



Community Development Department

BISMARCK PLANNING AND ZONING COMMISSION
MEETING AGENDA
July 27, 2016

Tom Baker Meeting Room 5:00 p.m. City-County Office Building

Item No. Page No.

MINUTES

- 1. Consider approval of the minutes of the June 22, 2016 meeting of the Bismarck Planning & Zoning Commission.

CONSENT AGENDA

CONSIDERATION

The following items are requests for a public hearing.

- 2. Cottonwood Parkview Addition (JW) 1
- Zoning Change (A to R5, R10, RM30 & CA) | ZC2016-009
- Preliminary Plat | PPLT2016-003
3. Memory 1st Addition (Klee) 9
- Future Land Use Plan Amendment | FLUP2016-002
- Zoning Change (A to CG & MA) | ZC2016-015
- Preliminary Plat | PPLT2016-004



4. **MDU Resources Northwest Addition (DN)**  
 Preliminary Plat | PPLT2016-005 ..... 17  
*Staff recommendation: schedule a hearing*     schedule a hearing    continue    table    deny
5. **Woodland Third Subdivision (JW)**  
 Preliminary Plat | PPLT2016-006 ..... 23  
*Staff recommendation: tentative approval*     tentative approval    continue    table    deny

## REGULAR AGENDA

### PUBLIC HEARINGS

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

6. **Koch Creek Commercial Subdivision (JW)** ..... 27  
*Hay Creek Township*
- **Zoning Change (A to CG) | ZC2016-007**  
*Staff recommendation: approve*     approve     continue     table     deny
  - **Final Plat | FPLT2016-004**  
*Staff recommendation: approve*     approve     continue     table     deny
7. **SouthBay Third Addition First Replat (Klee)**  
 Minor Subdivision Final Plat | MPLT2016-006 ..... 35  
*Staff recommendation: approve*     approve     continue     table     deny
8. **Sonnet Heights Subdivision 6<sup>th</sup> Replat (JW)**  
 Minor Subdivision Final Plat | MPLT2016-007 ..... 39  
*Staff recommendation: approve*     approve     continue     table     deny
9. **Lots 1-3, Block 1, Sonnet Heights Subdivision (DN)**  
 Zoning Change (PUD to RM15) | ZC2016-014 ..... 43  
*Staff recommendation: approve*     approve     continue     table     deny
10. **Lots 14-19, Block 4, South Meadows Addition (Klee)**  
 Zoning Change (R5 & R10 to R10 & RM15) | ZC2015-029 ..... 51  
*Staff recommendation: approve*     approve     continue     table     deny
11. **Part of Lot 21, Lounsberry Outlots (Saxvik Elementary School) (Klee)**  
 Zoning Change (P to PUD) | ZC2016-016 ..... 59  
*Staff recommendation: approve*     approve     continue     table     deny

12. **Lots A and B of Lot 1 and Part of Lot 2, Block 1, Miriam Industrial Park 2<sup>nd</sup> Addition (JW)**  
Special Use Permit (Motor Vehicle Parts Salvage Yard) | SUP2016-005.....67

Staff recommendation: approve       approve       continue       table       deny

**OTHER BUSINESS**

13. **Other**

**ADJOURNMENT**

13. **Adjourn.** The next regular meeting date is scheduled for **August 24, 2016.**

Enclosures:      Meeting Minutes of June 22, 2016  
                         Building Permit Activity Month to Date Report for June 2016  
                         Building Permit Activity Year to Date Report for June 2016



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

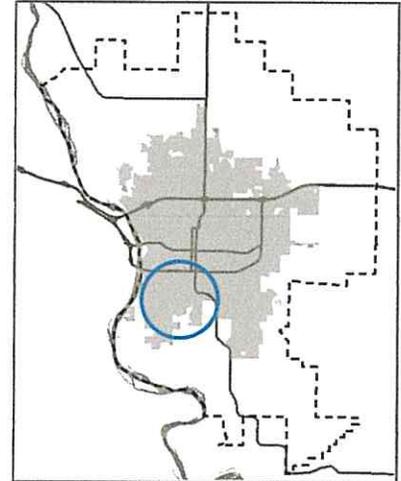
Agenda Item # 2  
 July 27, 2016

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

TRAKiT Project ID: ZC2016-009  
 PPLT2016-003

## Project Summary

|                         |   |
|-------------------------|---|
| <b>Title:</b>           | Cottonwood Parkview Addition  |
| <b>Status:</b>          | Planning & Zoning Commission – Consideration  |
| <b>Owner(s):</b>        | Wachter Family Revocable Trust  |
| <b>Project Contact:</b> | Michael Gunsch, Houston Engineering, Inc.   |
| <b>Location:</b>        | In south Bismarck, south of Santa Fe Avenue and north of Burleigh Avenue, along the east side of North Washington Street. |
| <b>Project Size:</b>    | 70.2 acres  |
| <b>Request:</b>         | Plat and zone property for future residential and commercial development.   |



## Site Information

| Existing Conditions                              |  | Proposed Conditions                              |   |
|--|--|--|---|
| <b>Number of Lots:</b>                           | 3 parcels  | <b>Number of Lots:</b>                           | 85 lots in 8 Blocks   |
| <b>Land Use:</b>                                 | Undeveloped  | <b>Land Use:</b>                                 | Residential and commercial uses   |
| <b>Designated GMP</b><br><b>Future Land Use:</b> | Medium Density Residential/Mixed Use                                     | <b>Designated GMP</b><br><b>Future Land Use:</b> | Medium Density Residential/Mixed Use  |
| <b>Zoning:</b>                                   | R5 – Residential<br>R10 - Residential                                    | <b>Zoning:</b>                                   | R5 – Residential<br>R10 – Residential<br>Conditional R10 – Residential<br>RM30 – Residential<br>Conditional CA – Commercial<br>P - Public   |
| <b>Uses Allowed:</b>                             | A – Single-family residential<br>R10 – Single and two-family residential | <b>Uses Allowed:</b>                             | R5 – Single-family residential<br>R10 – Single and two-family residential<br>Conditional R10 – Two-family residential<br>Conditional CA – Neighborhood Commercial<br>P – Parks, open space, storm water facilities, and other public uses |

(continued)

|                                    |                              |                                    |   |
|------------------------------------|------------------------------|------------------------------------|---|
| <p><i>Max Density Allowed:</i></p> | <p>A – 1 unit / 40 acres</p> | <p><i>Max Density Allowed:</i></p> | <p>R5 – 5 units / acre<br/>                 R10 – 10 units / acre<br/>                 Conditional R10 – 10 units / acre<br/>                 Conditional CA – 30 units / acre<br/>                 P – N/A</p> |
|------------------------------------|------------------------------|------------------------------------|---|

**Property History**

|                      |                 |                        |            |                        |            |
|----------------------|-----------------|------------------------|------------|------------------------|------------|
| <p><i>Zoned:</i></p> | <p>Pre-1980</p> | <p><i>Platted:</i></p> | <p>N/A</p> | <p><i>Annexed:</i></p> | <p>N/A</p> |
|----------------------|-----------------|------------------------|------------|------------------------|------------|

**Staff Analysis**

The proposed plat is subject to the provisions of the FAA Advisory Circular 150/5200-33B Hazardous Wildlife Attractants On or Near Airports. As the proposed subdivision is located within 10,000 feet of the operations area of the Bismarck Airport, a Hazardous Wildlife Opinion for the development has been submitted in conjunction with the proposed plat.

The Future Land Use Plan in the 2014 Growth Management Plan; as amended, identifies the western portion of the proposed plat, adjacent to South Washington Street, as Medium Density Residential (MDR). The MDR classification allows for single and two-family dwellings and requires densities in a range from 4 to 10 units per acre. The MDR development block for this area allows for a mix of land use types and densities that may include neighborhood commercial uses. The eastern portion of the proposed plat is identified as Low Density Residential (LDR). The LDR classification allows for single-family residential and requires densities in a range from 1 to 4 units per acre.

Lots 1 and 2, Block 1 of the proposed subdivision are proposed to be zoned CA – Commercial, conditions pertaining to building height, uses and lighting will be required. Lots 4-9, Block 1, all of Block 4, and all of Block 6 of the proposed subdivision are proposed to be zoned R10 – Residential, conditions requiring the development of two-family dwellings only will be required. These conditions are intended to ensure that the proposed buildings and site development associated with the proposed neighborhood commercial uses will not negatively impact the surrounding residential neighborhood and provide a zoning transition between the proposed commercial uses in the

western portion of the proposed plat along South Washington Street and the proposed single-family uses in the eastern portion of the plat. It will also guarantee that the lots intended for two-family dwellings are platted accordingly to avoid splitting them through the lot modification process in the future.

The applicant has indicated that an annexation request will be submitted prior to development of the proposed subdivision.

Portions of the proposed plat are located within the Special Flood Hazard Area (SFHA) or 100-year floodplain. Development within the SFHA or 100-year floodplain must comply with Section 14-03-09 of the City Code of Ordinances (FP – Floodplain District).

**Required Findings of Fact**

*Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and 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;

(continued)

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.

7. The proposed subdivision is not located in an area that is subject to flooding, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development;
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
10. The proposed subdivision would not adversely affect the public health, safety and general welfare.

#### *Preliminary Plat*

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. A statement of intent for the provision of neighborhood parks and open space has been submitted;
4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required.
5. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
6. 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 subdivision at the time the property is developed;

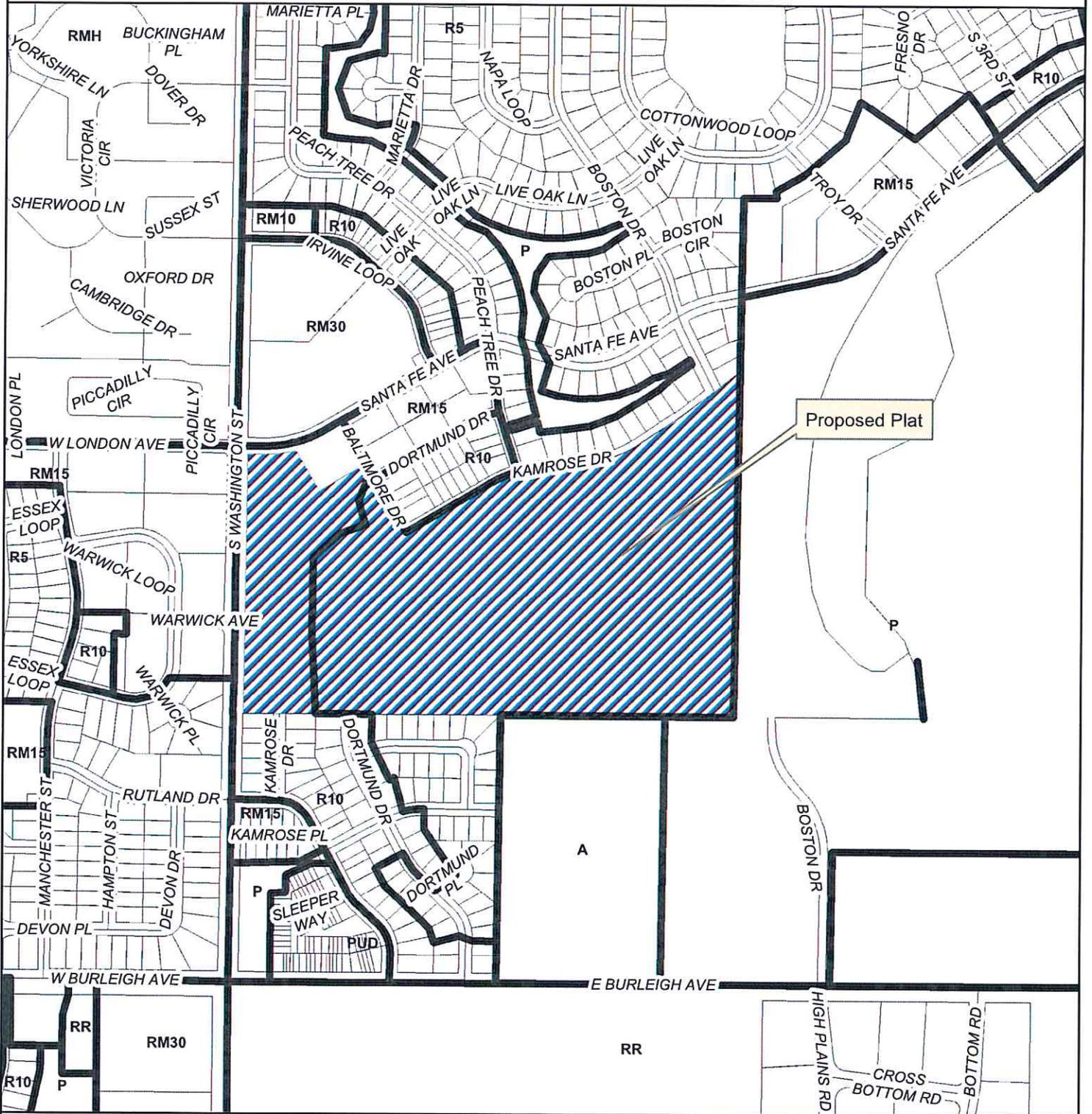
#### **Staff Recommendation**

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the R5 – Residential and R10 – Residential zoning districts to the R5 – Residential, R10 – Residential, Conditional R10 – Residential, RM30 – Residential, Conditional CA – Commercial and P – Public zoning districts and tentative approval of the preliminary plat for Cottonwood Parkview Addition.

#### **Attachments**

1. Location Map
2. Zoning Map
3. Reduction of Preliminary Plat
4. Neighborhood Parks, Statement of Intent

# Proposed Plat and Zoning Change (A to R5, R10, Conditional R10, RM30 & Conditional CA) Cottonwood Parkview Addition

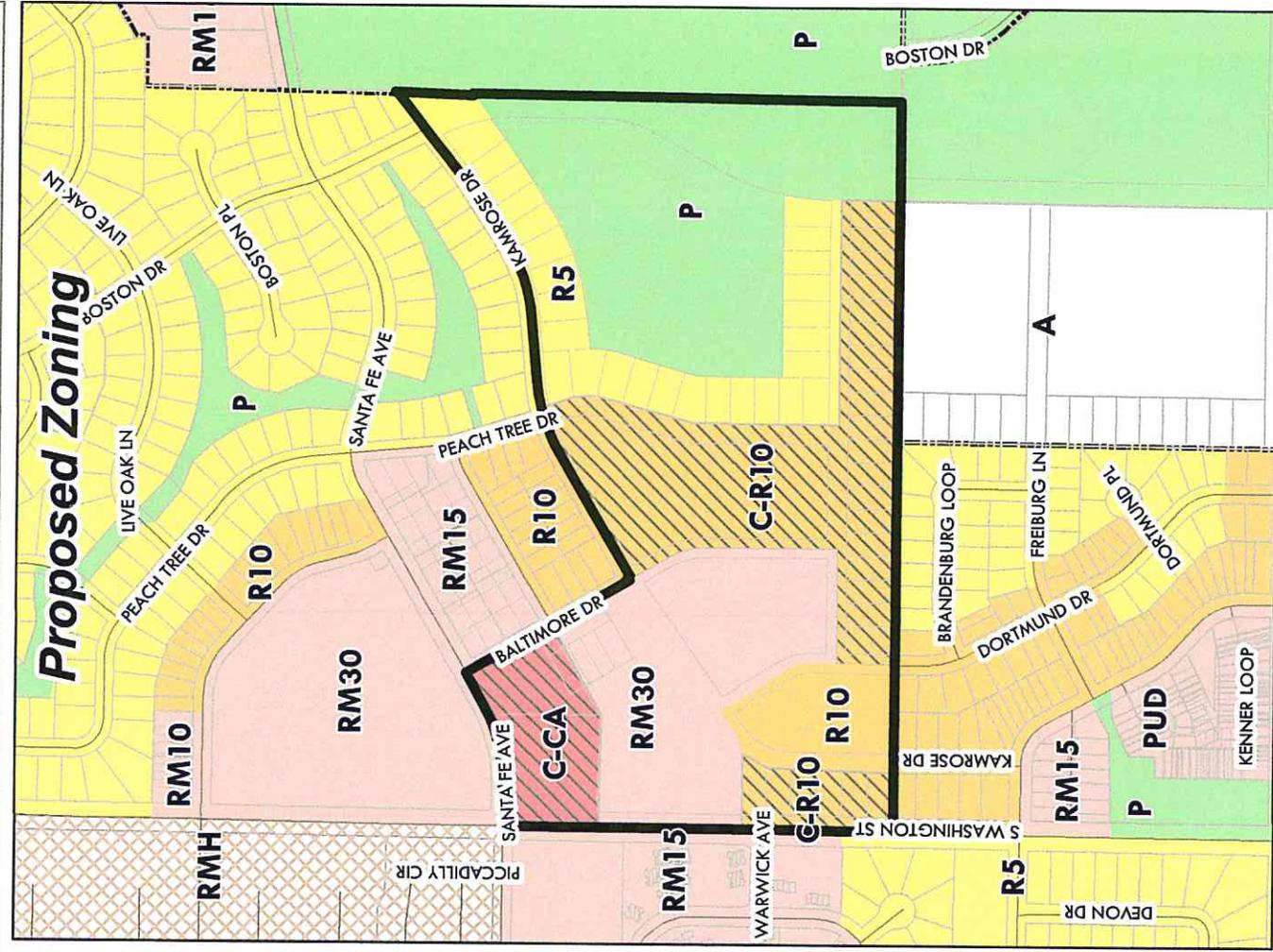
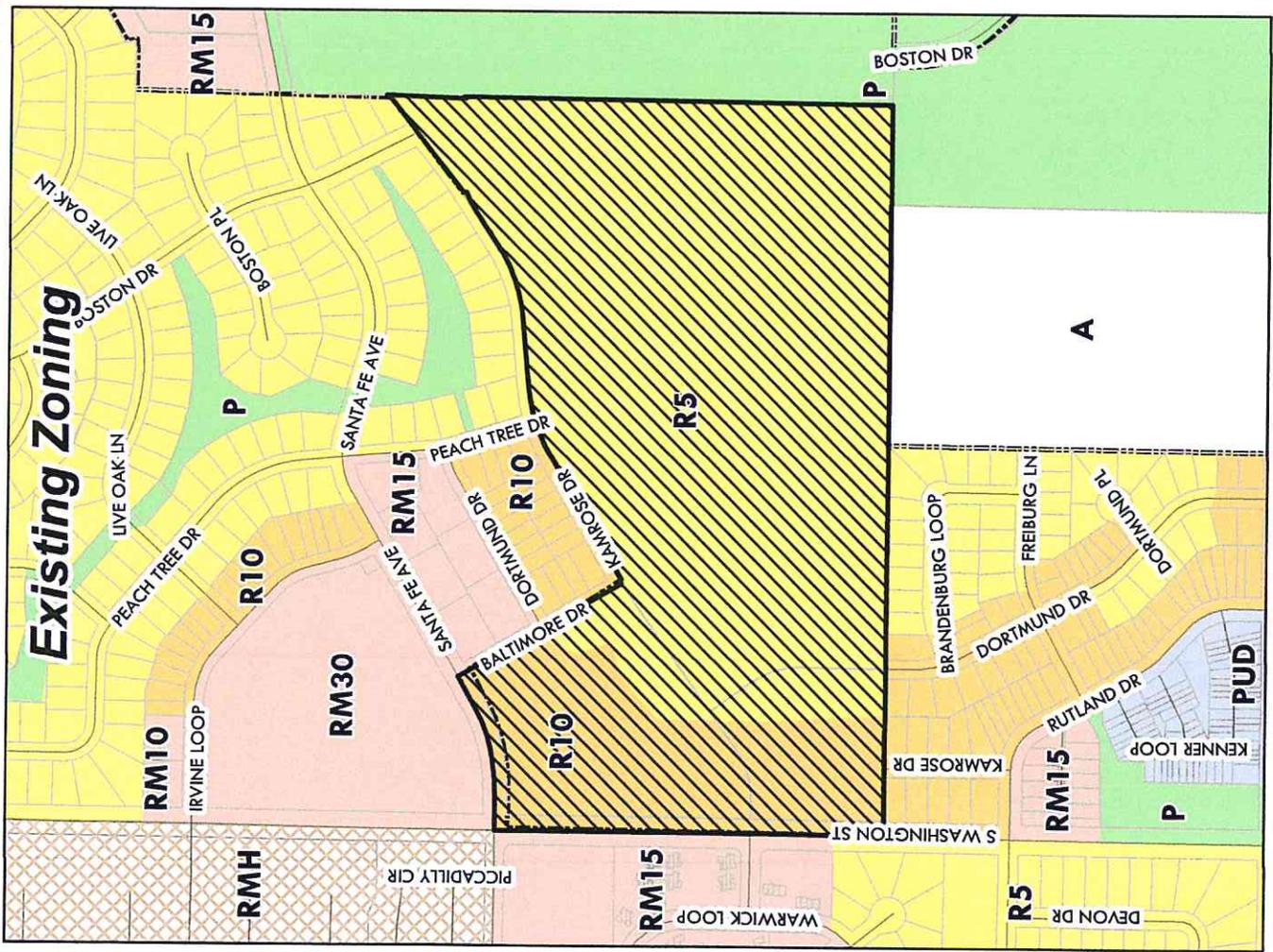


June 15, 2015 (hib)

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 herein.



