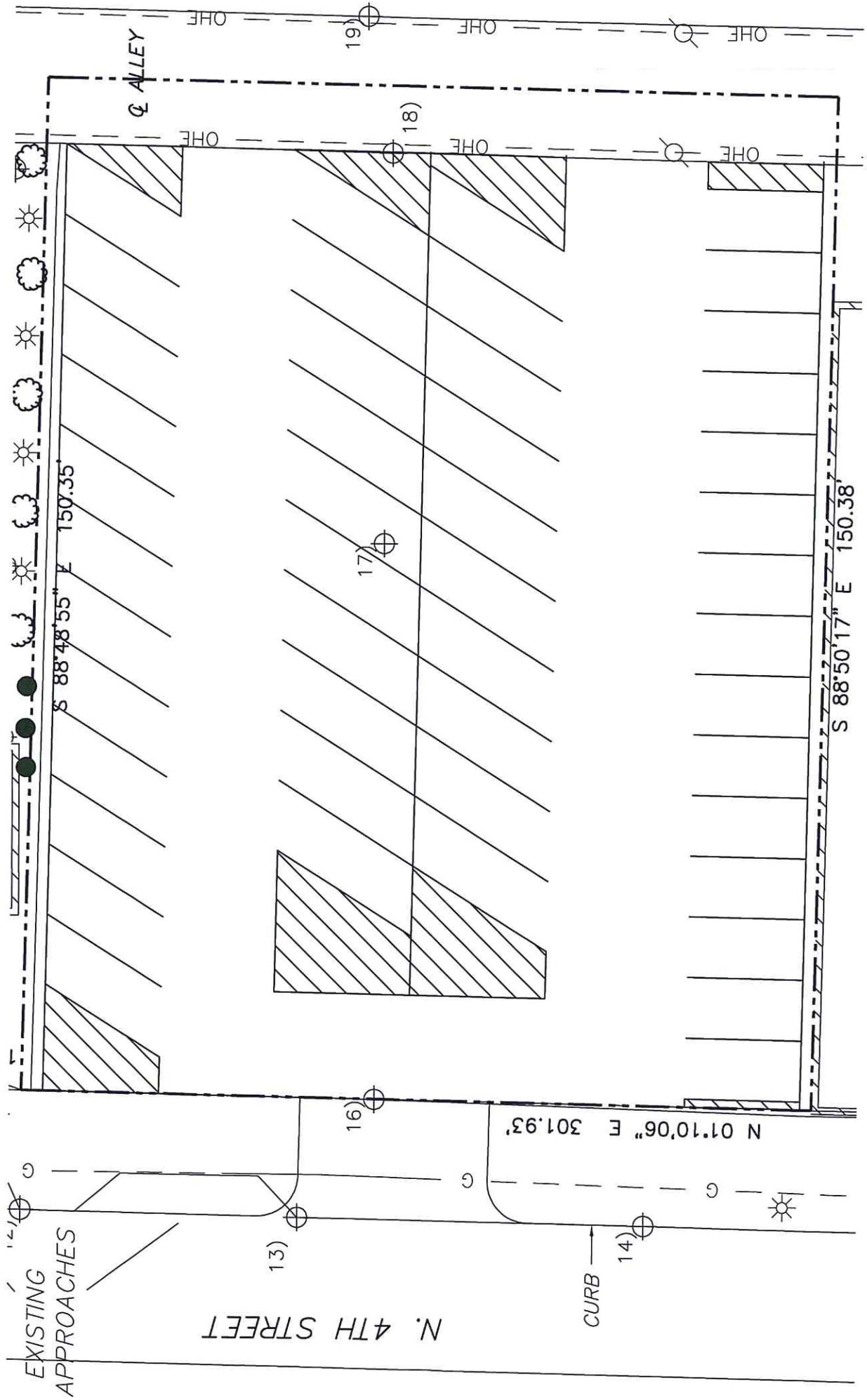
Proposed Special Use Permit
Lots 13-14, Block 122, Original Plat, Lot 4, Block 24, Northern Pacific Addition
and Lot 5, less the North 10 feet (or the South 10 feet of Lot 5), Block 24
Northern Pacific Addition