# Cottonwood Parkview Addition



 Area Proposed to Change
  City Limits
  Extraterritorial Area

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Feet  
 0 295 590 1,180

July, 2016



# STATEMENT OF INTENT

## COTTONWOOD PARKVIEW ADDITION



**To:** Community Development Division  
**From:** Michael Gunsch, PE, CFM, Senior Project Manager  
**Subject:** Cottonwood Parkview Addition – Preliminary Plat  
**Statement of Intent to comply with the City of Bismarck’s  
Neighborhood Parks and Open Space Policy**  
**Date:** February 13, 2015  
**Project:** HEI No. 8336-002

### OPEN SPACE - COTTWOOD PARKVEIW ADDITION

The owner of the Cottonwood Parkview Addition property is committed to setting aside several parcels of land, as have been designated on the preliminary plat, for the purposes of complying with the City of Bismarck’s Neighborhood Parks and Open Space Policy. These parcels include Lot 11 Block 5 (14,370 sq. ft.), Lot 1, Block 7, (14,443 sq. ft.) and Lot 1 Block 8 (168,635 sq. ft.). The details related to property acquisition or the facilities development that will occur on them remains to be determined. A potential trail corridor is also being considered on Lot 29, Block 5, which is a parcel designated for the regional storm water detention facility.

### PARKS DEVELOPMENT AGREEMENT

As the plat moves forward to final the owner is committed to continued discussion with the Bismarck Parks and Recreation District to complete the required Parks Development Agreement. The general intent of future park facilities within the properties are illustrated below. Future pedestrian trails will be located within the public ROW and paid for via public funds. The extent of the owner’s commitment to construct and have assessed park features with the designated open space parcels remains to be determined as part of the agreement.





# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

Agenda Item # 3

July 27, 2016

**Application for: Future Land Use Plan Amendment**  
**Zoning Change**  
**Major Subdivision Preliminary Plat**

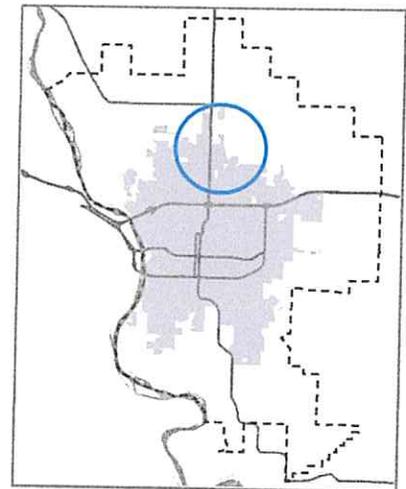
TRAKiT Project ID: FLUP2016-002

ZC2016-015

PPLT2016-006

## Project Summary

|                         |  |
|-------------------------|--|
| <b>Title:</b>           | Memory 1 <sup>st</sup> Addition  |
| <b>Status:</b>          | Planning & Zoning Commission – Consideration   |
| <b>Owner(s):</b>        | Ronald and Ruth Knutson  |
| <b>Project Contact:</b> | Michael Gunsch, Houston Engineering Inc.   |
| <b>Location:</b>        | North of Bismarck, along the east side of US Highway 83/State Street and the north side of an eastern extension of 57 <sup>th</sup> Avenue NE. |
| <b>Project Size:</b>    | 116 acres  |
| <b>Request:</b>         | Plat and rezone property for future commercial and light industrial development.   |



## Site Information

| Existing Conditions         |                          | Proposed Conditions         |  |
|-----------------------------|--------------------------|-----------------------------|--|
| <b>Number of Lots:</b>      | 1 parcel                 | <b>Number of Lots:</b>      | 14 lots in 3 blocks  |
| <b>Land Use:</b>            | Agricultural/undeveloped | <b>Land Use:</b>            | Commercial and light industrial  |
| <b>Designated GMP</b>       | Commercial               | <b>Designated GMP</b>       | Commercial   |
| <b>Future Land Use:</b>     | Industrial               | <b>Future Land Use:</b>     | Industrial   |
| <b>Zoning:</b>              | A – Agricultural         | <b>Zoning:</b>              | CG – Commercial<br>MA – Industrial   |
| <b>Uses Allowed:</b>        | A – Agriculture          | <b>Uses Allowed:</b>        | CG – General commercial, multi-family residential, and offices<br>MA – Light industrial, general commercial, warehouses, manufacturing and shop condos |
| <b>Max Density Allowed:</b> | A – 1 unit / 40 acres    | <b>Max Density Allowed:</b> | CG – 42 units / acre<br>MA – N/A   |

(continued)

**Property History**

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

**Staff Analysis**

The applicant is proposing to plat and zone the property for development in the future. As proposed, the development includes three lots for commercial development and 11 lots for light industrial development.

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identified the area east and northeast of the Hay Creek corridor as Industrial. The proposed amendment would extend the Industrial land use classification southwest of Hay Creek west to North 19<sup>th</sup> Street. Although adjacent property is undeveloped, the land to the south across 57<sup>th</sup> Avenue NE is zoned CG – Commercial on the west side of North 19<sup>th</sup> Street and there is a combination of PUD – Planned Unit Development and MA – Industrial zoning on the east side of North 19<sup>th</sup> Street. The property to the north across 64<sup>th</sup> Avenue NE is zoned MA - Industrial. The property to the east between the proposed plat and US Highway 83 is zoned CG – Commercial and RR – Residential, although the Future Land Use Plan identifies this area as Commercial. Based on the future adjacent land uses, extending the Industrial classification to the west to North 19<sup>th</sup> Street would be appropriate, as would having North 19<sup>th</sup> Street serve as the dividing line between land uses.

Although a request for annexation was not submitted with the requests, the property will be annexed prior to development. The existing business on Lot 1, Block 1 (Memory Fireworks) will be moved to another location prior to annexation of that parcel, as fireworks sales are not allowed within the corporate limits.

The plat is bisected by Hay Creek. The trail along the Hay Creek corridor will be extended north into this area along the east side of North 19<sup>th</sup> Street when it is constructed. As no urban residential is included within the proposed plat, it is not subject to the Neighborhood Parks and Open Space provisions.

**Required Findings of Fact**

*Future Land Use Plan Amendment*

1. The proposed amendment is compatible with adjacent land uses;
2. The proposed amendment is justified by a change in conditions since the future land use plan was established or last amended;
3. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
4. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;
5. The proposed amendment is consistent with the other aspects of the master plan, other adopted plans, policies and accepted planning practice; and
6. The proposed amendment would not adversely affect the public health, safety, and general welfare.

*Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended, if amended as proposed;
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.

where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development;

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

#### *Preliminary Plat*

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed preliminary plat is not an urban subdivision with residential zoning districts;
4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required.
5. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
6. 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 subdivision at the time the property is developed;
7. The proposed subdivision is not located in an area that is subject to flooding, an area

#### **Staff Recommendation**

Based on the above findings, staff recommends scheduling a public hearing on the proposed amendment to the Future Land Use Plan to extend the Industrial classification in the southwest portion of the SW¼ of Section 10, T139N-R80W west to the future extension of North 19<sup>th</sup> Street from 57<sup>th</sup> Avenue NE north to where Hay Creek crosses North 19<sup>th</sup> Street, scheduling a public hearing on the zoning change from the A – Agricultural zoning district to the CG – Commercial and MA – Industrial zoning districts, and tentative approval of the preliminary plat for Memory 1<sup>st</sup> Addition.

#### **Attachments**

1. Location Map
2. Future Land Use Plan Map
3. Zoning Map
4. Reduction of Preliminary Plat
5. Written Justification for FLUP Amendment

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

# Proposed Plat, Land Use Plan Amendment and Zoning Change (A to CG & MA) Memory 1st Addition

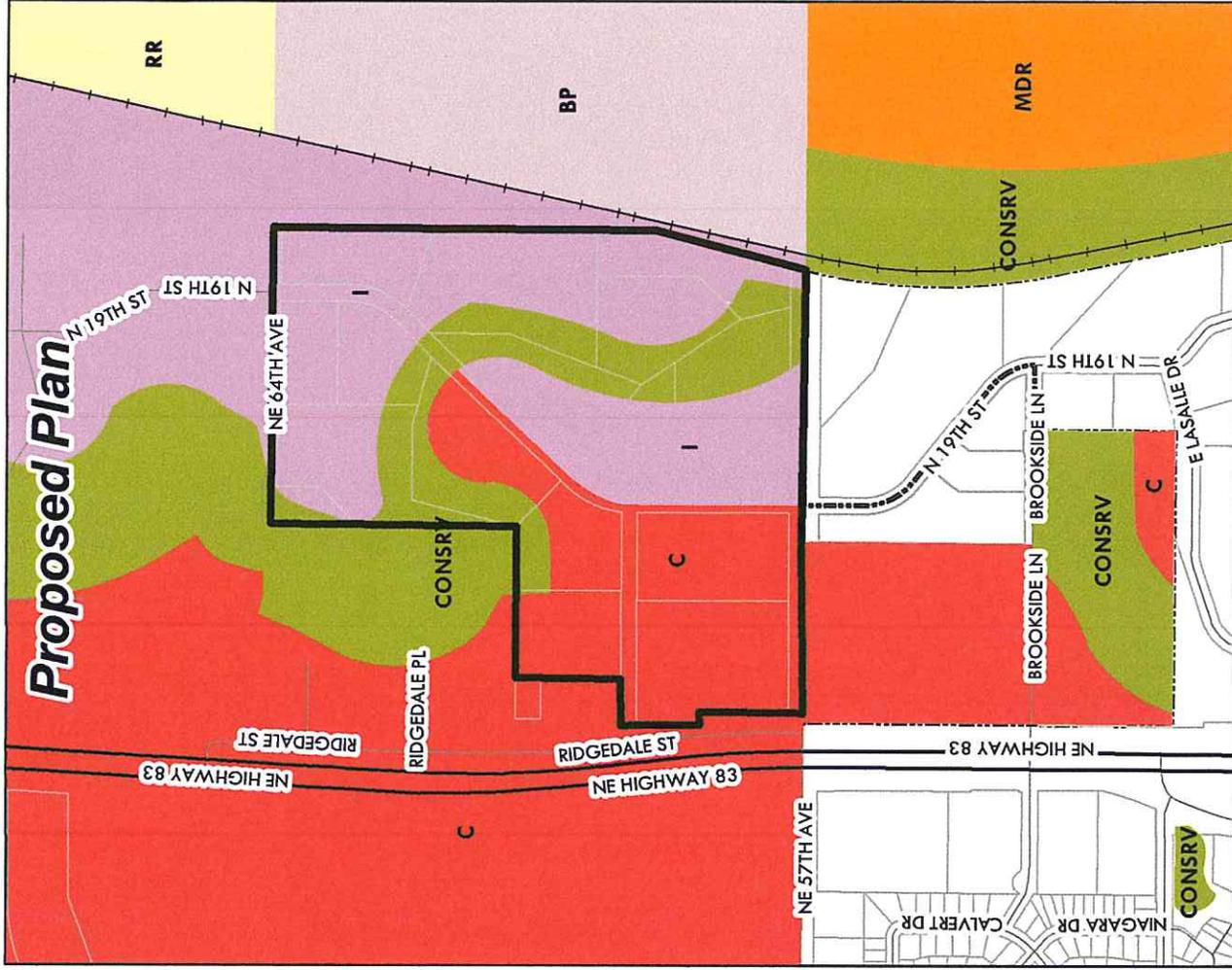
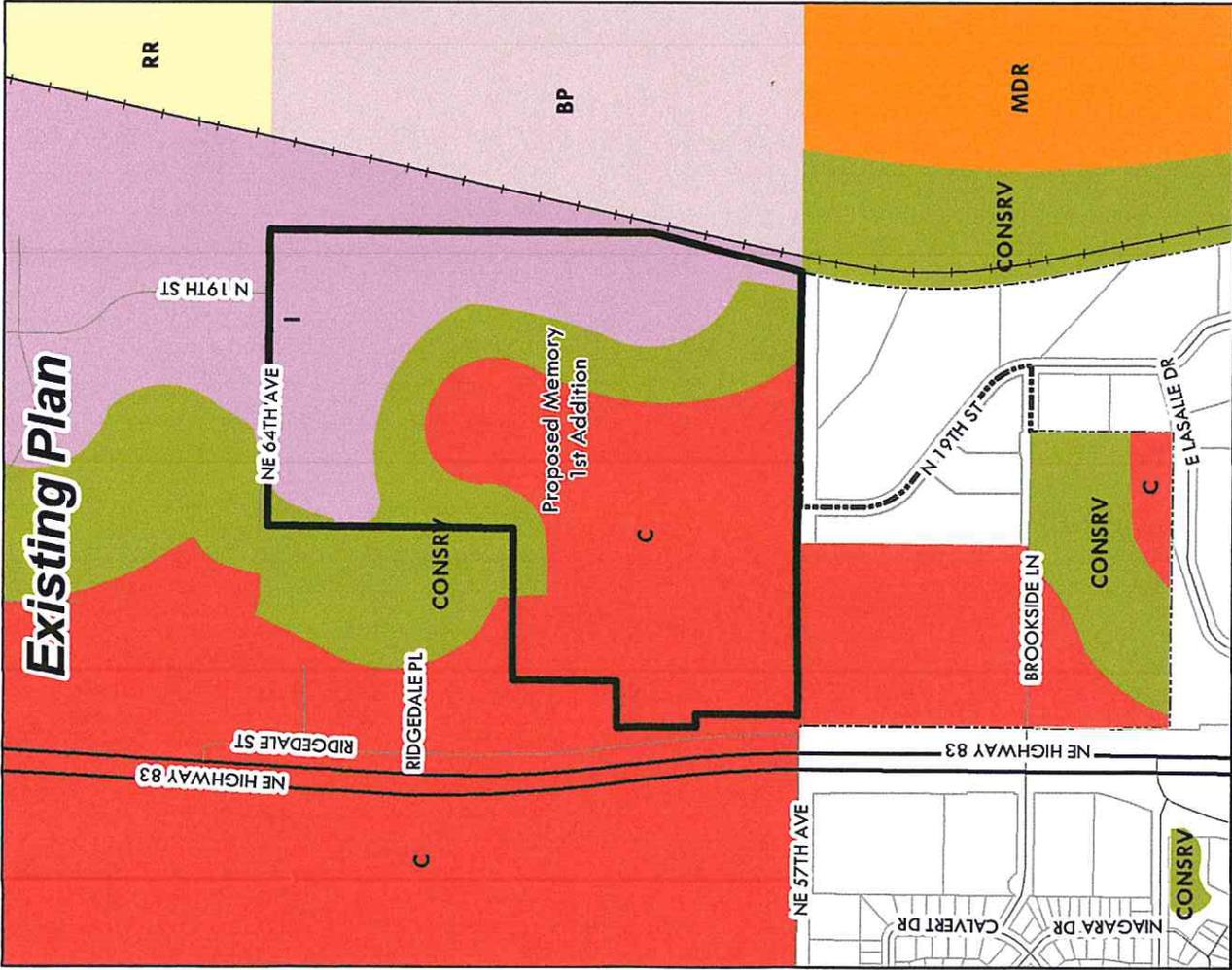


May 23, 2016 (hfb)

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# Memory 1st Addition - Future Land Use Plan Change (C to I)



LDR = Low Density Residential  
 MDR = Medium Density Residential  
 HDR = High Density Residential  
 C = Commercial

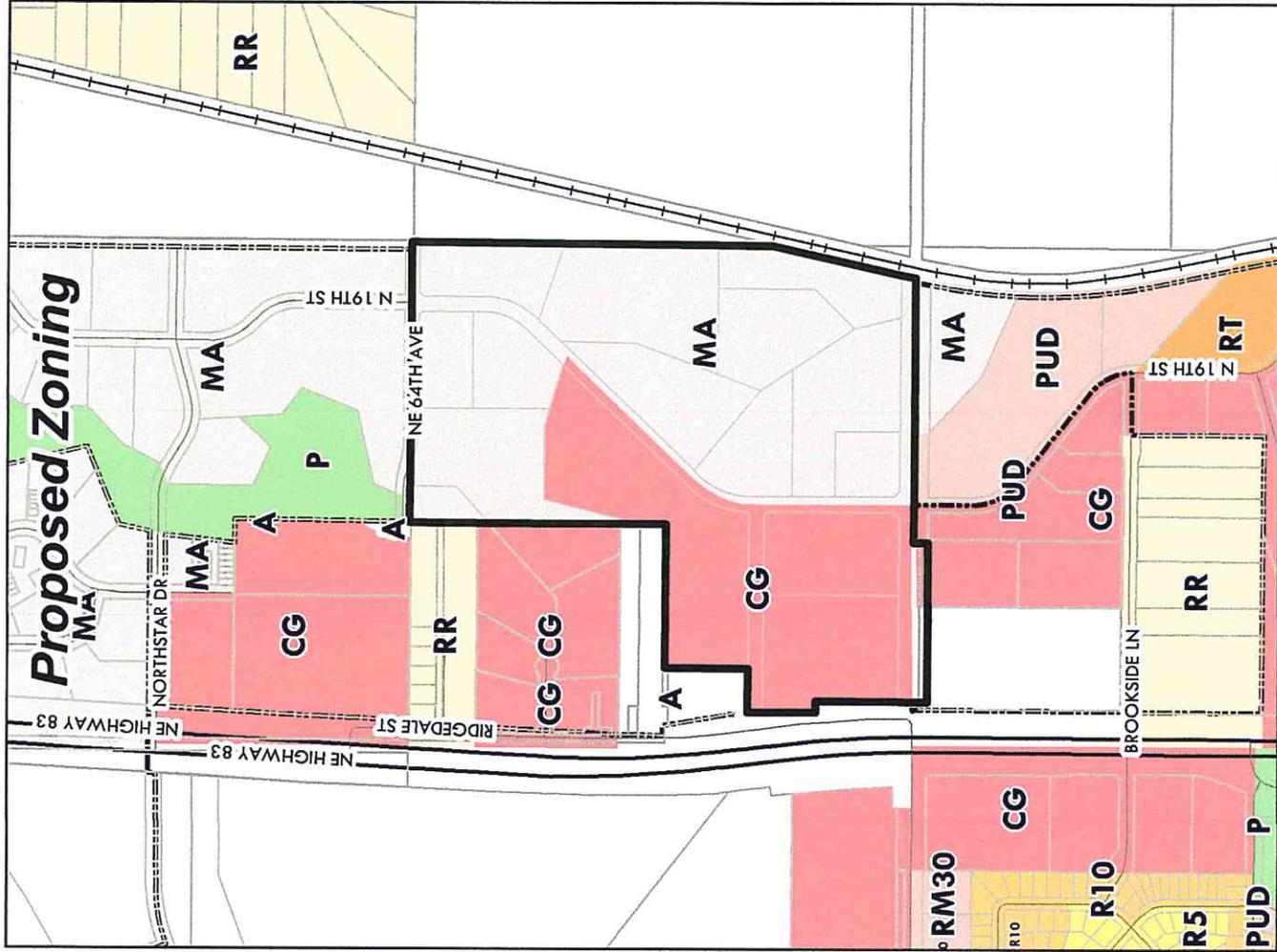
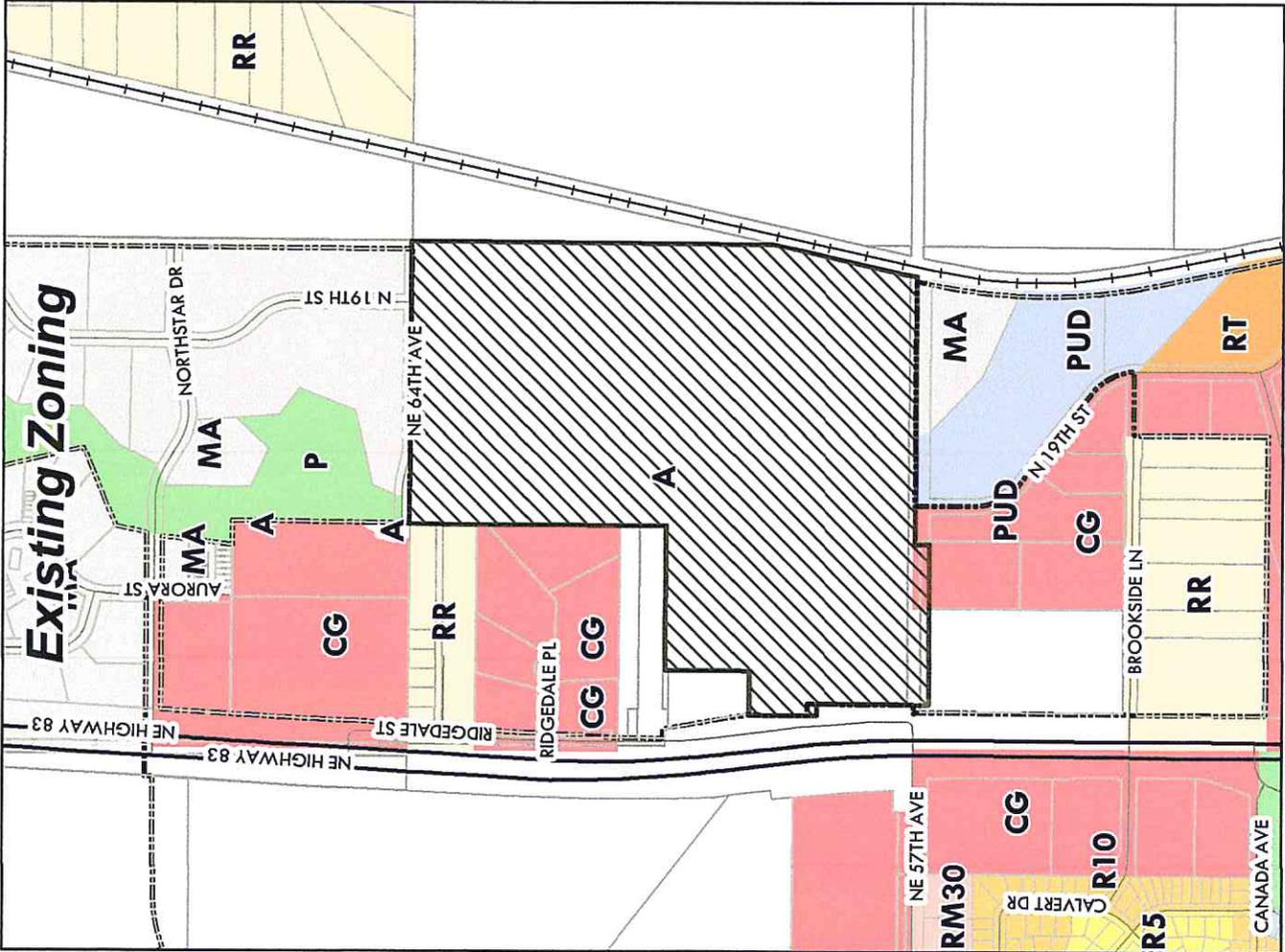
CONSV = Conservation  
 RR = Rural Residential  
 MDR/MU = Medium Density Residential Mixed Use

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July, 2016

# Memory 1st Addition



City Limits



Extraterritorial Area



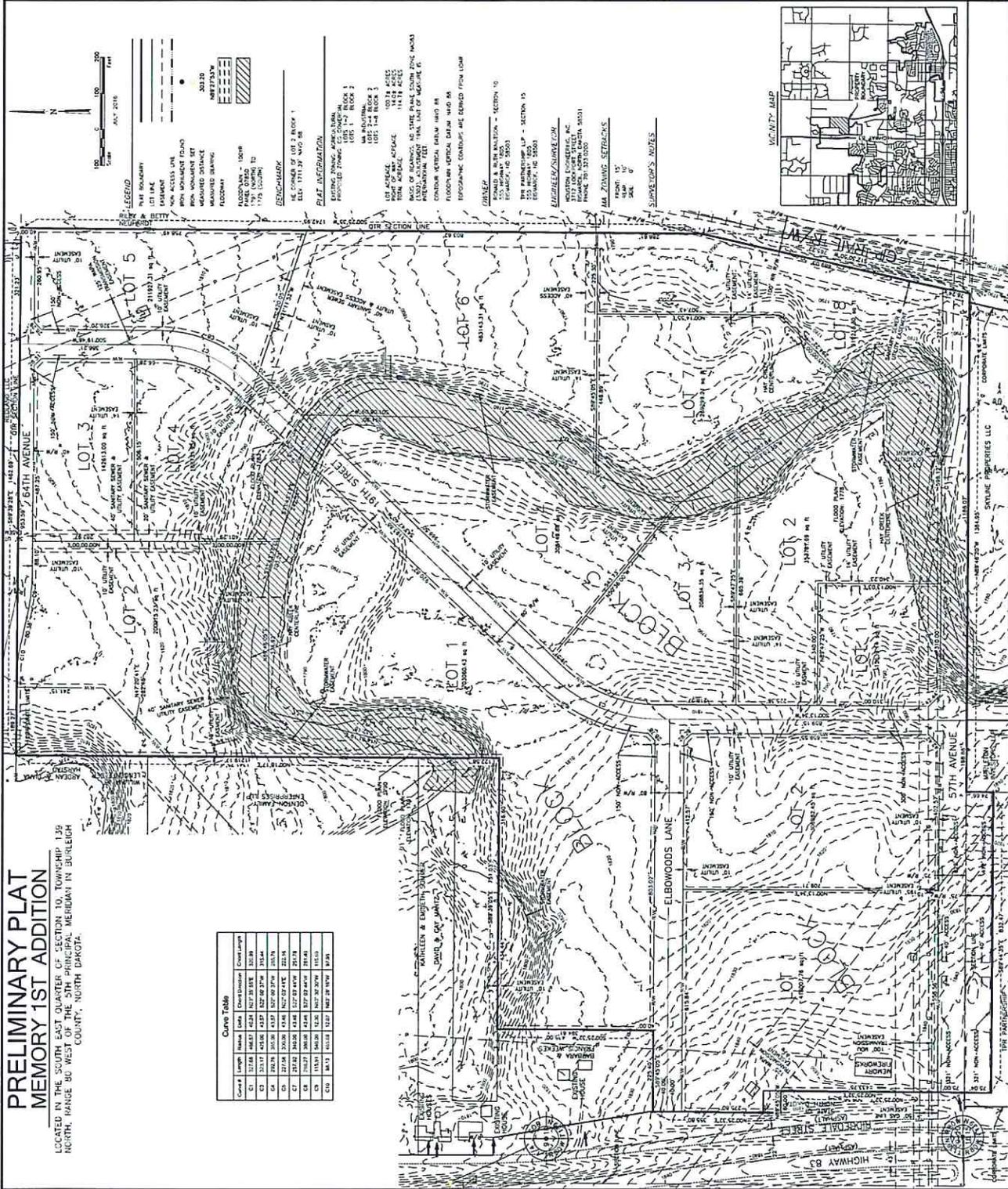
July, 2016

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# PRELIMINARY PLAT MEMORY 1ST ADDITION

LOCATED IN THE SOUTH EAST QUARTER OF SECTION 10, TOWNSHIP 135  
NORTH, RANGE 56 WEST, MERIDIAN 101 WEST,  
COUNTY, NORTH DAKOTA.

| Curve # | Length  | Radius | Chord | Chord Length |
|---------|---------|--------|-------|--------------|
| C1      | 12.788  | 488.87 | 42.29 | 127.35 (5%)  |
| C2      | 23.174  | 425.06 | 42.29 | 227.82 (5%)  |
| C3      | 34.561  | 361.25 | 42.29 | 328.29 (5%)  |
| C4      | 45.948  | 297.44 | 42.29 | 428.76 (5%)  |
| C5      | 57.335  | 233.63 | 42.29 | 529.23 (5%)  |
| C6      | 68.722  | 169.82 | 42.29 | 629.70 (5%)  |
| C7      | 80.109  | 106.01 | 42.29 | 730.17 (5%)  |
| C8      | 91.496  | 42.20  | 42.29 | 830.64 (5%)  |
| C9      | 102.883 | 0.00   | 42.29 | 931.11 (5%)  |



**LEGEND**

- PLAT BOUNDARY
- LOT LINE
- NON-ADJACENT FOUND
- MEASURED DISTANCE
- MEASURED BEARING
- BOUNDARY
- ADJACENT TO 100'
- PLAT 2015
- 175' (100')

**BENCHMARK**

100' BENCH MARK

**PLAT INFORMATION**

PREPARED BY: [Name]

DATE: [Date]

PROJECT: [Project Name]

LOT ACRES: 10.74 ACRES

TOTAL ACRES: 11.74 ACRES

BLDG OF RECORD: NO STATE PLANS, ZONING MARKS

ADJACENT TO: [Name]

CONTOUR INTERVAL: 2.00 FT

FLOODPLAIN: [Information]

TOPOGRAPHIC CONTOURS ARE DERIVED FROM LIDAR

**PLAT INFORMATION**

PREPARED BY: [Name]

DATE: [Date]

PROJECT: [Project Name]

LOT ACRES: 10.74 ACRES

TOTAL ACRES: 11.74 ACRES

BLDG OF RECORD: NO STATE PLANS, ZONING MARKS

ADJACENT TO: [Name]

CONTOUR INTERVAL: 2.00 FT

FLOODPLAIN: [Information]

TOPOGRAPHIC CONTOURS ARE DERIVED FROM LIDAR

**ENGINEER'S NOTES**

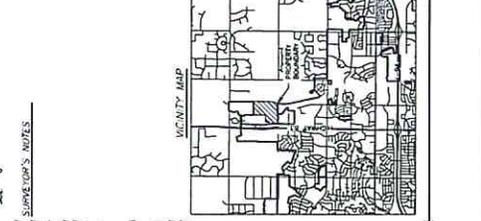
1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

2. ALL BEARINGS ARE TRUE BEARINGS.

3. ALL DISTANCES ARE MEASURED ALONG THE CENTERLINE OF THE LOT.

4. ALL DISTANCES ARE MEASURED ALONG THE CENTERLINE OF THE LOT.

5. ALL DISTANCES ARE MEASURED ALONG THE CENTERLINE OF THE LOT.



**ENGINEER'S NOTES**

1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

2. ALL BEARINGS ARE TRUE BEARINGS.

3. ALL DISTANCES ARE MEASURED ALONG THE CENTERLINE OF THE LOT.

4. ALL DISTANCES ARE MEASURED ALONG THE CENTERLINE OF THE LOT.

5. ALL DISTANCES ARE MEASURED ALONG THE CENTERLINE OF THE LOT.

**Statement of Interest and Request to Modify the  
City of Bismarck's Growth Management Plan  
Memory 1<sup>st</sup> Addition – SW¼ Section 10, T139N R80W  
May 20, 2016**

Platting of the Memory First Addition is occurring after numerous discussions regarding various development related issues. This is a statement of interest to formally request consideration to modify the Growth Management Plan based on revised zoning in the area east of 19<sup>th</sup> Street and west of Hay Creek. First, it is valuable to document some of the discussions and decisions that preceded this request. The following is a brief history of several of the more notable elements:

- The 57<sup>th</sup> Avenue arterial street corridor was evaluated thoroughly via a review of four potential alignments and alternative access points for 19<sup>th</sup> Street, as well as non-access locations.
  - The selected alignment, provided in this preliminary plat, has been generally accepted by the City Traffic Engineer and County Engineer.
  - The non-access lines from the Highway #83 ROW were discussed with a general understanding related to the location of 19<sup>th</sup> Street, and allowing for access to Lot 1 Block 1 in Memory 1<sup>st</sup> Addition and later a similar access to be provided to the south into properties owned by TPR. These access locations may, in the future, be limited by a center median due to traffic demands, however this is unlikely in the foreseeable future.
  - It was agreed that the 57<sup>th</sup> Avenue Hay Creek crossing would not be required for construction as part of this and essentially is on hold until there is a demand for traffic access from the east of the CP Railroad (DMVW). Subsequently, there will be no crossing construction required with plat development.
- The original roadway master plan in this area called for Aurora Street to cross Hay Creek to the north with a connection to 57<sup>th</sup> Avenue. After due consideration and a review of traffic patterns and anticipated access it was determined this stream crossing was not required. In addition, the maximum street length of 1320 feet is exceeded in this area. We understand based on the discussion this is acceptable given the proposed zoning, uses and platted lot configuration.
- The property owner previously signed easements to install a sanitary sewer trunk line extension in this plat area for the City of Bismarck. This installation is complete and the sanitary system is functional and available for use as shown in the utility plan.
- During the discussion on zoning with the Community Development, it was determined there are opportunities to expand the MA industrial area to the west side of Hay Creek. Previously with 19<sup>th</sup> Street being located east of Hay Creek there was a greater loss of developable property that was unacceptable. Its relocation, as shown on the preliminary plat, created a scenario where the break between CG and MA can and would occur at 19<sup>th</sup> Street. The advantage is that it expands the MA zoning and a creates a more viable development given site grading and other factors, including the CG Heavy Commercial properties to the west, which a compatible use for property adjoining MA.

In conclusion, this is a formal request to modify the Growth Management Plan based on the proposed zoning as illustrated on the preliminary plat and application documents. This submittal contains all the properties in this area, including the existing Memory Fireworks Site. The application includes platting and zoning the entire area, however any determination on annexation remains to be determined.



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

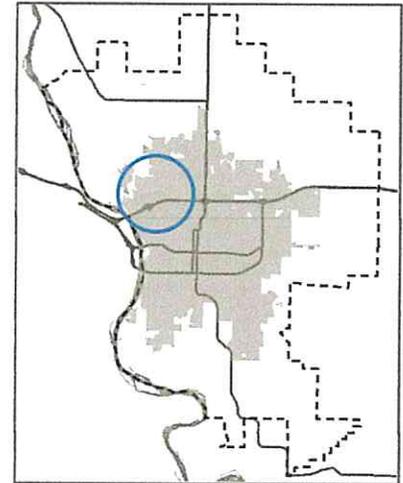
Agenda Item # 4  
 July 27, 2016

## Application for: Major Subdivision Preliminary Plat

TRAKiT Project ID: PPLT2016-005

### Project Summary

|                         |  |
|-------------------------|--|
| <b>Title:</b>           | MDU Resources Northwest Addition   |
| <b>Status:</b>          | Planning & Zoning Commission – Consideration   |
| <b>Owner(s):</b>        | MDU Resources Group, Inc<br>City of Bismarck   |
| <b>Project Contact:</b> | Landon Niemiller, Swenson, Hagen, & Co.  |
| <b>Location:</b>        | In northwest Bismarck, in the southwest corner of the intersection of County West Road and Clydesdale Drive. |
| <b>Project Size:</b>    | 2.7 acres  |
| <b>Request:</b>         | Create a one-lot subdivision for the expansion of an existing electrical substation.                         |



### Site Information

| Existing Conditions                    |  | Proposed Conditions                    |  |
|--|--|--|--|
| <b>Number of Lots:</b>                 | 1 parcel                                   | <b>Number of Lots:</b>                 | 1 lot in 1 block                           |
| <b>Land Use:</b>                       | Electrical Substation                      | <b>Land Use:</b>                       | Electrical Substation                      |
| <b>Designated GMP Future Land Use:</b> | Already zoned. Not in Future Land Use Plan | <b>Designated GMP Future Land Use:</b> | Already zoned. Not in Future Land Use Plan |
| <b>Zoning:</b>                         | R5 – Residential                           | <b>Zoning:</b>                         | R5 – Residential                           |
| <b>Uses Allowed:</b>                   | R5 – Single-family residential             | <b>Uses Allowed:</b>                   | R5 – Single-family residential             |
| <b>Max Density Allowed:</b>            | R5 – 5 units / acre                        | <b>Max Density Allowed:</b>            | R5 – 5 units / acre                        |

### Property History

|               |      |                 |     |                 |          |
|---------------|------|-----------------|-----|-----------------|----------|
| <b>Zoned:</b> | 1959 | <b>Platted:</b> | N/A | <b>Annexed:</b> | Pre-1985 |
|---------------|------|-----------------|-----|-----------------|----------|

### Staff Analysis

MDU Resources owns and operates an electrical substation in northwest Bismarck adjacent to a City of Bismarck water tower site. The applicant intends to

expand the existing facility, requiring a larger parcel. MDU has brokered an agreement with the City of Bismarck Public Works Department to purchase approximately a half acre from the City to expand the

(continued)

site to the east. A portion of this area is currently used as a temporary recycling center, and this use would be shifted further to the east if the property is sold.

Neither the MDU-owned parcel nor the City-owned parcels have been platted, and a plat is required as a prerequisite to obtaining a building permit on the site.

The area is within the R5 – Residential zoning district. Electrical substations, along with all other basic utility infrastructure, are allowed by-right in this and every other zoning district. Section 14-03-07 (15) of the Bismarck Code of Ordinances outlines additional requirements relating to setbacks, fencing, landscaping, etc. for all uses within the Utility Services Group. The applicant will have to demonstrate compliance with these provisions during the site plan approval process.

An existing municipal water main runs along the proposed eastern boundary of the plat. The applicant shows a 15-foot water main easement on the preliminary plat, and the Engineering Department is still considering whether this is a sufficient width.

The preliminary plat is prepared with the assumption that MDU will have full ownership of the entire area. Although the transfer has not occurred, the intent is for the City to transfer the property at some point after final approval of the plat but before recordation.

#### Required Findings of Fact

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed preliminary plat is not an urban subdivision with residential zoning districts;
4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required.
5. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.

6. 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 subdivision at the time the property is developed;
7. The proposed subdivision is not located in an area that is subject to flooding, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development;
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
10. The proposed subdivision would not adversely affect the public health, safety and general welfare.

#### Staff Recommendation

Based on the above findings, staff recommends tentative approval of the preliminary plat for MDU Resources Northwest Addition, with the following conditions:

1. A utility easement of a sufficient width is included along Clydesdale Drive to protect existing utility lines in this area.
2. The width of the watermain easement on the east side of the plat is approved by the City Engineer.
3. All of the land in the proposed plat will be owned by MDU Resources Group, Inc prior to recordation of the plat.

#### Attachments

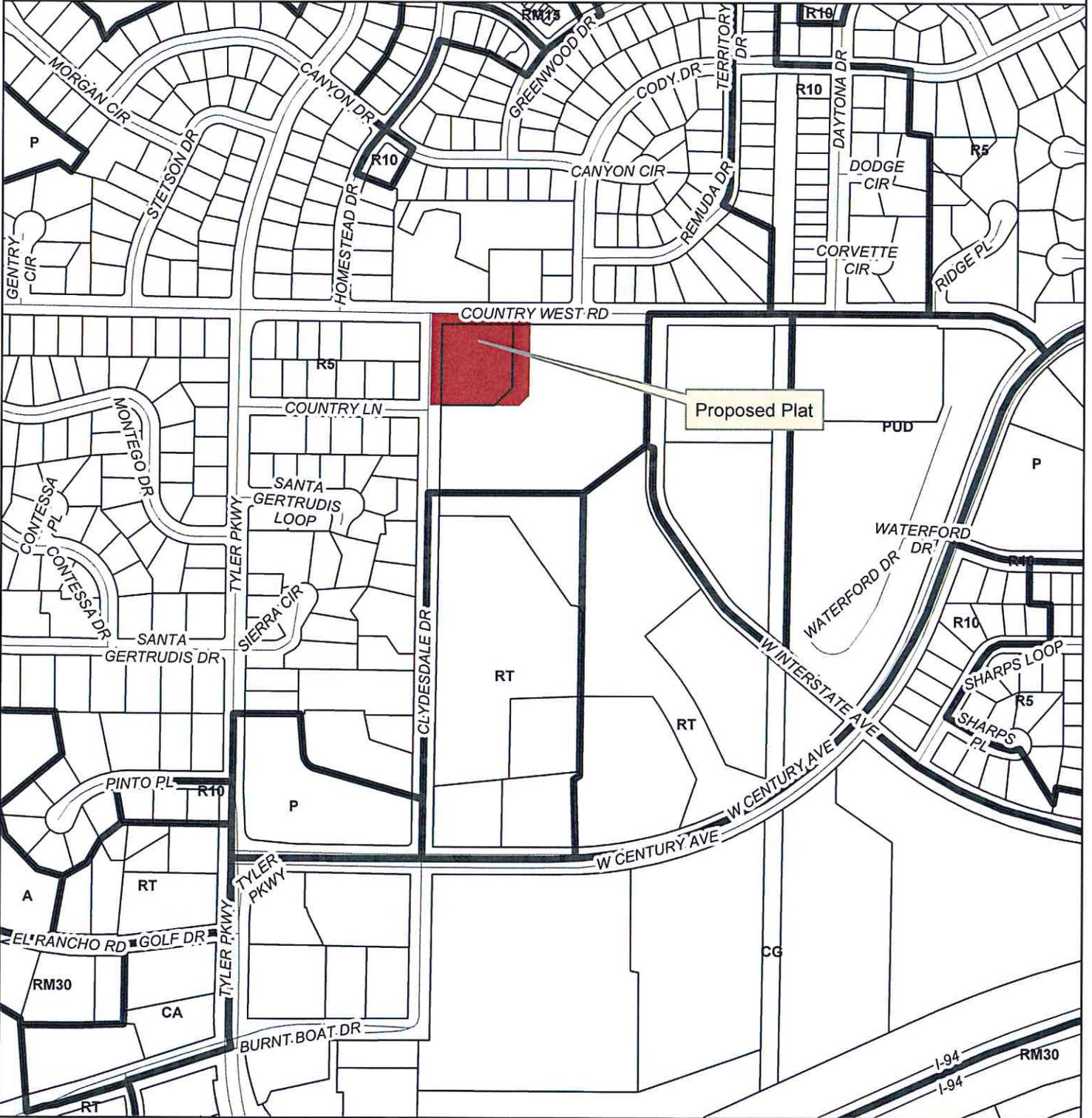
1. Location Map
2. Zoning Map
3. Reduction of Preliminary Plat

(continued)

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

# Proposed Plat MDU Resources Second Addition



June 27, 2016 (h/b)

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 herein.