May 19, 2016 (hlb)

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



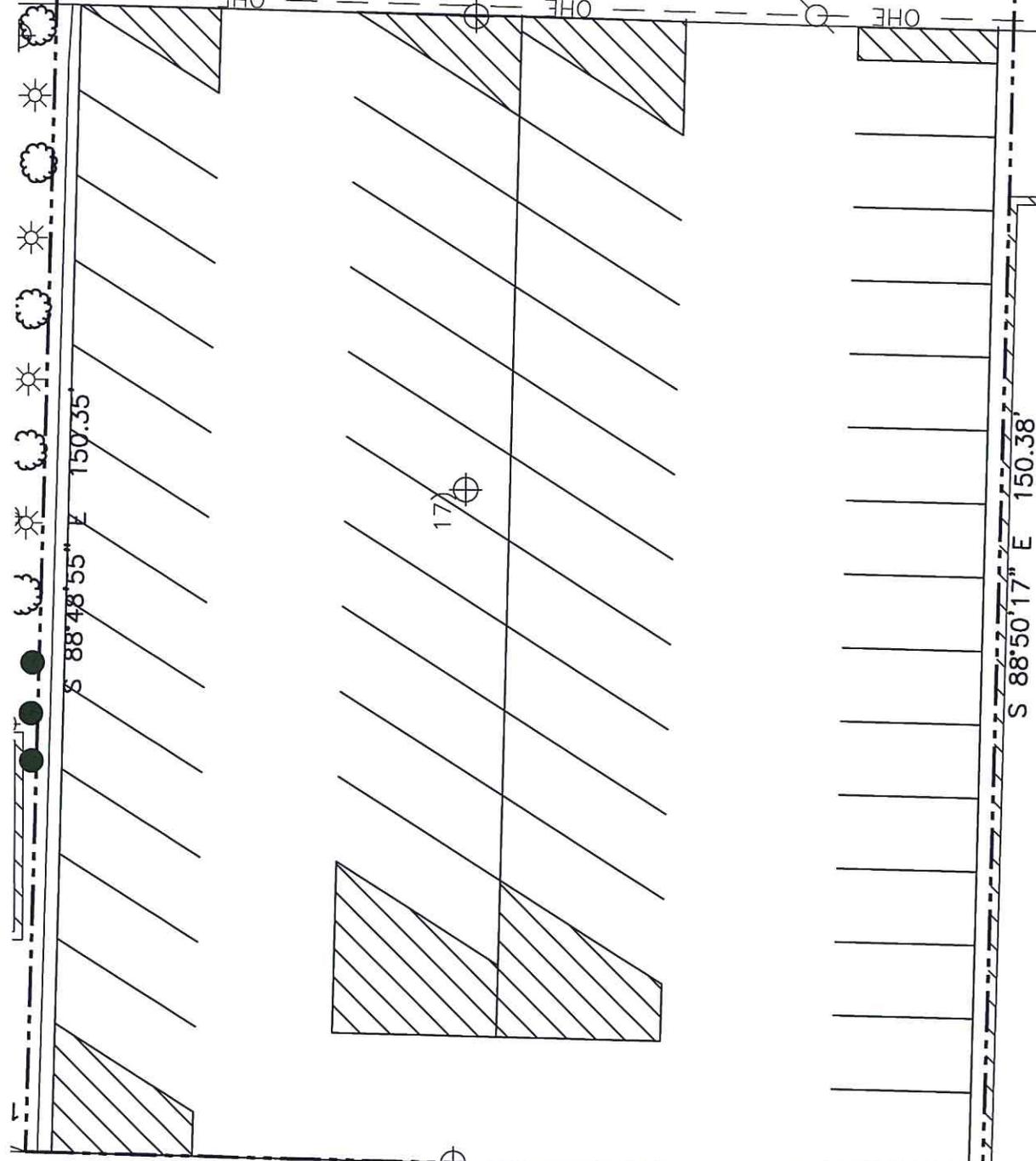
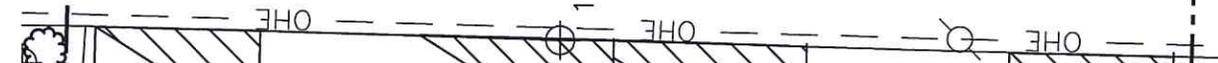
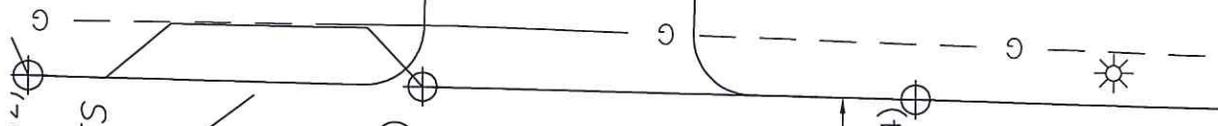