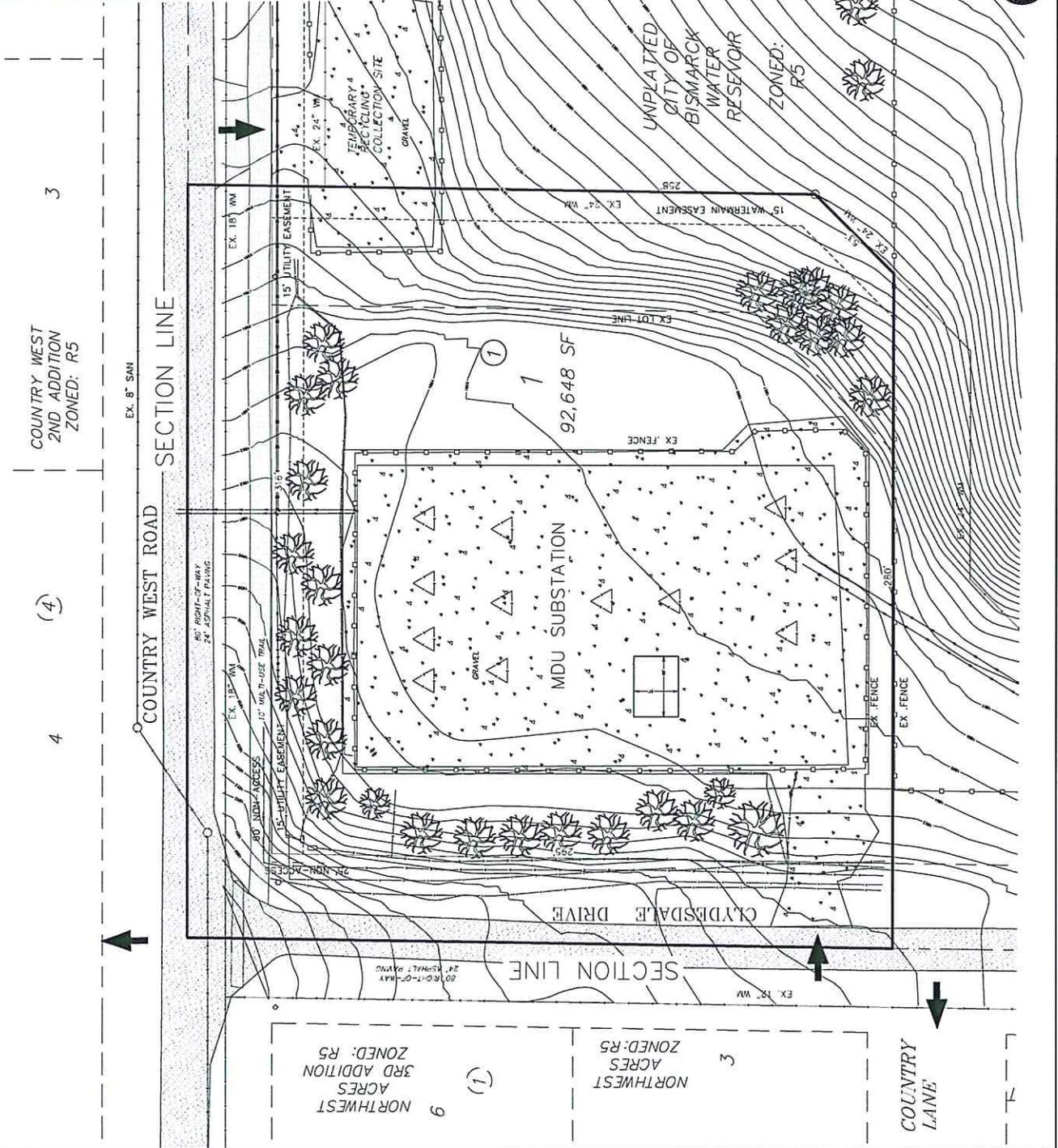
# MDU BISMARCK NORTHWEST ADDITION

PART OF THE NW 1/4 OF THE NW 1/4 OF SECTION 29,  
TOWNSHIP 139 NORTH, RANGE 80 WEST

## BISMARCK, NORTH DAKOTA



LOCATION MAP



COUNTRY WEST  
2ND ADDITION  
ZONED: R5

(4)

4

EX. 8" SAN

SECTION LINE

COUNTRY WEST ROAD



SECTION LINE

9  
NORTHWEST  
ACRES  
3RD ADDITION  
ZONED: R5

(1)

3  
NORTHWEST  
ACRES  
ZONED: R5

COUNTRY  
LANE

EX. 18" WM

EX. 18" WM

EX. 18" WM

EX. 24" WM



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

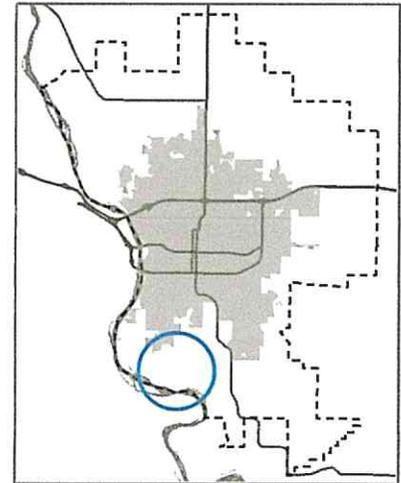
Agenda Item # 5  
 July 27, 2016

**Application for: Major Subdivision Preliminary Plat**

TRAKiT Project ID: PPLT2016-006

## Project Summary

|                         |  |
|-------------------------|--|
| <b>Title:</b>           | Woodland Third Subdivision   |
| <b>Status:</b>          | Planning & Zoning Commission – Consideration   |
| <b>Owner(s):</b>        | Duane Vetter   |
| <b>Project Contact:</b> | Landon Niemiller, Swenson, Hagen & Co.   |
| <b>Location:</b>        | South of Bismarck, between 48 <sup>th</sup> Avenue SE and Oahe Bend, along the east side of South 12 <sup>th</sup> Street. |
| <b>Project Size:</b>    | 1.8 acres  |
| <b>Request:</b>         | Plat property for development of one rural residential lot.  |



## Site Information

| Existing Conditions                        |  | Proposed Conditions                        |  |
|--|--|--|--|
| <b>Number of Lots:</b>                     | Part of one parcel   | <b>Number of Lots:</b>                     | 1 lot in 1 block   |
| <b>Land Use:</b>                           | Undeveloped rural residential                                    | <b>Land Use:</b>                           | Single-family rural residential                                  |
| <b>Designated GMP<br/>Future Land Use:</b> | Already zoned. Not in Future Land Use Plan                       | <b>Designated GMP<br/>Future Land Use:</b> | Already zoned. Not in Future Land Use Plan                       |
| <b>Zoning:</b>                             | RR – Residential   | <b>Zoning:</b>                             | RR – Residential   |
| <b>Uses Allowed:</b>                       | RR – Large lot single-family residential and limited agriculture | <b>Uses Allowed:</b>                       | RR – Large lot single-family residential and limited agriculture |
| <b>Max Density Allowed:</b>                | RR – 1 unit per 65,000 square feet                               | <b>Max Density Allowed:</b>                | RR – 1 unit per 65,000 square feet                               |

## Property History

|               |          |                 |     |                 |     |
|---------------|----------|-----------------|-----|-----------------|-----|
| <b>Zoned:</b> | Pre-1980 | <b>Platted:</b> | N/A | <b>Annexed:</b> | N/A |
|---------------|----------|-----------------|-----|-----------------|-----|

## Staff Analysis

Approval of the proposed subdivision is being requested for the future development of a single rural residential lot.

The proposed subdivision is located within the Special Flood Hazard Area (SFHA) or 100-year floodplain. Development of the site, including construction of the proposed single-family dwelling, must comply with

(continued)

Section 14-03-09 of the City Code of Ordinances (FP – Floodplain District).

**Required Findings of Fact**

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed preliminary plat is not an urban subdivision with residential zoning districts;
4. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
5. 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 subdivision at the time the property is developed;
6. The proposed subdivision is located within the Special Flood Hazard Area (SFHA) or 100-

year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands,

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

**Staff Recommendation**

Based on the above findings, staff recommends tentative approval of the preliminary plat for Woodland Third Subdivision.

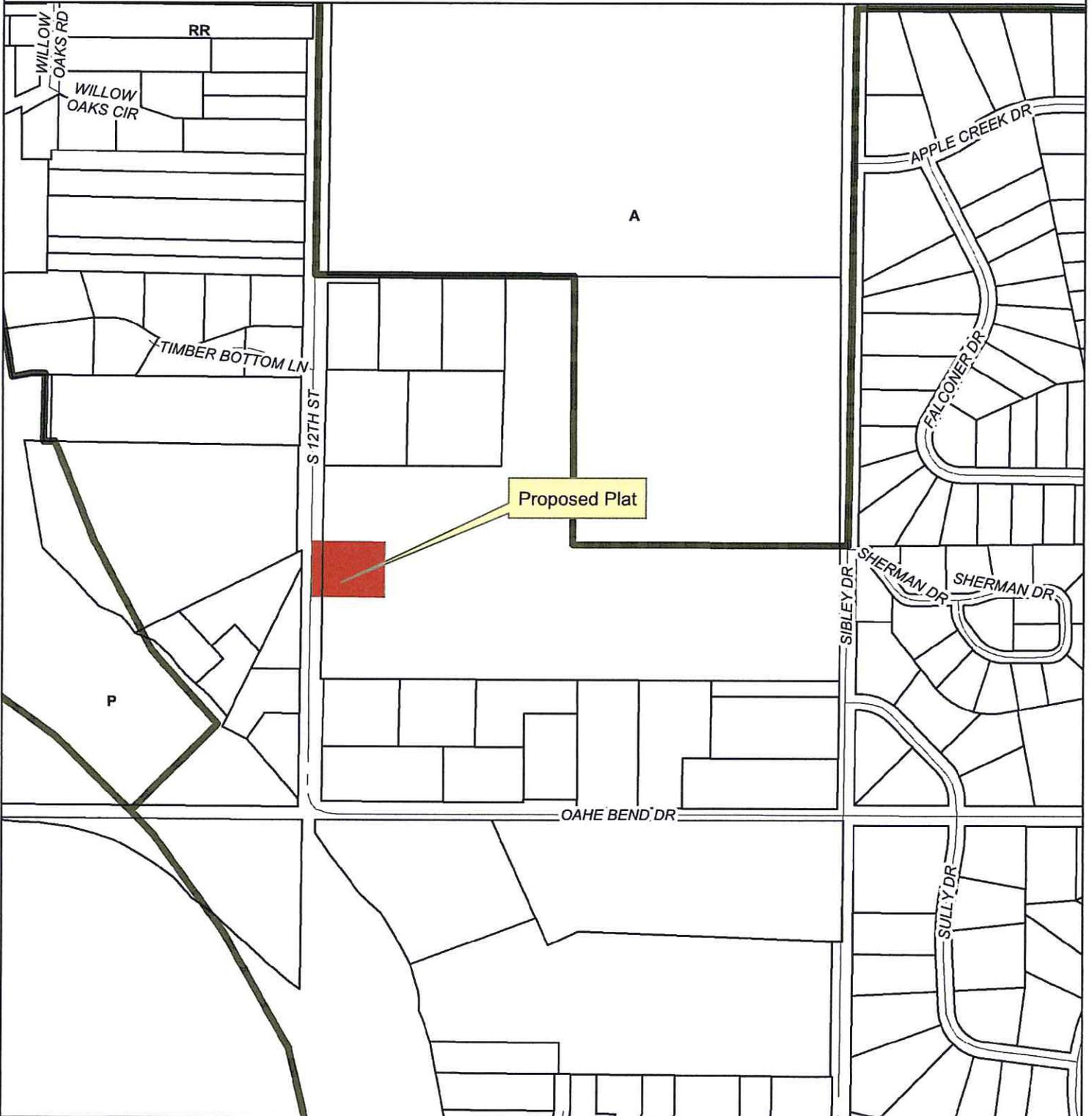
**Attachments**

1. Location Map
2. Reduction of Preliminary Plat

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Staff report prepared by: Jenny Wollmuth, CFM, Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

# Proposed Plat Woodland Third Subdivision



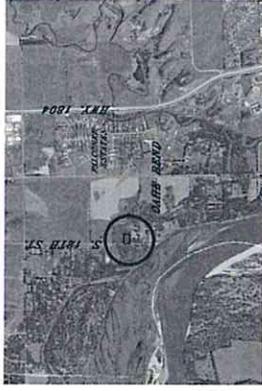
June 27, 2016 (hib)

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 herein.



# WOODLAND THIRD SUBDIVISION

PART OF THE SW 1/4 OF SECTION 27, TOWNSHIP 138 NORTH, RANGE 80 WEST  
BURLEIGH COUNTY, NORTH DAKOTA



LOCATION MAP

1.8 ACRES  
EXISTING ZONING: RR  
1 LOT

OWNER: DUANE VETTER  
ADDRESS: 6021 SE 12TH ST  
BISMARCK, ND 58501  
PHONE: (701) 223-4924

FLOOD PLAIN:  
FIRM MAP NUMBER: 38015C0960D  
100 YR. FLOOD PLAIN ELEV: 1633.7



SCALE = 1" = 20'  
VERTICAL DATUM: NAVD 88

JUNE 20, 2016



UNPLATTED  
OWNER:  
DUANE &  
CARLA VETTER  
ZONED: RR

UNPLATTED  
OWNER:  
DUANE &  
CARLA VETTER  
ZONED: RR

UNPLATTED  
OWNER:  
DUANE &  
CARLA VETTER  
ZONED: RR



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

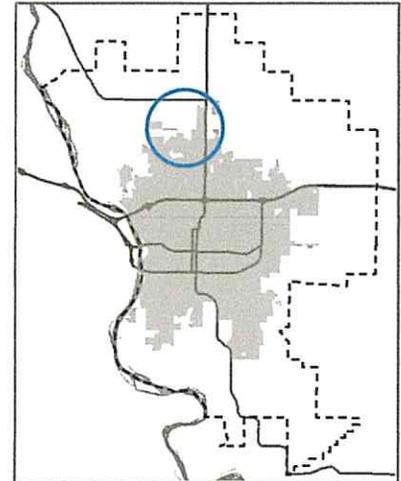
Agenda Item # 6  
 July 27, 2016

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

TRAKiT Project ID: ZC2016-007  
 PPLT2016-004

## Project Summary

|                         |  |
|-------------------------|--|
| <b>Title:</b>           | Koch Creek Commercial Subdivision  |
| <b>Status:</b>          | Planning & Zoning Commission – Public Hearing  |
| <b>Owner(s):</b>        | Michael Koch   |
| <b>Project Contact:</b> | Mike Hill, Ulteig Engineers  |
| <b>Location:</b>        | North of Bismarck, between US Highway 83 and North Washington Street, along the north side of ND Highway 1804. |
| <b>Project Size:</b>    | 8.56 acres   |
| <b>Request:</b>         | Plat and rezone property for development of an electrical substation now and commercial use in the future.     |



## Site Information

| Existing Conditions         |                       | Proposed Conditions         |  |
|-----------------------------|-----------------------|-----------------------------|--|
| <b>Number of Lots:</b>      | 1 Parcel              | <b>Number of Lots:</b>      | 2 lots in 1 block  |
| <b>Land Use:</b>            | Undeveloped           | <b>Land Use:</b>            | Commercial uses, including electrical substation               |
| <b>Designated GMP</b>       | Commercial            | <b>Designated GMP</b>       | Commercial   |
| <b>Future Land Use:</b>     |                       | <b>Future Land Use:</b>     |  |
| <b>Zoning:</b>              | A – Agricultural      | <b>Zoning:</b>              | CG – Commercial  |
| <b>Uses Allowed:</b>        | A – Agriculture       | <b>Uses Allowed:</b>        | CG – General commercial, multi-family residential, and offices |
| <b>Max Density Allowed:</b> | A – 1 unit / 40 acres | <b>Max Density Allowed:</b> | CG – 42 units / acre   |

## Property History

|               |     |                 |     |                 |     |
|---------------|-----|-----------------|-----|-----------------|-----|
| <b>Zoned:</b> | N/A | <b>Platted:</b> | N/A | <b>Annexed:</b> | N/A |
|---------------|-----|-----------------|-----|-----------------|-----|

## Staff Analysis

The Planning and Zoning Commission at their April 25, 2016 meeting scheduled a public hearing for the

zoning change from the A – Agriculture zoning district to the CG – Commercial zoning district and tentatively approved the proposed preliminary plat.

(continued)

The zoning change and plat are being requested for future commercial development including an electrical substation to be located on Lot 1, Block 1 of the proposed subdivision. Future commercial development on the site will require approval of an annexation request by the Planning and Zoning Commission and the Board of City Commissioners.

A 15-foot buffer yard along the west side of Lot 1 and a 20-foot buffer yard along the west side of Lot 2 have been included on the plat. The buffer yards and corresponding landscaping are intended to provide a buffer between the proposed electrical substation on Lot 1 and proposed commercial uses on Lot 2 and the existing rural single-family uses to the west. Adjacent land uses include, undeveloped agriculturally-zoned property to the north, a religious institution to the east, undeveloped agriculturally-zoned property to the south across ND Highway 1804, and rural single-family uses to the west.

Williamson Way, the north-south roadway within the plat, will provide access to the proposed subdivision and the adjacent religious institution to the east. Currently, the religious institution has two access points. The NDDOT has recommended that the eastern most access point be removed and that access to the religious institution be gained exclusively via Williamson Way.

The applicant has requested a waiver to delay the paving of the roadways within the proposed plat. City Staff has deemed this request reasonable as the transportation of substation equipment, transformers and other materials may cause damage to a paved roadway. The applicant has indicated that the roadways will be paved once the substation is complete. In addition, at their meeting of April 4, 2016, the Burleigh County Board of Commissioners granted a waiver from the County's Gravel Road Improvement Policy, with the understanding that the roadways within the proposed plat shall be paved by the owner / developer once the construction of the electrical substation located on Lot 1, Block 1 is completed.

## Required Findings of Fact

### Zoning Change

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and 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 Hay Creek Township Board of Supervisors has recommended conditional approval of the proposed zoning change;
5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

### Final Plat

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan (FARMP), as amended;

(continued)

4. The storm water management plan for the subdivision has been approved by the City Engineer with written concurrence from the County Engineer;
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts;
6. The Hay Creek Township Board of Supervisors has recommended approval of the proposed final plat;
7. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision;
8. 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 subdivision at the time the property is developed;
9. The proposed subdivision is not located in an area that is subject to flooding, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the zoning change from the A – Agricultural zoning district to the CG – Commercial zoning district, approval of the final plat for Koch Creek Commercial Subdivision and the waiver to delay the paving of the of the roadways within the plat until the electrical substation located on Lot 1, Block 1 is completed.

**Attachments**

1. Location Map
2. Zoning Map
3. Reduction of Final Plat
4. Reduction of Preliminary Plat
5. Waiver Request

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Staff report prepared by: Jenny Wollmuth, Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

# Proposed Plat and Zoning Change (A to CG) Koch Creek Commercial Subdivision

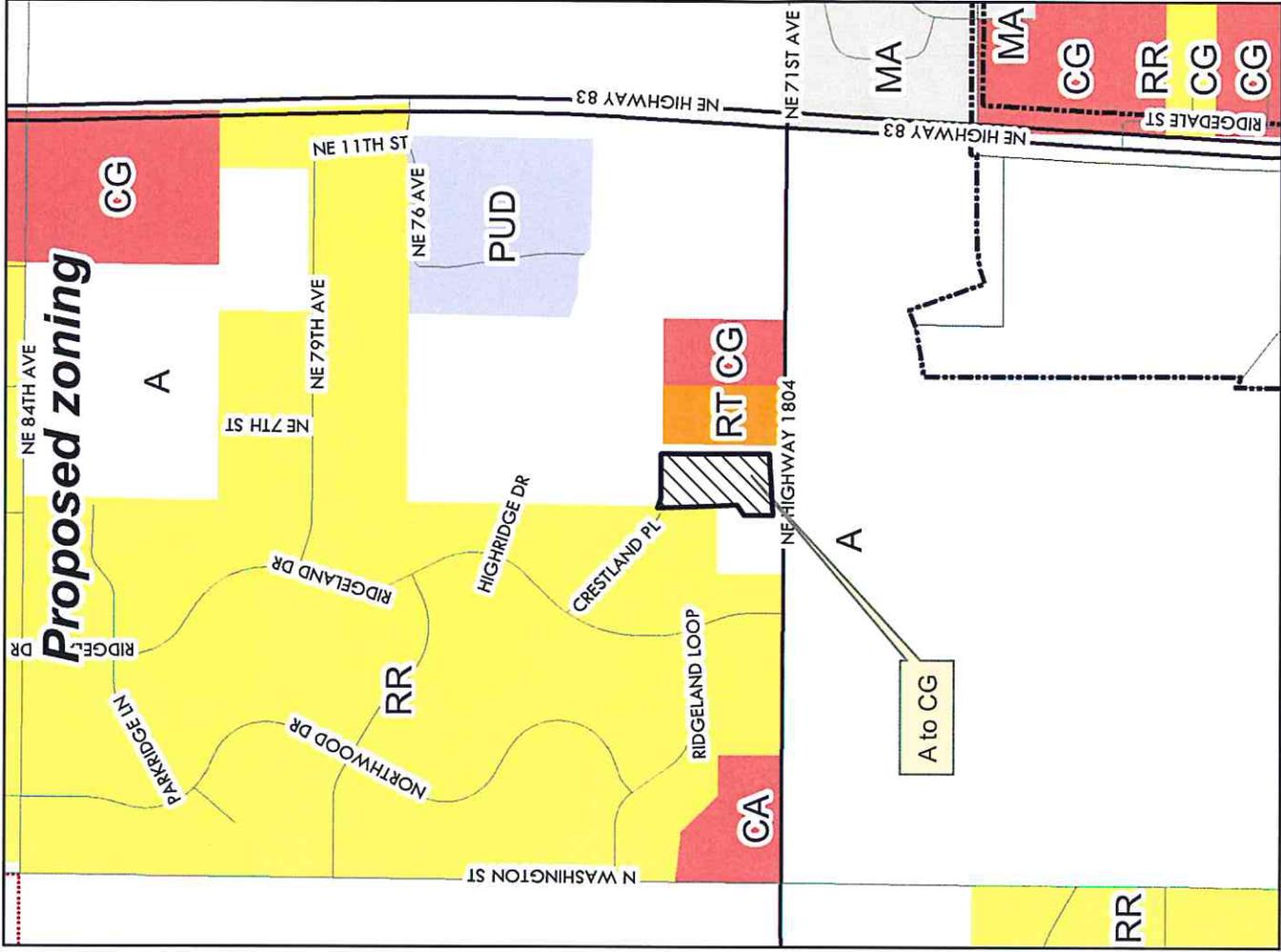
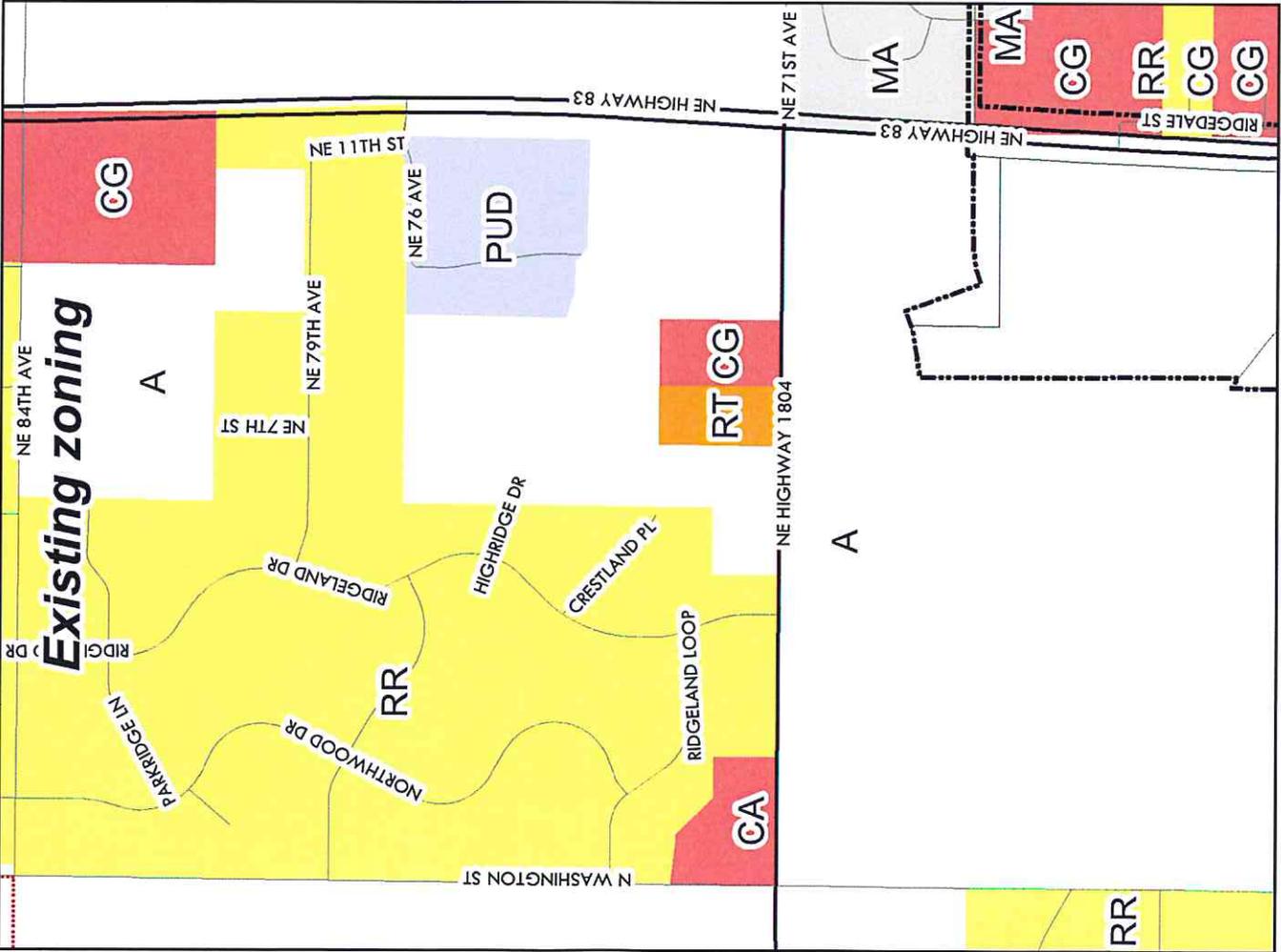


March, 28, 2016 (h1b)

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 herein.



# Koch Creek Commercial Subdivision



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.

April, 2016

# KOCH CREEK COMMERCIAL SUBDIVISION

BEING A PLAT OF AUDITORS LOT 2 OF AUDITORS LOT B IN THE W/2 OF THE SE/4 OF SECTION 4, T139N, R60W BURLEIGH COUNTY, NORTH DAKOTA

CITY OF BISMARCK ENGINEERING DEPARTMENT APPROVAL

1. Check J. Schell, City Engineer of Bismarck, North Dakota, hereby approves Koch Creek Commercial Subdivision, Burleigh County, North Dakota as shown on the Final Plat.

Approved by City Engineer the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Gabriel J. Schell, City Engineer

### BISMARCK BOARD OF CITY COMMISSION APPROVAL

The Board of City Commissioners of the City of Bismarck, North Dakota, has approved the Subdivision of Land as shown on the annexed plat, has approved the plat as shown on the annexed plat, and has approved the plat as shown on the annexed plat as an amendment to the master plan of the City of Bismarck, North Dakota. And does hereby certify that the plat as shown on the annexed plat is a true and correct copy of the action of the City Commission of Bismarck, North Dakota, was taken by resolution approved the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Keith J. Hurka, City Administrator

### CITY OF BISMARCK PLANNING COMMISSION

The Subdivision of Land as shown on the annexed plat has been approved by the Planning Commission of the City of Bismarck, North Dakota, on \_\_\_\_\_, 2016, in accordance with the laws of the State of North Dakota, and in accordance with the laws of the State of North Dakota, and in accordance with the laws of the State of North Dakota, and in accordance with the laws of the State of North Dakota.

Wayne Lee Yeager, Chairman

Carl D. Halverson, Secretary

### BOARD OF COUNTY COMMISSIONERS

The Board of County Commissioners of the Burleigh County, North Dakota, has approved the Subdivision of Land as shown on the annexed plat, has approved the plat as shown on the annexed plat, and has approved the plat as shown on the annexed plat as an amendment to the master plan of the County of Burleigh, North Dakota. And does hereby certify that the plat as shown on the annexed plat is a true and correct copy of the action of the Board of Commissioners of Burleigh County, North Dakota, was taken by resolution approved the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Doug Schmitt, Chairman

Kevin J. Gilt, County Auditor

### COORDINATE REFERENCE DATA

- 1. The Monument 1 being the S/4, Section 4, Township 139 North, Range 60 West, Northing 443,294.53, Easting 1,658,026.50, Elevation = 1683.22
  - 2. The Monument 2 being the SE Cor Section 4, Township 139 North, Range 60 West, Northing 443,218.69, Easting 1,662,655.62, Elevation = 1686.48
- Corner of the survey system is North Dakota State Plane, South Zone (NAD83)

### DESCRIPTION

Legal Description Koch Creek Commercial Subdivision Auditor's Lot 2 of Auditor's Lot B, located in the West Half of the Southeast Quarter Section 4, Township 139 North, Range 60 West, Burleigh County, North Dakota, more particularly described as follows:

1. three South 8 degrees 48 minutes 11 seconds West, a distance of 50.37 feet to a found 102 inch iron pin, accepted as the Northwest corner of said Koch Creek Subdivision.
2. thence South 8 degrees 48 minutes 11 seconds West, a distance of 102.74 feet to a found 102 inch iron pin, accepted as the Northwest corner of said Koch Creek Subdivision.
3. thence North 89 degrees 37 minutes 48 seconds East, a distance of 432.20 feet to the Point of Beginning.

The above described tract of land contains 6.32 acres, more or less.

The Blase of Bearing of the above described tract of land is North 0 degrees 00 minutes 00 seconds East, 60 feet to the South Quarter corner of Section 4, T139N, R60W, Burleigh County, North Dakota, as described in Convey Record 8169, recorded October 26, 1929, Burleigh County, North Dakota, and as shown on the plat of the North Dakota County Records, based on North Dakota State Plane, South Zone (NAD 83) Projection (14503). All distances are expressed in International Feet, ground.

### OWNERS CERTIFICATE AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That Michael P. Koch, whose address is 4828 South Bur Oak Drive, E.E. Moorhead, North Dakota, 58554-4744, the owner of the property described above, has caused the above described tract of land to be surveyed and platted as "KOCH CREEK COMMERCIAL SUBDIVISION" and does hereby dedicate to the public, for public use, all streets, avenues, and easements as shown on the plat.

Witness my hand and the seal of Burleigh County, North Dakota, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Michael P. Koch

By \_\_\_\_\_

State of North Dakota

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same.

Notary Public

### SURVEYORS CERTIFICATE AND ACKNOWLEDGMENT

I, William M. Hill, Registered Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said portion, but all distances are given in feet and decimals of feet, which distances are the guide of future surveys have been located or placed on the ground as shown.

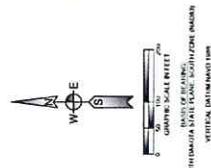
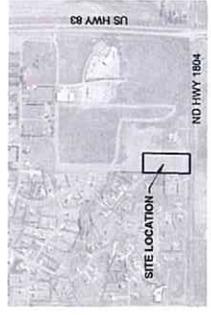
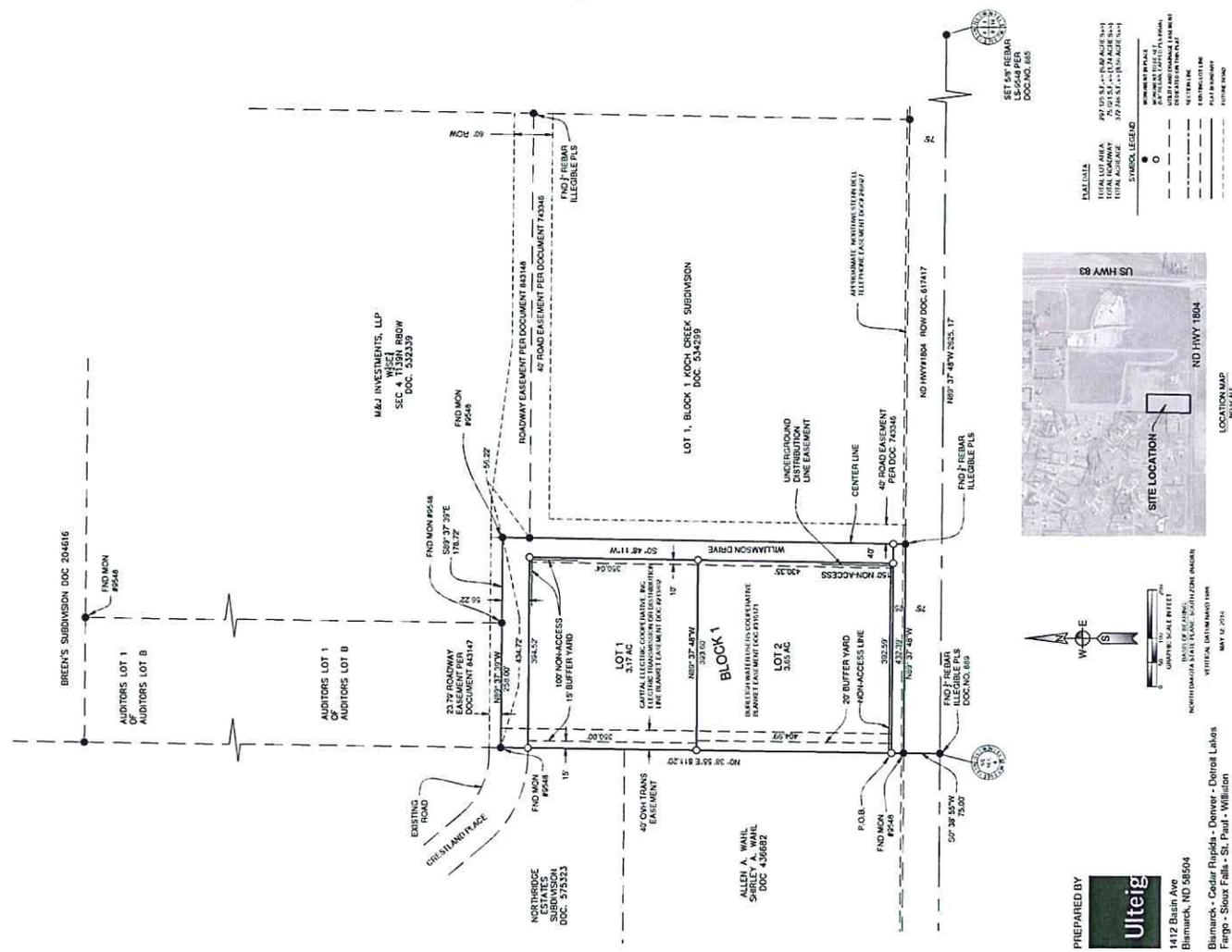
Witness my hand and the seal of Burleigh County, North Dakota, this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, a Notary Public with authority in and for said County, personally appeared William M. Hill to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as a free act and deed.

William M. Hill, Professional Land Surveyor

State of North Dakota

County of \_\_\_\_\_

Notary Public



PREPARED BY  
**Uiteig**  
 1412 Basin Ave  
 Bismarck - Cedar Rapids - Denver - Detroit Lakes  
 Fargo - Stout Falls - St. Paul - Williston



April 13, 2016

**Jenny Wollmuth, CFM**  
Planner  
Community Development Department  
Planning Division  
221 N 5<sup>th</sup> Street  
Bismarck, ND 58501

Subject: Pavement Waiver – Williamson Way – Koch Creek Commercial Subdivision

Ms. Wollmuth,

In the matter of the Koch Creek Commercial Subdivision, as the owner of the property currently going through the subdivision process, I am requesting a waiver of construction and installation of pavement prior to final approval of the subdivision for the following reason.

Central Power Electric Cooperative, Inc. has entered into an option to purchase Lot 1 for the installation of a substation. This installation, and related activity will require the transport of substation equipment, transformers and other materials which may be very heavy along with the equipment used to grade and build the site. As the property owner, I am very concerned that the construction activities have the potential to cause premature wear and tear to a newly paved street.

Central Power has agreed to pave the street as soon as construction has been completed. The Burleigh County Commission at their scheduled April 4<sup>th</sup> Commission meeting heard a request for deferment of paving until the construction on the substation was complete. The request passed on a vote of 3-2, according to the County, Central Power Electric Cooperative will now be allowed to construct the road and substation and subsequently pave the road once construction is complete.

Central Power and I understand and appreciate the fact that the City of Bismarck Planning & Zoning also needs to review the paving deferment request. I respectfully request the City Planning Department also grant a waiver to construct the roads prior to final approval of the plat and understand that Central Power will be paving the road upon completion of the construction of the substation property.

According to construction plans, the substation should be completed in late summer or early fall of this year. The pavement will be completed immediately after the project is completed, sometime this fall.

Respectfully Submitted



Michael Koch  
Koch Construction  
1601 South 12<sup>th</sup> Street  
Bismarck, N 58504-6642



# STAFF REPORT

City of Bismarck  
 Community Development Department  
 Planning Division

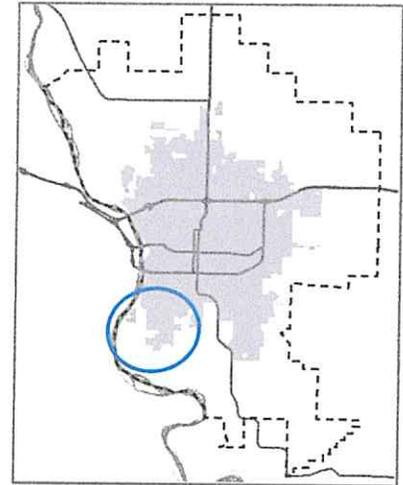
Agenda Item # 7  
 July 27, 2016

## Application for: Minor Subdivision Final Plat

TRAKiT Project ID: MPLT2016-006

### Project Summary

|                         |   |
|-------------------------|---|
| <b>Title:</b>           | SouthBay Third Addition First Replat  |
| <b>Status:</b>          | Planning & Zoning Commission – Public Hearing   |
| <b>Owner(s):</b>        | Alcor Investments, Inc. & Mitch & Stacy Neumiller   |
| <b>Project Contact:</b> | Landon Niemiller, Swenson, Hagen & Co.  |
| <b>Location:</b>        | In southwest Bismarck, west of South Washington Street and south of East Burleigh Avenue southeast of Calypso Drive within Poseidon Loop. |
| <b>Project Size:</b>    | 1.02 acres  |
| <b>Request:</b>         | Replat property to realign lot lines and eliminate auditor's lots.  |



### Site Information

#### Existing Conditions

|  |  |
|--|--|
| <b>Number of Lots:</b>                     | 3 parcels                                  |
| <b>Land Use:</b>                           | Single-family residential                  |
| <b>Designated GMP<br/>Future Land Use:</b> | Already zoned. Not in Future Land Use Plan |
| <b>Zoning:</b>                             | R5 – Residential                           |
| <b>Uses Allowed:</b>                       | R5 – Single-family residential             |
| <b>Max Density Allowed:</b>                | R5 – 5 units / acre                        |

#### Proposed Conditions

|  |  |
|--|--|
| <b>Number of Lots:</b>                     | 3 lots                                     |
| <b>Land Use:</b>                           | Single-family residential                  |
| <b>Designated GMP<br/>Future Land Use:</b> | Already zoned. Not in Future Land Use Plan |
| <b>Zoning:</b>                             | R5 – Residential                           |
| <b>Uses Allowed:</b>                       | R5 – Single-family residential             |
| <b>Max Density Allowed:</b>                | R5 – 5 units / acre                        |

### Property History

|               |         |                 |                    |                 |         |
|---------------|---------|-----------------|--------------------|-----------------|---------|
| <b>Zoned:</b> | 07/2007 | <b>Platted:</b> | 07/2007<br>07/2009 | <b>Annexed:</b> | 07/2007 |
|---------------|---------|-----------------|--------------------|-----------------|---------|

### Staff Analysis

The applicants are requesting this minor subdivision final plat in order to realign the boundaries of three parcels in SouthBay 3<sup>rd</sup> Addition. Several lots within the proposed plat were modified administratively in 2014

through the City's lot modification process. These modifications would have exceeded the number allowed under the lot modification requirements, so a minor subdivision final plat was required. The proposed adjustments are minor lot line adjustments and the number of lots will not change.