EXISTING APPROACHES

N. 4TH STREET

ALLEY

CURB





STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 11
June 22, 2016

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2016-004

Project Summary

Title:	Accessory Dwelling Units
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Daniel Nairn, AICP, Planner, City of Bismarck
Sections Amended:	14-02-03 Definitions, 14-03-06 Special Uses, 14-04-01 RR Residential District, 14-04-01.1 RR5 Residential District, 14-04-03 R5 Residential District, 14-04-06 R10 Residential District, 14-04-07 RM Residential District, 14-04-14 A Agricultural District.
Request:	Amend zoning ordinance to allow accessory dwelling units to single-family homes as a special use in all residential zoning districts subject to certain conditions.

Staff Analysis

Accessory dwelling units (ADUs) are housing units that are inside of or on the same lot as a single-family dwelling, but clearly subordinate to the primary home on the property. ADUs may commonly be found in basements, above detached garages or as a separate structure on the lot, similar to a guest house. They are sometimes known colloquially as “granny flats,” because they are commonly used to provide an independent yet nearby housing option for extended family members.



Example of ADU Above Garage

Source: flickr

ADUs are currently not allowed in any zoning district in the City of Bismarck, although an internal ADU could be considered a duplex in zoning districts that allow this

use. However, there have been cases in which individual homeowners have created an ADU in violation of zoning laws. The lack of a clear pathway for City approval may be causing some property owners to forgo building permits for these improvements, which creates potential health and safety concerns.

There are a few recognized benefits to ADUs. They offer an alternative housing option for smaller households, including for older citizens and people with special needs. They provide options for affordability, both for a person renting an ADU and for a homeowner who can use additional rental income to cover costs of living. New housing stock is added without need for additional municipal infrastructure. Finally, if implemented carefully, the increased density can be achieved while maintaining the traditional character of single-family neighborhoods.

There are several factors to consider that may help ADUs truly fit into the context of an existing neighborhood. Additional residents typical require additional parking. An accessory dwelling unit that is out of scale with the primary house may be undesirable for their surrounding residents.

The draft zoning ordinance text amendment includes several requirements for ADUs:

(continued)

- A special use permit is required, which means a public hearing will be held and neighbors will be notified for each application.
- Either the primary home or the ADU must be owner-occupied.
- Provisions for additional off-street parking for the ADU must be made.
- The size and height of an ADU may not exceed the main home, and it may not be too small to be functional as a dwelling.
- Rooftop decks or balconies facing side yards are not allowed.
- The ADU must be connected to public utilities if services are available on the site.
- All residential building code requirements apply.

The draft ordinance does not specify many design details beyond size of unit and placement of balconies. Although the Special Use Permit process is intended to offer a certain degree of discretion to the Planning and Zoning Commission, there should still be enough specificity in the ordinance to provide predictability and fairness for applicants.

The existence of an ADU would not create a separate tax parcel. An external ADU may be equipped with a separate water meter, creating a unique utility customer, although this may not be practical in every situation. The applicant and Public Works can agree to an acceptable solution on a case-by-case basis during the permit review process. Other services such as gas, electric, and cable can be determined by the appropriate utility company. There are no provisions

for meters, or utility service in general, included in the draft ordinance.