(continued)

**Required Findings of Fact**

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. The requirement to provide a stormwater management plan has been waived 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 minor subdivision final plat for SouthBay Third Addition First Replat.

**Attachments**

1. Location Map
  2. Reduction of minor subdivision final plat
- 

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

# Proposed Minor Plat Southbay Third Addition First Replat



June 6, 2016 (hib)

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 herein.



# SOUTHBAY THIRD ADDITION FIRST REPLAT

BEING A REPLAT OF LOTS 1, 2A, 2C, 7, AND 8 BLOCK 1 SOUTHBAY THIRD ADDITION,  
PART OF THE NORTH 1/2 OF SECTION 20, TOWNSHIP 138 NORTH, RANGE 80 WEST,  
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

**DESCRIPTION**

A REPLAT OF LOTS 1, 2A, 2C, 7, AND 8 BLOCK 1 SOUTHBAY THIRD ADDITION, PART OF THE NORTH 1/2 OF SECTION 20, TOWNSHIP 138 NORTH, RANGE 80 WEST.

**SURVEYOR'S CERTIFICATE**

I, MATTHEW M. STERN, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON APRIL 8, 2016. THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH ) SS SWENSON, HAGEN & CO.  
809 BASH AVENUE  
BISMARCK, NORTH DAKOTA

MATTHEW M. STERN  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 8279

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, BEFORE ME PERSONALLY APPEARED MATTHEW M. STERN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

DAVID PATENCE, NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES AUGUST 24, 2016

**APPROVAL OF CITY PLANNING COMMISSION**

THE SUBVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

WAYNE LEE YEAGER - CHAIRMAN CARL D. HOKSTAD - SECRETARY

**APPROVAL OF BOARD OF CITY COMMISSIONERS**

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE DEDICATIONS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATING WITHIN THE BOUNDARY OF THE ANNEXED PLAT. THE FOLLOWING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

ATTEST:  
KEITH J. HUNKE - CITY ADMINISTRATOR

**APPROVAL OF CITY ENGINEER**

I, CARREL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE 'SOUTHBAY THIRD ADDITION FIRST REPLAT', BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

CARREL J. SCHELL  
CITY ENGINEER

**OWNER'S CERTIFICATE & DEDICATION**

KNOW ALL MEN BY THESE PRESENTS THAT ALCORE INVESTMENT, INC., AND MITCH & STACY NEUMULLER, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS 'SOUTHBAY THIRD ADDITION FIRST REPLAT', BISMARCK, NORTH DAKOTA, AND SO TO RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, GASETTE, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER. THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY, SANITARY SEWER, STORM SEWER & STORM WATER EASEMENTS.

STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

ALCORE INVESTMENT, INC.  
1311 CLIFFER PLACE  
BISMARCK, ND 58504  
OWNER OF LOTS 2-3 BLOCK 1

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, BEFORE ME PERSONALLY APPEARED AL THOMAS OF ALCORE INVESTMENT, INC., KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_

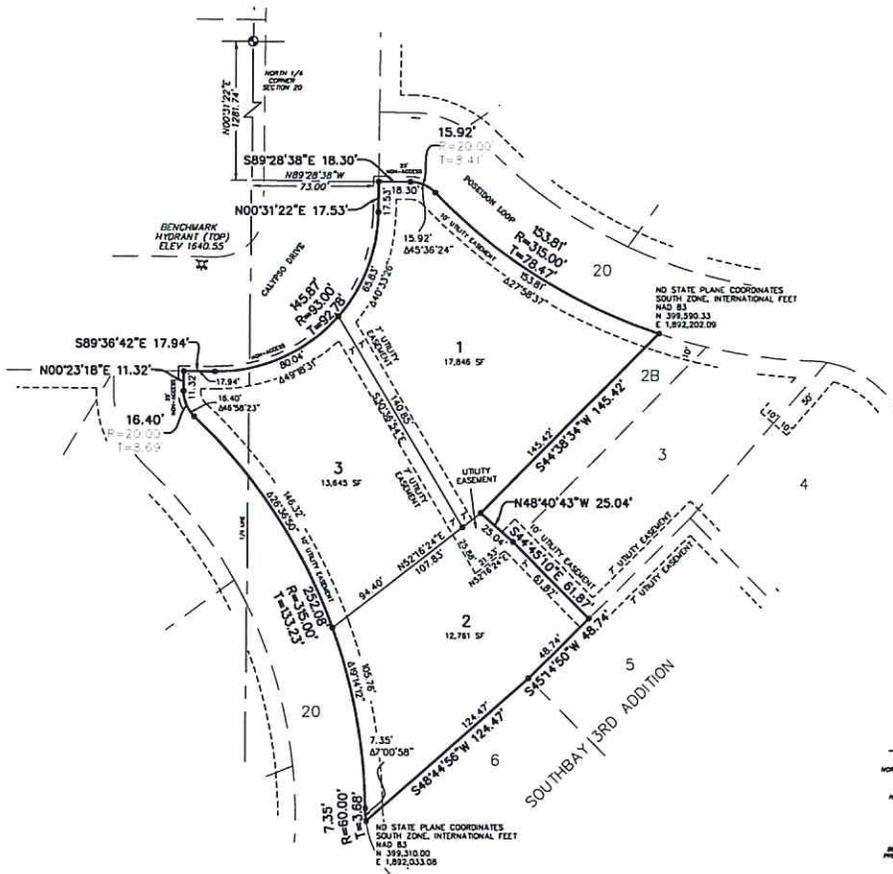
STATE OF NORTH DAKOTA )  
COUNTY OF BURLEIGH )

MITCH NEUMULLER  
2228 SOUTH 3RD ST.  
BISMARCK, ND 58504  
CO-OWNER LOT 1 BLOCK 1

STACY NEUMULLER  
2228 SOUTH 3RD ST.  
BISMARCK, ND 58504  
CO-OWNER LOT 1 BLOCK 1

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, BEFORE ME PERSONALLY APPEARED MITCH & STACY NEUMULLER, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

NOTARY PUBLIC  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES \_\_\_\_\_



**FLOOD PLAIN NOTE:**  
This property has been removed from the Base Flood LOWR (Elevation 1636.2)  
CASE NO: 07-08-0982A

**NOTES**

- BASE OF ELEVATION: 511.00' MEAN SEA LEVEL
- NORTH DAKOTA SOUTH ZONE BY CITY ENGINEER
- COORDINATE SYSTEM: NORTH DAKOTA STATE PLANE COORDINATE SYSTEM
- AND 83 SOUTH ZONE ADJUSTMENT OF 1983
- UNITS ARE INTERNATIONAL FEET
- VERTICAL DATUM: NAVD 83
- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS
- MONUMENT IN PLACE





# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

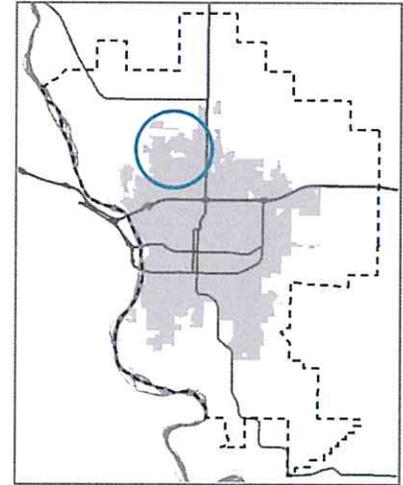
Agenda Item # 8  
July 27, 2016

**Application for: Minor Subdivision Final Plat**

TRAKiT Project ID: MPLT2016-007

## Project Summary

|                         |  |
|-------------------------|--|
| <b>Title:</b>           | Sonnet Heights Subdivision Sixth Replat  |
| <b>Status:</b>          | Planning & Zoning Commission – Final Consideration   |
| <b>Owner(s):</b>        | Jason Voegele, J & D Construction  |
| <b>Project Contact:</b> | Dave Patience, Swenson, Hagen & Co.  |
| <b>Location:</b>        | In north Bismarck, in the southeast quadrant of the intersection of Normandy Street and Calvert Drive. |
| <b>Project Size:</b>    | 1.73 acres   |
| <b>Request:</b>         | Replat property for five row houses and future multi-family development.                               |



## Site Information

| Existing Conditions                    |  | Proposed Conditions                    |  |
|--|--|--|--|
| <b>Number of Lots:</b>                 | 1 lot in 1 block                           | <b>Number of Lots:</b>                 | 6 lots in 1 block                          |
| <b>Land Use:</b>                       | Undeveloped                                | <b>Land Use:</b>                       | Multi-family residential                   |
| <b>Designated GMP Future Land Use:</b> | Already zoned. Not in Future Land Use Plan | <b>Designated GMP Future Land Use:</b> | Already zoned. Not in Future Land Use Plan |
| <b>Zoning:</b>                         | RM30 – Residential                         | <b>Zoning:</b>                         | RM30 – Residential                         |
| <b>Uses Allowed:</b>                   | RM30 – Multi-family residential            | <b>Uses Allowed:</b>                   | RM30 – Multi-family residential            |
| <b>Max Density Allowed:</b>            | RM30 – 30 units / acre                     | <b>Max Density Allowed:</b>            | RM30 – 30 units / acre                     |

## Property History

|               |         |                 |         |                 |         |
|---------------|---------|-----------------|---------|-----------------|---------|
| <b>Zoned:</b> | 12/1980 | <b>Platted:</b> | 12/1980 | <b>Annexed:</b> | 02/2007 |
|---------------|---------|-----------------|---------|-----------------|---------|

## Staff Analysis

The proposed subdivision plat is being requested for the development of five row houses on Lots 1 through 5. The applicant has not proposed a use for Lot 6; however, as the property is zoned RM30 – Residential

staff anticipates Lot 6 will be developed as multi-family.

## Required Findings of Fact

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

(continued)

2. The stormwater management plan for the subdivision 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 minor subdivision final plat for Sonnet Heights Subdivision Sixth Replat.

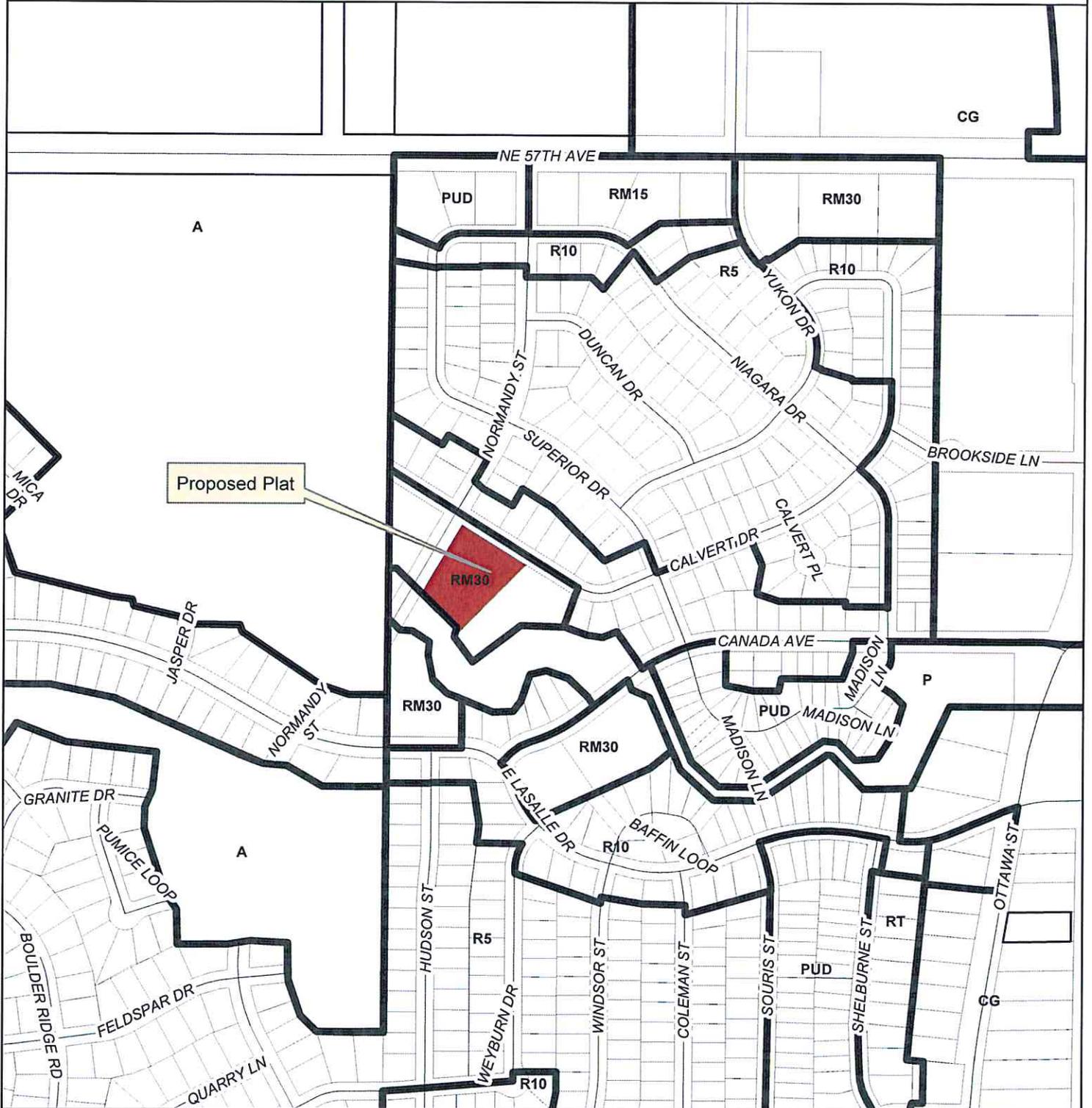
**Attachments**

1. Location Map
2. Reduction of minor subdivision final plat

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*Staff report prepared by:* Jenny Wollmuth, CFM, Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto:jwollmuth@bismarcknd.gov)

# Proposed Minor Plat Sonnet Heights Subdivision Sixth Replat



June 6, 2016 (h/b)

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

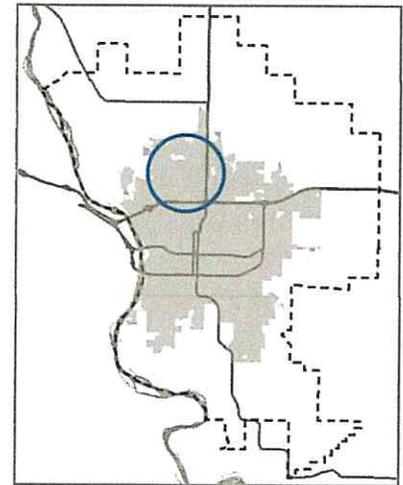
Agenda Item # 9  
 July 27, 2016

## Application for: Zoning Change

TRAKiT Project ID: ZC2016-014

### Project Summary

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



### Site Information

| Existing Conditions                    |  | Proposed Conditions                    |  |
|--|--|--|--|
| <b>Number of Lots:</b>                 | 3 lots in 1 block                          | <b>Number of Lots:</b>                 | 3 lots in 1 block                          |
| <b>Land Use:</b>                       | Undeveloped                                | <b>Land Use:</b>                       | Multifamily Residential                    |
| <b>Designated GMP Future Land Use:</b> | Already zoned. Not in Future Land Use Plan | <b>Designated GMP Future Land Use:</b> | Already zoned. Not in Future Land Use Plan |
| <b>Zoning:</b>                         | PUD – Planned Unit Development             | <b>Zoning:</b>                         | RM15 – Residential                         |
| <b>Uses Allowed:</b>                   | PUD – Uses specified in PUD                | <b>Uses Allowed:</b>                   | RM15 – Multi-family residential            |
| <b>Max Density Allowed:</b>            | PUD – Density specified in PUD             | <b>Max Density Allowed:</b>            | RM15 – 15 units / acre                     |

### Property History

|               |                            |                 |            |                 |            |
|---------------|----------------------------|-----------------|------------|-----------------|------------|
| <b>Zoned:</b> | RM 15 to PUD on 11/25/2014 | <b>Platted:</b> | 12/15/1980 | <b>Annexed:</b> | 04/10/2007 |
|---------------|----------------------------|-----------------|------------|-----------------|------------|

### Staff Analysis

During their June 26, 2016 meeting, the Planning and Zoning Commission considered this request to rezone these three lots in Sonnet Heights Subdivision from PUD – Planned Unit Development to RM15 – Residential.

The applicant intends to construct multifamily housing on the site. The existing PUD zoning district, explained in more detail below, allows the development of 45 dwelling units but also requires the development adhere to a specific site plan. The requested RM15 Zoning District would result in a reduction in the total allowable

(continued)

units from 45 to approximately 33 (which is 15 units/acre in a 2.25 acre site) in exchange for more flexibility in the building configuration and site design. The applicant has submitted a preliminary sketch of four separate four-plex condo buildings for illustrative purposes, but the requested zoning district would not strictly require this design.

Lots 1-3, Block 1, Sonnet Heights Subdivision were rezoned from RM15 – Residential to PUD – Planned Unit Development, 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 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 57<sup>th</sup> Avenue NE and the construction of other multifamily housing directly to the east.

#### 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.

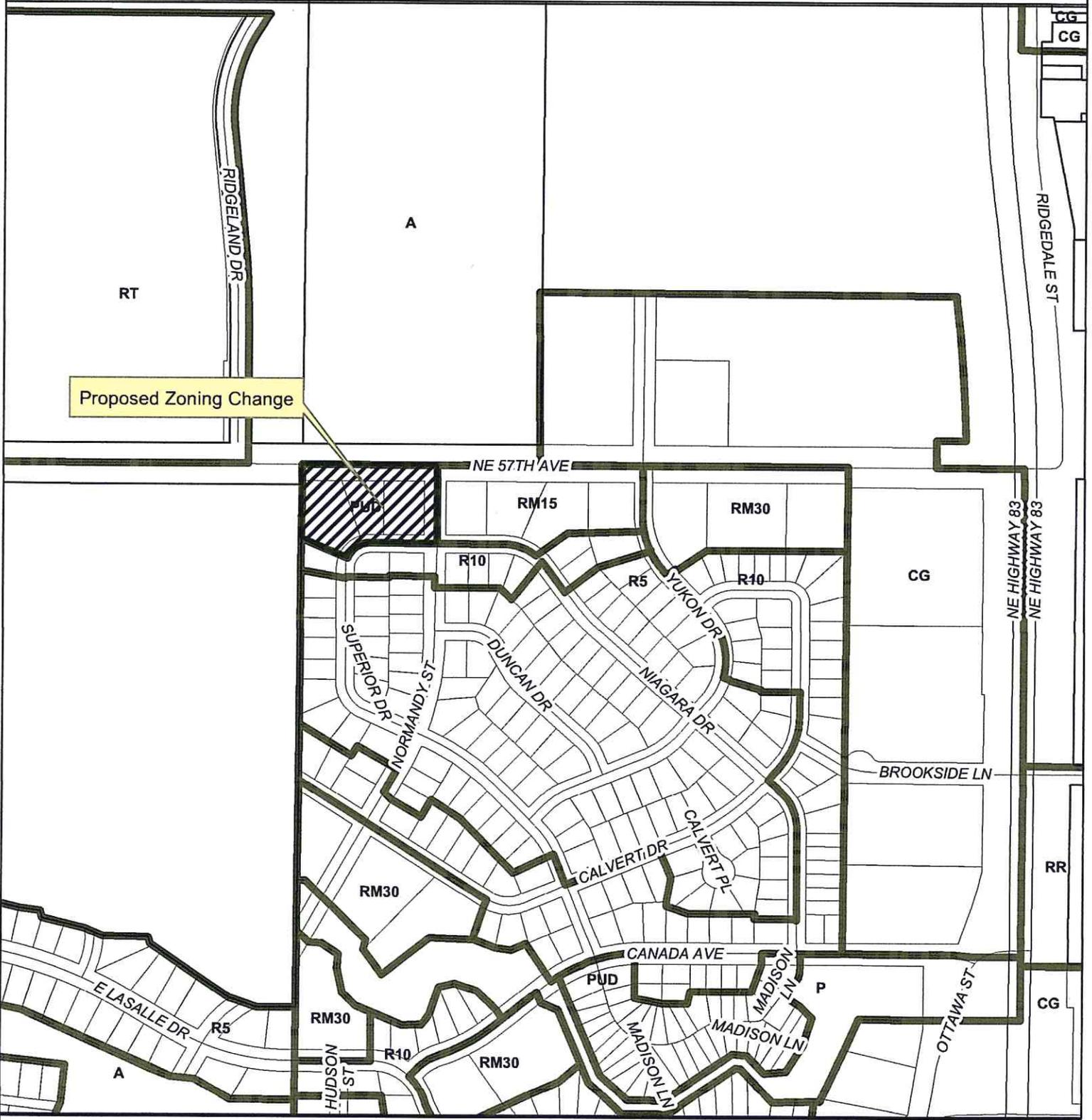
#### Staff Recommendation

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

#### Attachments

1. Location Map
2. Zoning Map
3. Tentative Preliminary Site Plan
4. Existing PUD Ordinance (proposed to be removed)

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



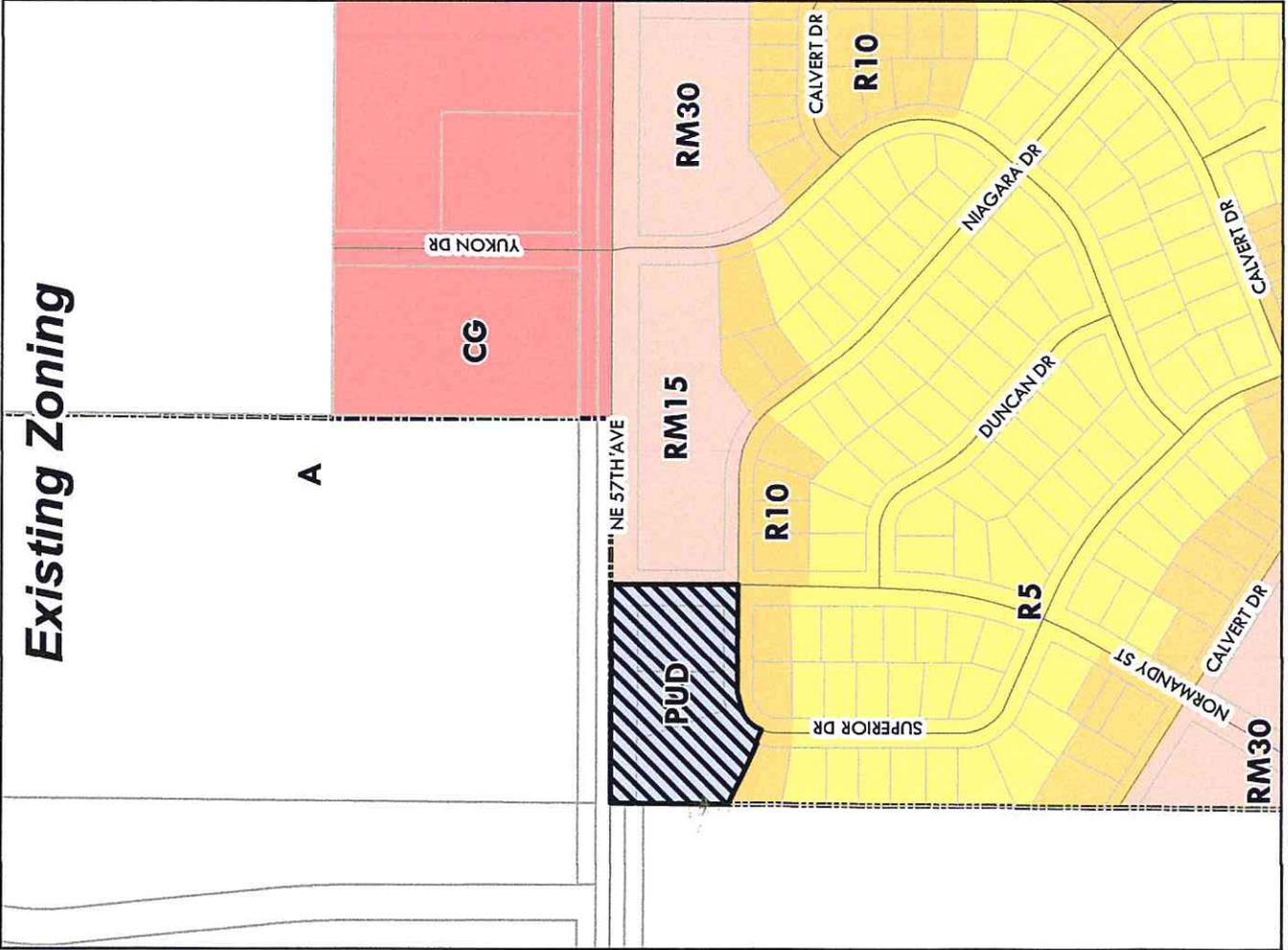
May 17, 2016 (h1b)

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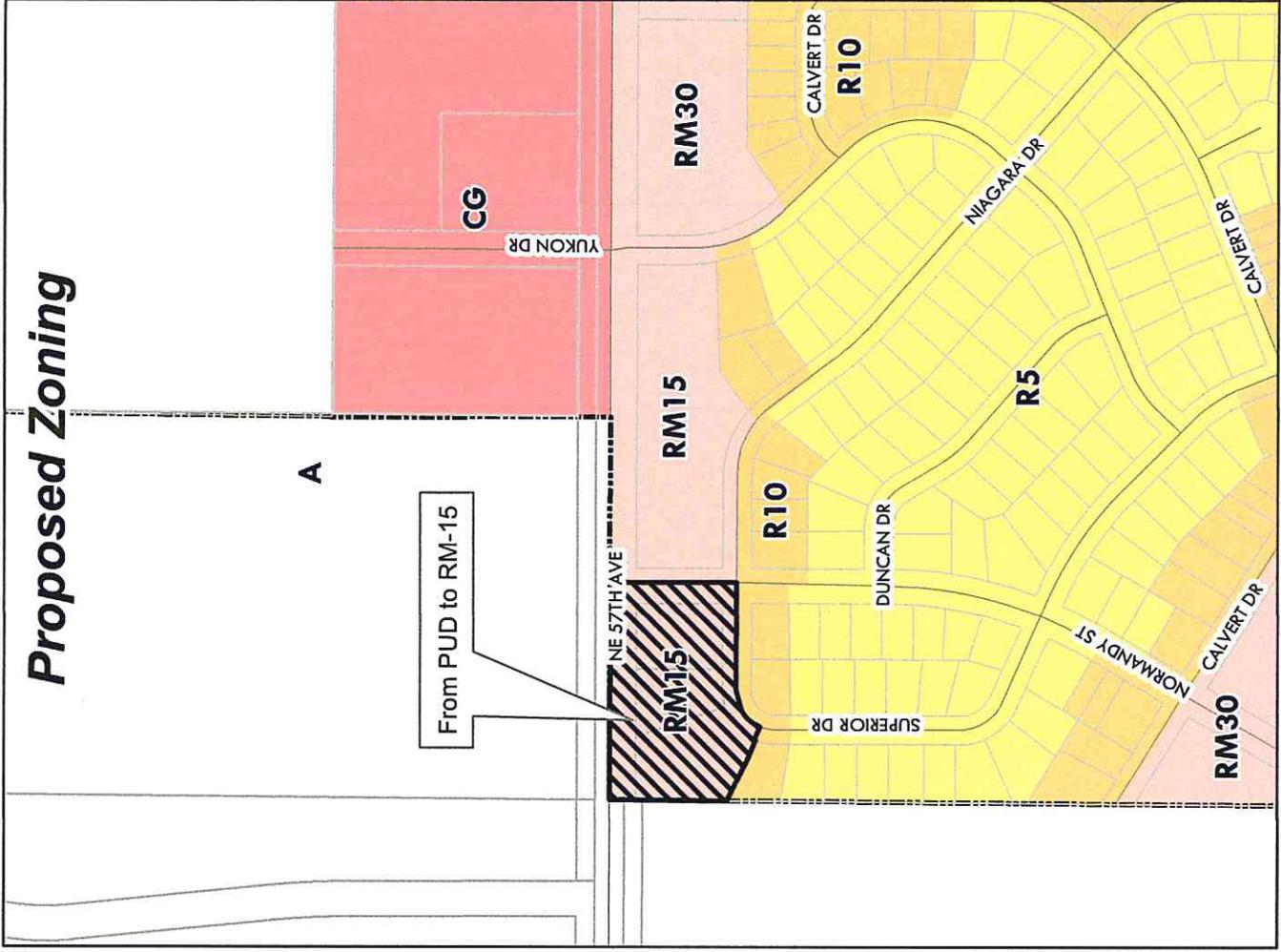


# Sonnet Heights Subdivision, Lots 1-3, Block 1

## Existing Zoning



## Proposed Zoning



SonnetHeights\_Rezone



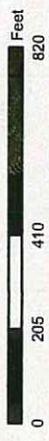
Parcels to Rezone



City Limits



Extraterritorial Area



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.

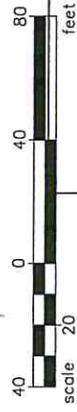
June, 2016

Sonnnet Heights  
Block 1, Lots 1-3  
4-Plex Layout

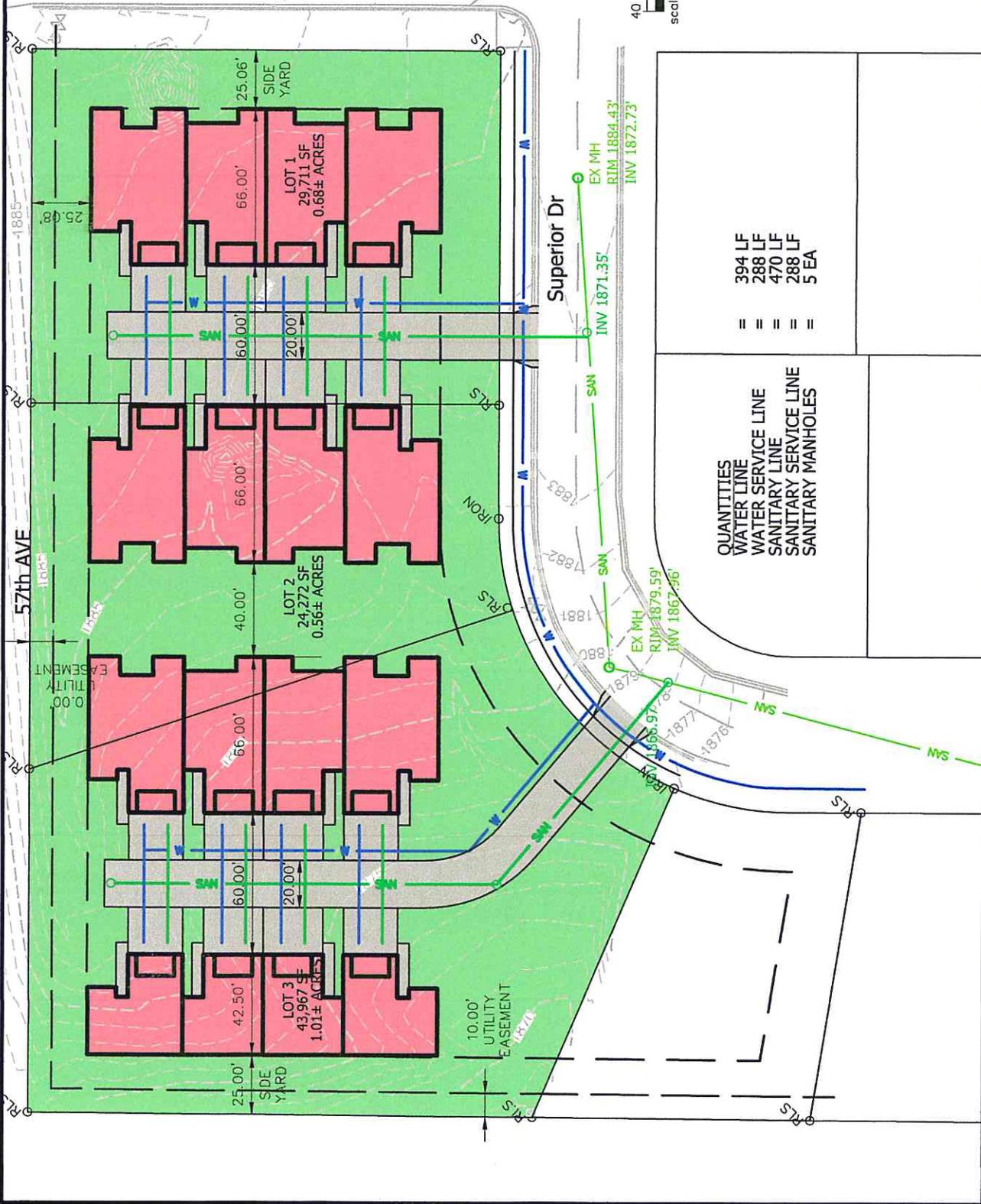


Niagara Dr

Normandy St



Date: 3/29/16



| QUANTITIES |                       |
|------------|-----------------------|
| 394 LF     | WATER SERVICE LINE    |
| 288 LF     | SANITARY LINE         |
| 470 LF     | SANITARY SERVICE LINE |
| 288 LF     | SANITARY MANHOLES     |
| 5 EA       |                       |

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 &amp; 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 # 10

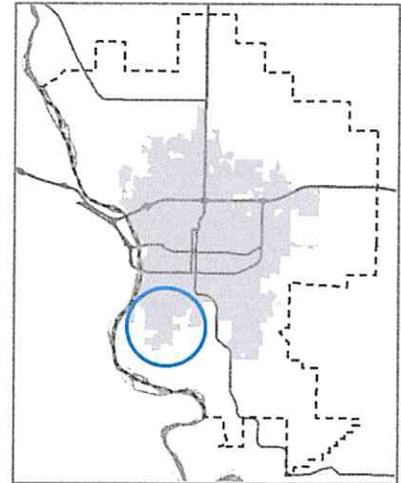
July 27, 2016

**Application for: Zoning Change**

TRAKiT Project ID: ZC2015-029

## Project Summary

|                         |  |
|-------------------------|--|
| <i>Title:</i>           | Lots 14-19, Block 4, South Meadows Addition  |
| <i>Status:</i>          | Planning & Zoning Commission – Public Hearing  |
| <i>Owner(s):</i>        | Investcore, Inc. and Microvest, LLC  |
| <i>Project Contact:</i> | Chad Wachter   |
| <i>Location:</i>        | In southwest Bismarck, west of South Washington Street and south of West Burleigh Avenue along the south side of Meridian Drive. |
| <i>Project Size:</i>    | 1.52 acres   |
| <i>Request:</i>         | Rezone property for multi-family residential development and required zoning transition.   |



## Site Information

### Existing Conditions

|  |   |
|--|---|
| <i>Number of Lots:</i>                 | 6 lots in 1 block   |
| <i>Land Use:</i>                       | Undeveloped   |
| <i>Designated GMP Future Land Use:</i> | Already zoned. Not in Future Land Use Plan                                |
| <i>Zoning:</i>                         | R5 – Residential<br>R10 – Residential                                     |
| <i>Uses Allowed:</i>                   | R5 – Single-family residential<br>R10 – Single and two-family residential |
| <i>Max Density Allowed:</i>            | R5 – 5 units / acre<br>R10 – 10 units / acre                              |

### Proposed Conditions

|  |   |
|--|---|
| <i>Number of Lots:</i>                 | 6 lots in 1 block (3 parcels)   |
| <i>Land Use:</i>                       | Multi-family residential project and two two-family lots to provide a zoning transition |
| <i>Designated GMP Future Land Use:</i> | Already zoned. Not in Future Land Use Plan  |
| <i>Zoning:</i>                         | Conditional R10 - Residential<br>RM15 – Residential                                     |
| <i>Uses Allowed:</i>                   | Conditional R10 – Two-family residential<br>RM15 – Multi-family residential             |
| <i>Max Density Allowed:</i>            | Conditional R10 – 10 units / acre<br>RM15 – 15 units / acre                             |

## Property History

|               |         |                 |         |                 |         |
|---------------|---------|-----------------|---------|-----------------|---------|
| <i>Zoned:</i> | 10/2014 | <i>Platted:</i> | 10/2014 | <i>Annexed:</i> | 10/2014 |
|---------------|---------|-----------------|---------|-----------------|---------|

(continued)

**Staff Analysis**

The Planning and Zoning Commission, at their October 28, 2015 meeting, scheduled a public hearing for the zoning change from the R5 – Residential and R10 – Residential zoning districts to the Conditional R10 – Residential and RM15 – Residential zoning districts.

The applicants are requesting a zoning change on Lots 16-19 in order to combine them with the adjacent RM15-Residential zoned Lot 20 for development of a multi-family residential project. Lots 14 & 15 are being rezoned to Conditional R10 – Residential in order to provide an appropriate zoning transition between the R5-zoned lots to the northwest and the proposed multi-family development. A buffer yard will also be required between the multi-family residential development on Lots 16-20 and the two-family residential use on Lot 15.

The proposed use of Lots 16-20 is an independent senior living facility with parking garages and a landscaped buffer yard; however, the zoning change would not limit the use to what is being proposed.

**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 of the zoning change from the R5 – Residential and R10 – Residential zoning districts to the Conditional R10 – Residential zoning district on Lots 14 and 15, and to the RM15 – Residential zoning district on Lots 16-19, Block 4, South Meadows Addition, with the understanding that the development of the two R10-Residential lots will be limited to two-family dwellings in order to provide an appropriate land use transition between the single-family residential land use to the west and the multi-family residential land use on Lots 16-20.