Required Findings of Fact

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. 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;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval for the zoning ordinance text amendment of various sections in 14-02-03 Definitions, 14-03-06 Special Uses, 14-04-01 RR Residential District, 14-04-01.1 RR5 Residential District, 14-04-03 R5 Residential District, 14-04-06 R10 Residential District, 14-04-07 RM Residential District, 14-04-14 A Agricultural District of the Bismarck Code of Ordinances related to accessory dwelling units, as shown in the attached draft ordinance.

Attachments

1. Draft zoning ordinance amendment

CITY OF BISMARCK

Ordinance No. XXXX

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

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-02-03 DEFINITIONS, 14-03-06 SPECIAL USES, 14-04-01 RR RESIDENTIAL DISTRICT, 14-04-01.1 RR5 RESIDENTIAL DISTRICT, 14-04-03 R5 RESIDENTIAL DISTRICT, 14-04-06 R10 RESIDENTIAL DISTRICT, 14-04-07 RM RESIDENTIAL DISTRICT, 14-04-14 A AGRICULTURAL DISTRICT.14-02-03 AND SECTION 14-03-08 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO ACCESSORY DWELLING UNITS.

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

Section 1. Amendment. Section 14-02-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Definitions is hereby amended and re-enacted to read as follows:

Accessory dwelling unit: A separate and complete dwelling unit established in conjunction with but clearly subordinate 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 at least one bedroom, kitchen and bathroom facilities, and a separate exterior entrance.

Section 2. Amendment. Section 14-03-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Incidental Uses is hereby amended and re-enacted to read as follows:

14-03-08. Special Uses

* * * * *

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:

* * * * *

w. Accessory Dwelling Units:

1. Intent: Provide for a broader range of housing options, efficiently utilize existing infrastructure and housing stock, and preserve the character of existing single-family neighborhoods.

2. Applicability: An accessory dwelling unit to a single-family dwelling is permitted as a special use within any R5 - Residential, R10 - Residential, RM - Residential, RR - Rural Residential, RR5 - Rural Residential, and A - Agricultural zoning district subject to all requirements of the City of Bismarck Code of Ordinances, unless otherwise stated within this section.

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) feet or the height of the principal structure on the lot, whichever is less.

c. The principal or accessory dwelling unit must be occupied by the owner of the

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

d. At least one off-street parking space shall be provided for an accessory dwelling, in addition to any parking required for the principal dwelling unit on the lot. However, in such cases where existing conditions render additional parking infeasible, the applicant may submit a parking plan to demonstrate how on-street facilities or other methods are sufficient to meet anticipated parking demand, such as the dwelling unit being reserved for a class or individual who does not need to store a personal vehicle on-site.

e. Size requirements

1. Units within Principal Structure: The floor area of an accessory dwelling unit may not exceed forty percent (40%) of the gross floor area of the principal structure, excluding any attached garage, and may not be greater than 800 square feet or less than 300 square feet.

2. Units within Accessory Structure: The floor area of an accessory dwelling unit may not be greater than 800 square feet or less than 300 square feet, regardless of the overall size of the accessory structure.

f. An accessory dwelling unit on any lot or parcel that does not conform to the minimum lot size requirement of the underlying zoning district may only be permitted inside the principal building.

g. An accessory dwelling unit within an accessory structure may not include a rooftop deck or any balcony oriented toward an interior side yard or rear yard and within twenty-five (25) feet of said side or rear property line.

h. The 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.

i. The accessory dwelling unit must comply with all residential building code requirements outlined in Title 4 of the Bismarck Code of Ordinances.

4. **Methods of Creation.** A new accessory dwelling unit may be created in any of the following ways:

a. Conversion of a portion of an existing principal or accessory structure into a separate accessory dwelling unit.

b. Expansion of an existing structure that is in compliance with all setback, lot coverage, and height requirements of the underlying zoning district.

c. Construction of a new structure containing a single family dwelling unit with an internal accessory dwelling unit.

d. Construction of a new detached accessory structure containing a dwelling

unit on a lot with an existing principal structure.

e. Reuse of a non-conforming second dwelling unit within a residence that has ceased to be continuously utilized as a dwelling unit and thus does not qualify as a non-conforming use under Section of 14-03-09 of the Bismarck Code of Ordinances.

5. Special Use Permit Submittal Requirements. The following documents shall be submitted with any application for a special use permit to allow an accessory dwelling unit:

a. A building plan necessary to show compliance with all requirements of the residential building code.

b. For all new construction of an accessory structure, a site plan is required. The site plan must show, to scale, the location and dimensions of the building, all required setbacks, and any easements on the property.

c. For all accessory dwelling units that would not comply with required parking, a parking plan as detailed in Subsection 3.d of this Section is required.

d. For all accessory dwelling units that would be served by an on-site sewage treatment facility, sufficient evidence to assure compliance with Subsection 4.f of this Section to the satisfaction of the Building Official is required.

6. Termination of Special Use Permit. A special use permit for an accessory dwelling shall automatically expire if the permitted accessory dwelling unit is substantially altered and no longer in conformance with these provisions, the owner of the property no longer occupies one of the units, the required parking

is no longer maintained and available for use by the occupant, or the permit is not put to use within twenty-four (24) months.

Section 3. Amendment. Section 14-04-01 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to RR Residential District is hereby amended and re-enacted to read as follows:

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

* * * * *

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Child care centers
- b. Religious Institution
- c. Accessory dwelling unit.

* * * * *

Section 4. Amendment. Section 14-04-01.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to RR5 Residential District is hereby amended and re-enacted to read as follows:

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

* * * * *

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Child care centers
- b. Religious Institution
- c. Accessory dwelling unit.

* * * * *

Section 5. Amendment. Section 14-04-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to R5 Residential District is hereby amended and re-enacted to read as follows:

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

* * * * *

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Child care centers
- b. Religious Institution
- c. Accessory dwelling unit.

* * * * *

Section 6. Amendment. Section 14-04-06 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to R10 Residential District is hereby amended and re-enacted to read as follows:

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

* * * * *

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Child care centers
- b. Religious Institution
- c. Accessory dwelling unit.

* * * * *

Section 7. Amendment. Section 14-04-07 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to RM Residential District is hereby amended and re-enacted to read as follows:

14-04-07. RM Residential District. In any RM residential district, the following regulations shall apply:

* * * * *

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Child care centers
- b. Religious Institution
- c. Accessory dwelling unit to a single-family home.

* * * * *

Section 8. Amendment. Section 14-04-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to RT Residential District is hereby amended and re-enacted to read as follows:

14-04-17. A Agricultural District. In any A agricultural district, the following regulations shall apply:

* * * * *

The following special uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Temporary circus/fair/carnival.
- b. Temporary Christmas tree sales.
- c. Temporary religious meetings.
- d. Seasonal nursery and bedding stock sales.
- e. Temporary fireworks sales.

- f. Temporary farm and garden produce sales.
- g. Solid waste disposal facility.
- h. Recreational vehicle park.
- i. Small animal veterinary clinic.
- j. Animal hospital or kennel.
- k. Airport.
- l. Cemetery.
- m. Junkyard.
- n. Child care center.
- o. Religious institution.
- p. Golf driving range.
- q. Vehicular racetrack.
- r. Hazardous material bulk storage plant.
- s. Concrete and asphalt production facilities,
both permanent and temporary.
- t. Accessory dwelling unit

* * * * *

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 jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 10. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
May 25, 2016**

The Bismarck Planning & Zoning Commission met on May 25, 2016, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Yeager presided.

Commissioners present were Tom Atkinson, Mel Bullinger, Mike Donahue, Vernon Laning, Doug Lee, Mike Schwartz, Ken Selzler, Mike Seminary and Wayne Yeager.

Commissioners Brian Bitner and Lisa Waldoch were absent.

Staff members present were Carl Hokenstad – Director of Community Development, Kim Lee – Planning Manager, Jenny Wollmuth – Planner, Daniel Nairn – Planner, Hilary Balzum – Community Development Administrative Assistant, Jason Hammes – Assistant City Attorney and Charlie Whitman – City Attorney.

MINUTES

Chairman Yeager called for consideration of the minutes of the April 27, 2016 meeting.

MOTION: Commissioner Lee made a motion to approve the minutes of the April 27, 2016 meeting as presented. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Seminary and Yeager voting in favor of the motion.

CONSIDERATION

- A. **SILVER RANCH FIRST ADDITION – FUTURE LAND USE PLAN AMENDMENT**
- B. **COTTONWOOD LAKE SIXTH ADDITION SECOND REPLAT – ZONING CHANGE**
- C. **SOUTHLAND SECOND ADDITION FIRST REPLAT – ZONING CHANGE**
- D. **LOTS 4 & 5, BLOCK 4, MEADOWLARK COMMERCIAL SEVENTH ADDITION – ZONING CHANGE**
- E. **PART OF WACHTERS ADDITION REPLAT, PART OF REPLAT OF KAVANEY COMMERCIAL PARK AND PART OF BOUTROUS 2ND ADDITION – ZONING CHANGE**
- F. **ACCESSORY DWELLING UNITS – ZONING ORDINANCE TEXT AMENDMENT**

Chairman Yeager called for consideration of the following consent agenda items:

- A. Silver Ranch Addition – Future Land Use Plan Amendment

- B. Cottonwood Lake Sixth Addition Second Replat – Zoning Change
- C. Southland Second Addition First Replat – Zoning Change
- D. Lots 4 & 5, Block 4, Meadowlark Commercial Seventh Addition – Zoning Change
- E. Part of Wachters Addition Replat, part of Replat of Kavaney Commercial Park and part of Boutrous 2nd Addition – Zoning Change
- F. Accessory Dwelling Units – Zoning Ordinance Text Amendment

MOTION: Commissioner Laning made a motion to approve consent agenda items A, B, C, D, E and F, calling for public hearings on the items as recommended by staff. Commissioner Lee seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Seminary and Yeager voting in favor of the motion.

**PUBLIC HEARING – PUD AMENDMENT
SCHILLING FIRST ADDITION**

Chairman Yeager called for the public hearing on a major PUD amendment for Schilling First Addition to amend the existing Planned Unit Development (PUD) to increase the height of the mixed use commercial building to be constructed on the west side of property. The property is located in north Bismarck, along the east side of US Highway 83/State Street and the north side of 43rd Avenue NE.

Ms. Lee gave an overview of the request, including the following findings:

1. The proposed amendment is outside of the area included in the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed amendment is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed amendment at the time the property is developed.
4. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner.
5. The character and nature of the amended planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located.
6. The amended planned unit development would preserve the natural features of the site insofar as possible, including the preservation of trees and natural drainage ways.
7. The internal roadway circulation system within the amended planned unit development has been adequately designed for the type of traffic that would be generated.

8. Adequate buffer areas have been provided between the amended planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
9. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice,
11. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Ms. Lee said due to recent changes in the applicant's request and their desire to increase the allowed height to four stories, staff recommends continuing action on the Major Planned Unit Development (PUD) amendment for Schilling First Addition.

Commissioner Atkinson asked if the original PUD allowed for a building height of four stories. Ms. Lee said it originally allowed five stories, then was reduced to two. She said the proposed PUD amendment would allow up to three stories and they now are requesting to have the option for a fourth story on the planned structure.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Commissioner Lee made a motion to continue the public hearing for the major Planned Unit Development (PUD) amendment for Schilling First Addition, as recommended by staff. Commissioner Laning seconded the motion and the motion was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Seminary and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE LOTS 1-4, BLOCK 1, GARY NELSON ADDITION

Chairman Yeager called for the public hearing on a zoning change from the R5-Residential zoning district to the R10-Residential zoning district for Lots 1-4, Block 1, Gary Nelson Addition. The property is located in northwest Bismarck, along the northwest side of Nelson Drive between Normandy Street and Coleman Street, and south of 43rd Avenue NE.

Ms. Lee gave an overview of the request, including the following findings:

1. The proposed zoning change is outside of the area included in the Future Land Use Plan in the 2014 Growth Management Plan, as amended.

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

Ms. Lee said, based on the above findings, staff recommends approval of the zoning change from the R5 – Residential zoning district to the R10 – Residential zoning district for Lots 1-4, Block 1, Gary Nelson Addition.

Chairman Yeager opened the public hearing.

Ms. Lee said she did receive one phone call from an adjacent property owner who was concerned that they are asking for a zoning change to R10 when the lots are not being marketed now as R5 lots.

There being no further comments, Chairman Yeager closed the public hearing.

Chairman Yeager asked if there is a potential builder who could give some insight on the scale and design of the proposed buildings. Ms. Lee said the project is not that far along in the process for that information to be available.

Commissioner Laning asked if the person who called indicated a significant change in the neighborhood. Ms. Lee said they called because they were under the impression that area would all be single-family homes but a lot of twinhomes have surrounded that area now.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to recommend approval of the zoning change from the R5 – Residential zoning district to the R10 – Residential zoning district for Lots 1-

4, Block 1, Gary Nelson Addition. Commissioner Lee seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Seminary and Yeager voting in favor of the motion.

**VARIOUS TRACTS OF LAND IN SOUTH BISMARCK –
CITY-INITIATED ZONING CHANGE
PHASE 6 OF 6**

Chairman Yeager called for the public hearing on a City-initiated zoning change from the R5-Residential, RR-Residential, MA-Industrial and A-Agriculture zoning districts to the P-Public zoning district. The properties are located in southeast Bismarck and south of Bismarck in the City's extraterritorial area.

Mr. Nairn gave an overview of the request, including the following findings:

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

Mr. Nairn said, based on the above findings, staff recommends approval of the City-initiated zoning change from the R5-Residential, RR-Residential, MA-Industrial and A-Agriculture zoning districts to the P-Public zoning district for various lots and tracts in southeast Bismarck and south of Bismarck in the City's extraterritorial area, as more particularly described in the staff report.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to recommend approval of the City-initiated zoning change from the R5-Residential, RR-Residential, MA-Industrial and A-Agriculture zoning districts to the P-Public zoning district for various lots and tracts in southeast Bismarck and south of Bismarck in the City's extraterritorial area, as more particularly described in the staff report. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Schwartz, Selzler, Seminary and Yeager voting in favor of the motion.

INFILL AND REDEVELOPMENT PLAN

Mr. Nairn said there is a memo in the agenda packet regarding a planning initiative that the Community Development Department will be undertaking over the next few months, with the intent of focusing on growth and redevelopment in areas that are already built out and within the city limits of Bismarck.

Commissioner Seminary noted that the list of topics is broad and suggested prioritizing the strategies to create a more effective plan.

CERTIFICATE OF APPRECIATION – MEL BULLINGER

Chairman Yeager said after 23 years as City Engineer, Mr. Bullinger is retiring. He said Bismarck has been very lucky to have an employee as dedicated as Mr. Bullinger and he is one of the best.

Commissioner Lee said it has been great and a pleasure to work alongside Mr. Bullinger and that he is very much appreciated and will be missed by this Commission and the City.

Commissioner Seminary said Mel has been a remarkable public servant dating back to the 1970s when he worked for the City throughout his college years. He said one privilege he has as Mayor is getting to sign certificates of appreciation and the last 20 he signed totaled almost 700 years of service. He said Bismarck has been very fortunate and blessed with employees like Mr. Bullinger.

Chairman Yeager presented Mr. Bullinger with a certificate and resolution of appreciation.

Mr. Bullinger said he has appreciated the ability to work with the Planning and Zoning Commission and serve the City and is pleased to introduce Gabe Schell as his replacement, whom he has no doubt will be excellent in his position as the new City Engineer.

OTHER BUSINESS

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:16 p.m. to meet again on June 22, 2016.

Respectfully submitted,

Hilary Balzum
Recording Secretary

Wayne Yeager
Chairman