**Attachments**

1. Location Map
2. Zoning Map
3. Tentative Site Plan
4. Tentative Building Elevations

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

# Proposed Zoning Change (R5 and R10 to R10 and RM15) Lots 14-19, Block 4, South Meadows Addition

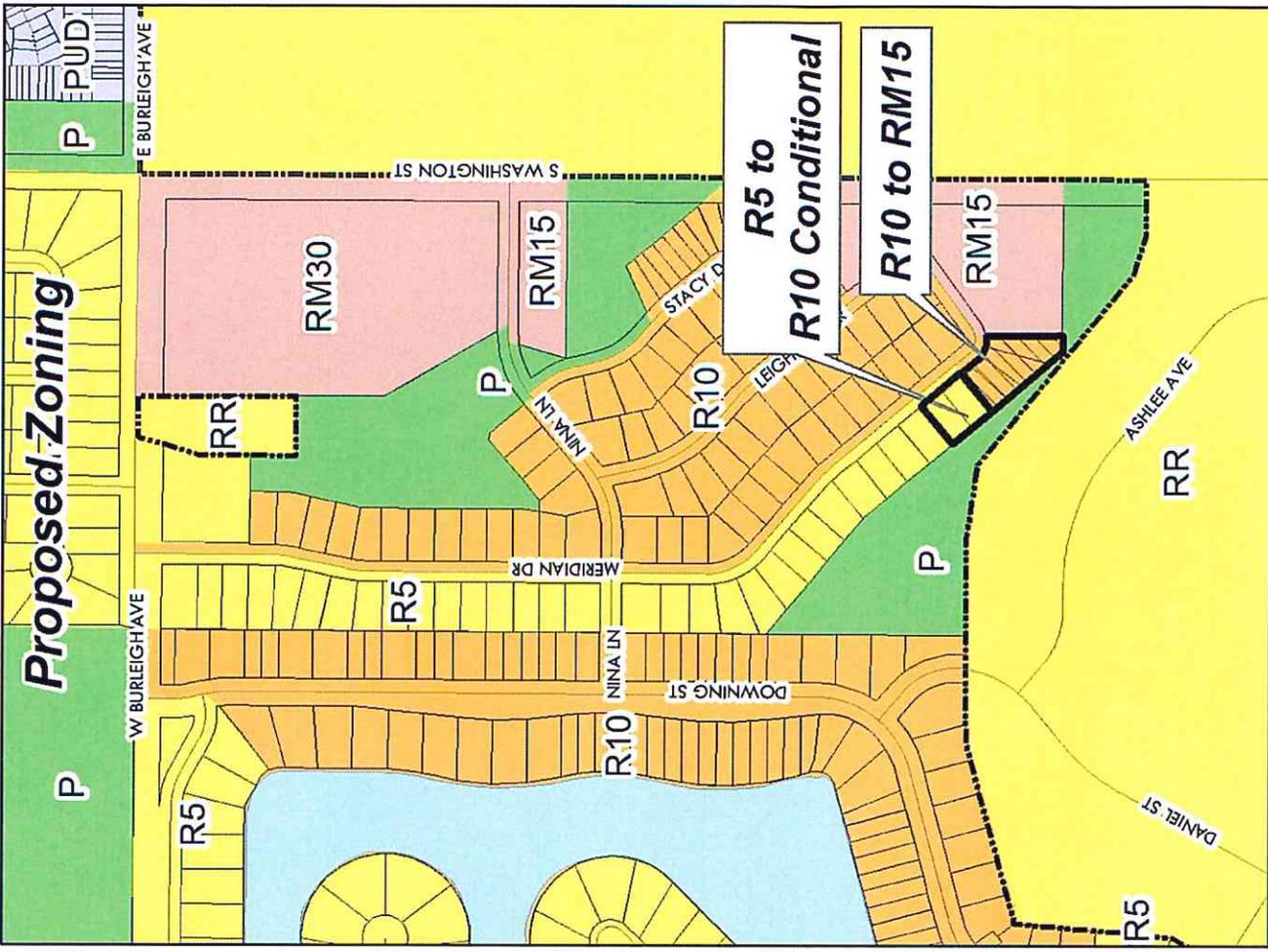
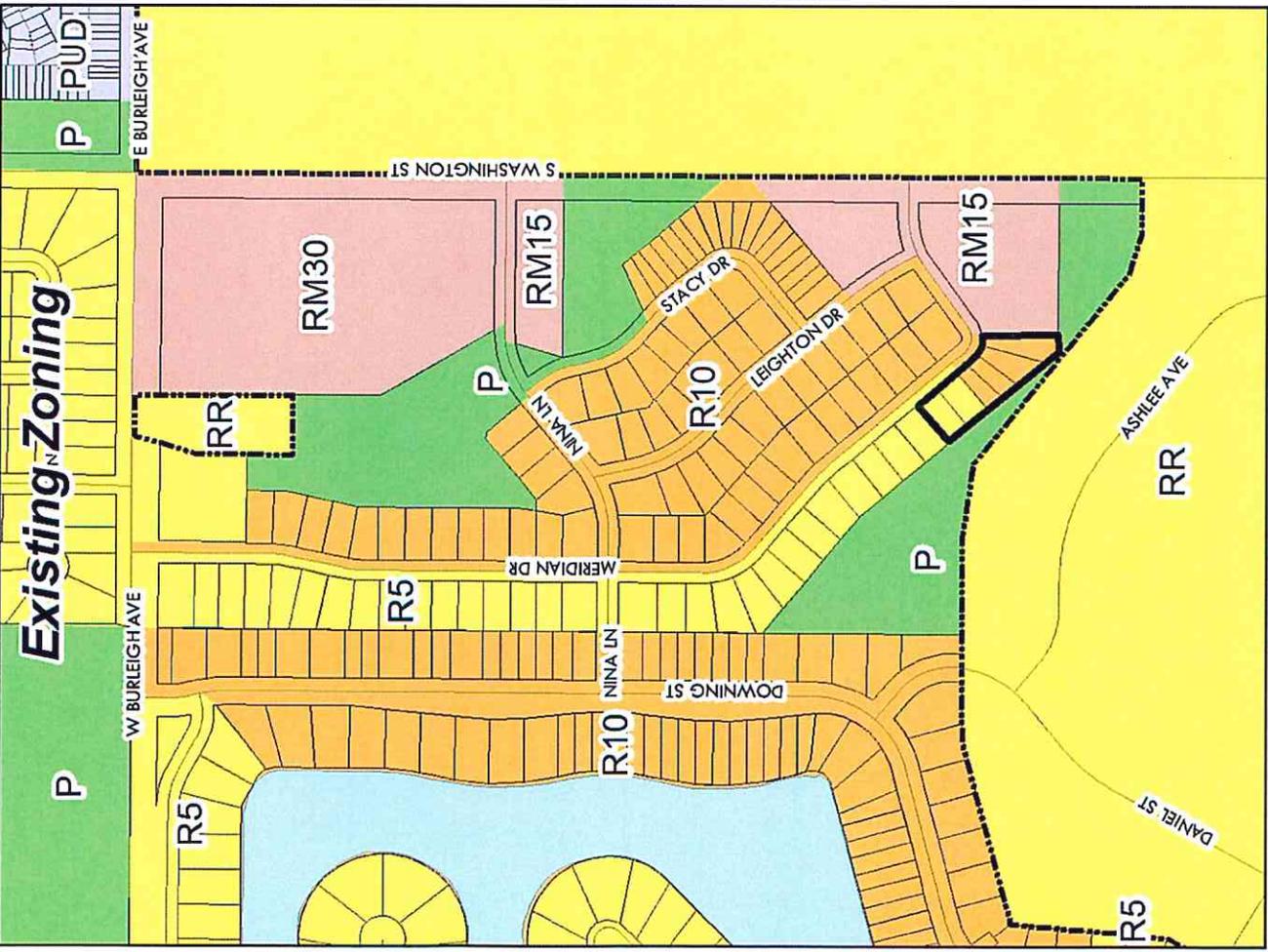


July 20, 2016 (klee)

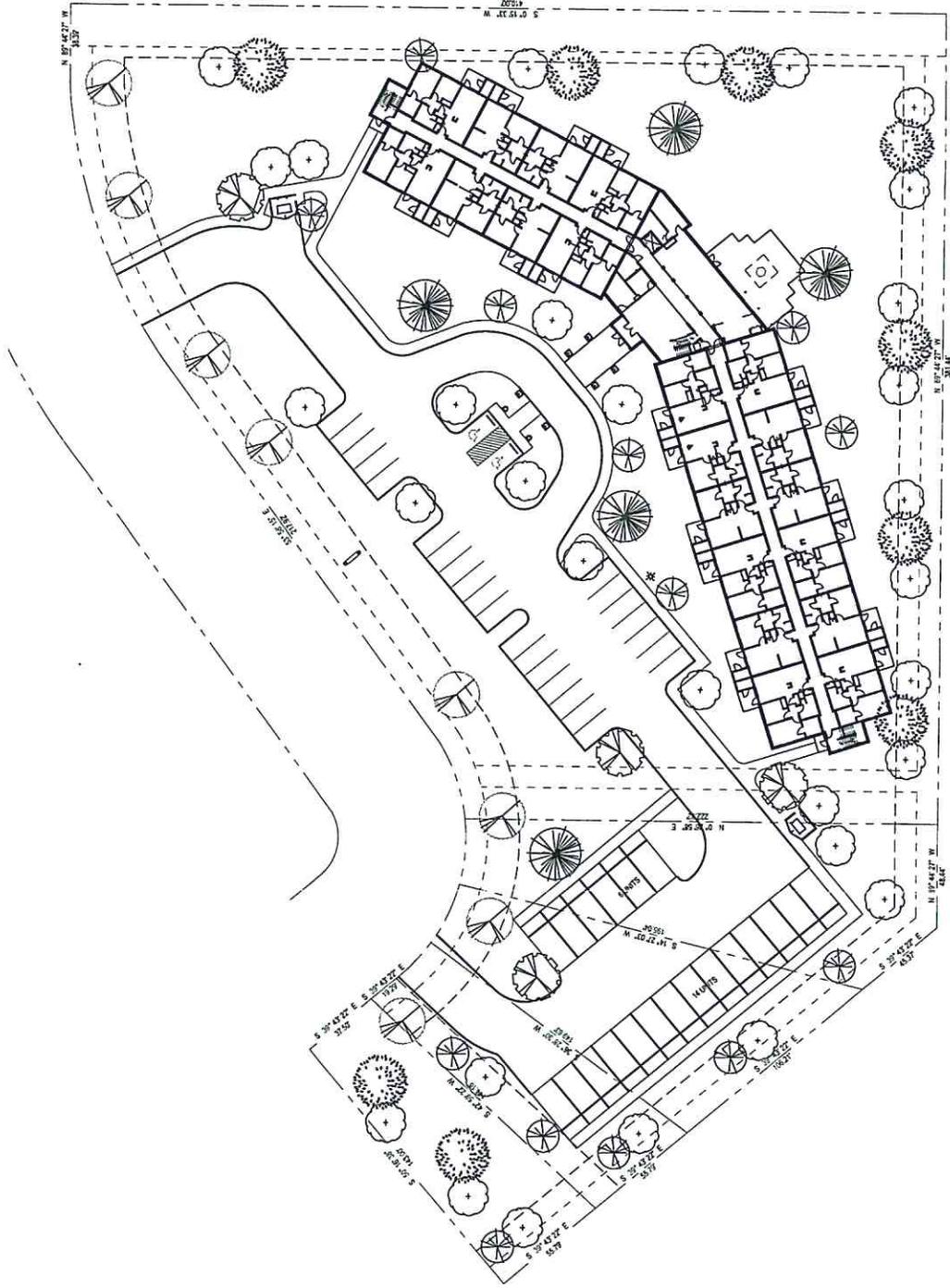
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



# Lots 14-19, Block 4, South Meadows Addition - Zoning Change



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. October, 2015



TOTAL SITE SQ. FOOTAGE OF LOT 16, 17, 18, 19, 20 = 165,184 SQ. FT.  
 TOTAL BUILDING SQ. FOOTAGE IS AS FOLLOWS:  
 BUILDING SQ. FOOTAGE = 25,672 SQ. FT.  
 GARAGES SQ. FOOTAGE = 11,088 SQ. FT.  
 PARKING STALL SQ. FOOTAGE = 4,500 SQ. FT.  
 TOTAL = 41,260 SQ. FT.







# STAFF REPORT

City of Bismarck  
Community Development Department  
Planning Division

Agenda Item # 11

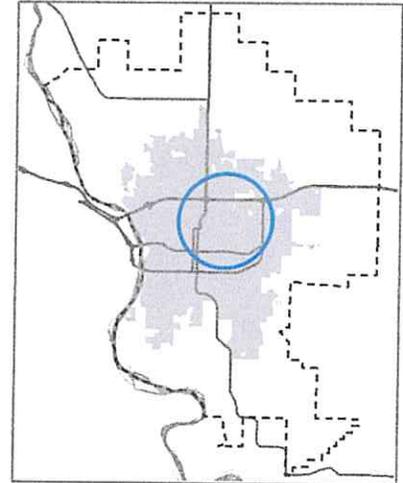
July 27, 2016

## Application for: Zoning Change

TRAKiT Project ID: ZC2016-016

### Project Summary

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



### Site Information

#### Existing Conditions

|  |   |
|--|---|
| <b>Number of Lots:</b>                 | Part of 1 outlot  |
| <b>Land Use:</b>                       | Elementary school   |
| <b>Designated GMP Future Land Use:</b> | Already zoned. Not in Future Land Use Plan                          |
| <b>Zoning:</b>                         | P – Public Use  |
| <b>Uses Allowed:</b>                   | P – Parks, open space, stormwater facilities, and other public uses |
| <b>Max Density Allowed:</b>            | P – N/A   |

#### Proposed Conditions

|  |   |
|--|---|
| <b>Number of Lots:</b>                 | Part of 1 outlot  |
| <b>Land Use:</b>                       | Adaptive reuse of building for pre-kindergarten through 12 <sup>th</sup> grade before and after school programming, adult education training room, community meeting space and office uses to support the proposed uses |
| <b>Designated GMP Future Land Use:</b> | Already zoned. Not in Future Land Use Plan  |
| <b>Zoning:</b>                         | PUD – Planned Unit Development  |
| <b>Uses Allowed:</b>                   | PUD – Uses specified in PUD   |
| <b>Max Density Allowed:</b>            | PUD – Density specified in PUD  |

### Property History

|               |         |                 |         |                 |          |
|---------------|---------|-----------------|---------|-----------------|----------|
| <b>Zoned:</b> | 03/2016 | <b>Platted:</b> | 12/1877 | <b>Annexed:</b> | Pre-1940 |
|---------------|---------|-----------------|---------|-----------------|----------|

(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 the 2015-2016 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 continue to use the space for pre-kindergarten through 12<sup>th</sup> grade programming, including both before and after school programs.



West side of Saxvik Elementary School



Aerial of Saxvik Elementary School

The Missouri River Educational Coop has been providing before and after school programs at the school and the plan is for these services to continue. Children would come to the Saxvik building for before school programming and would be bussed to the neighboring schools from this location. At the end of the school day, they would be bussed back to this location for after school programming.

Other identified near term uses of the property include adult education training, community meeting space and office space to support these uses. If other uses are proposed for the building in the future, an amendment to this PUD would be required.

### 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;

(continued)

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.

**Staff Recommendation**

Based on the above findings, staff recommends approval of the zoning change from the P – Public zoning district to the PUD – Planned Unit Development zoning district for a tract of land in Lounsberry’s Bismarck Outlots occupied by the former Saxvik Elementary School, as outlined in the attached draft PUD ordinance.

**Attachments**

1. Draft PUD Ordinance
2. Location Map
3. Zoning Map
4. PUD Written Statement

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

# CITY OF BISMARCK

## Ordinance No.

*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 THE CITY OF BISMARCK, NORTH DAKOTA:

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

The following described property shall be excluded from the P - Public zoning district and included in the PUD - Planning Unit Development zoning district:

A Tract of Land in Lounsberry's Bismarck Outlots, described as beginning at a point 167 feet North of the Southwest corner of Outlot 21, thence North 340 feet, East 180 feet, North 50 feet, East 117 feet, South 390 feet, West 297 feet to the point of beginning, Outlot 21, Lounsberry's Bismarck Outlots.

This PUD is subject to the following development standards:

1. *Uses Permitted.* Uses permitted include adaptive reuse of the Saxvik Elementary School building and grounds for pre-kindergarten through 12th grade before and after school programming, adult education training, community meeting space and office uses to support the proposed uses.

2. *General Development Standards.* The lot coverage, setbacks and height limits shall be the same as the surrounding R10 - Residential zoning district.

3. 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.

4. *Parking.* The existing off-street parking shall continue to be provided for the proposed reuses, with the understanding that additional parking may be provided if needed in accordance with applicable provisions of the City Code of Ordinances.

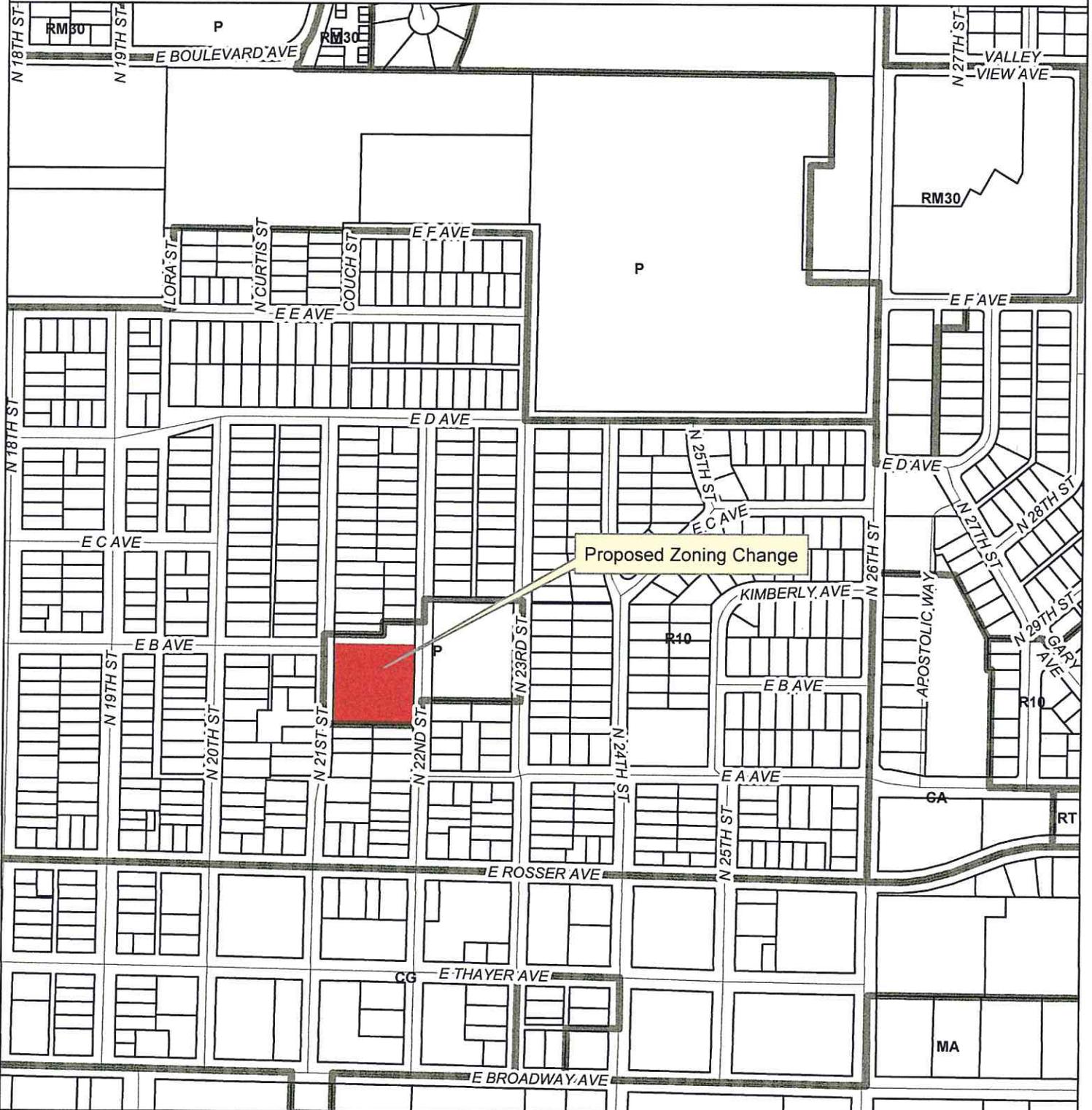
5. *Signage.* Signage is limited to the existing building signage and no more than one monument style sign with a face no more than 15 square feet in area on the front of the building. The existing signs may be upgraded and refurbished as needed, although the size of the faces cannot be increased.

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 & 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.

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



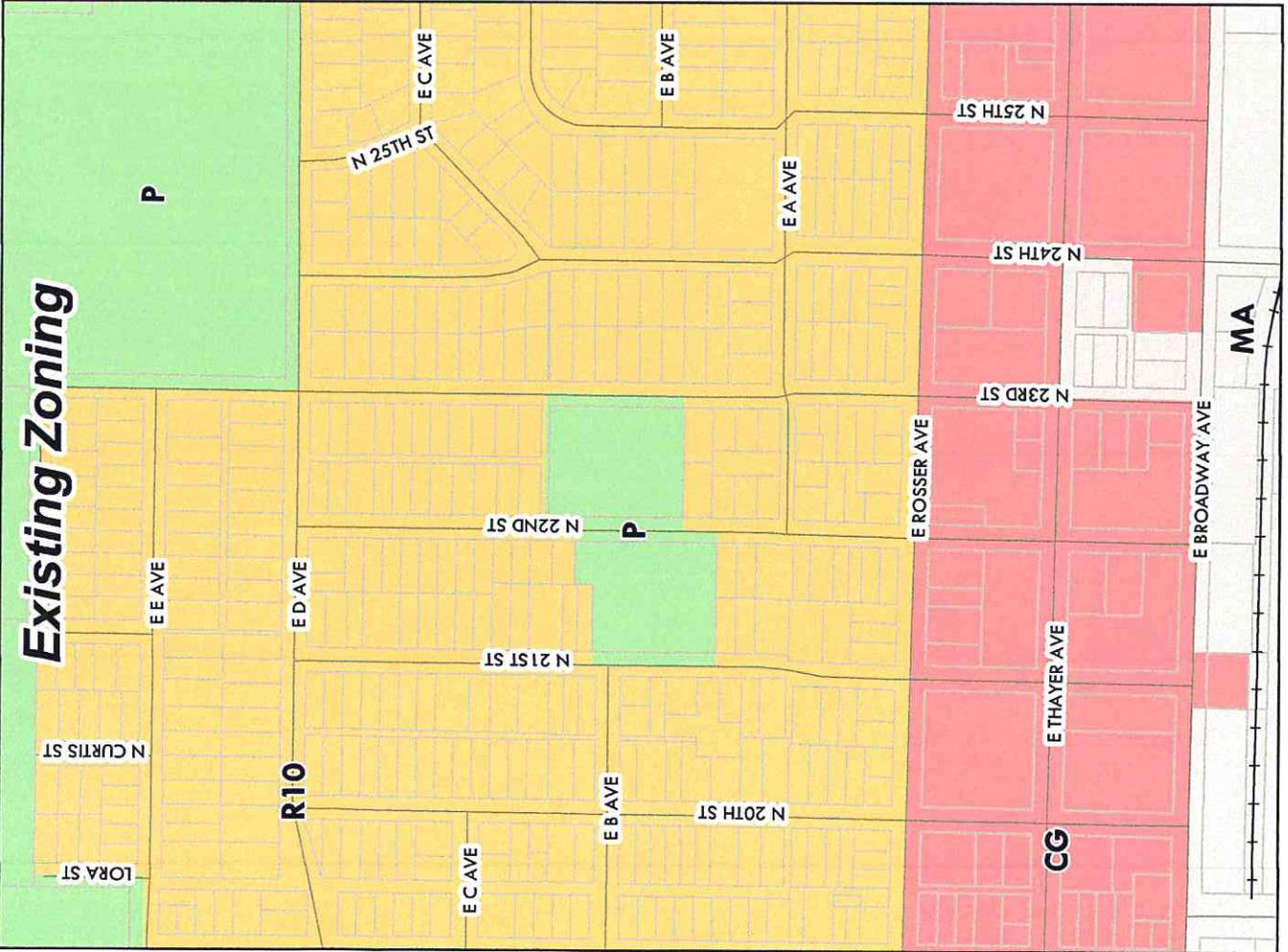
June 13, 2016 (h1b)

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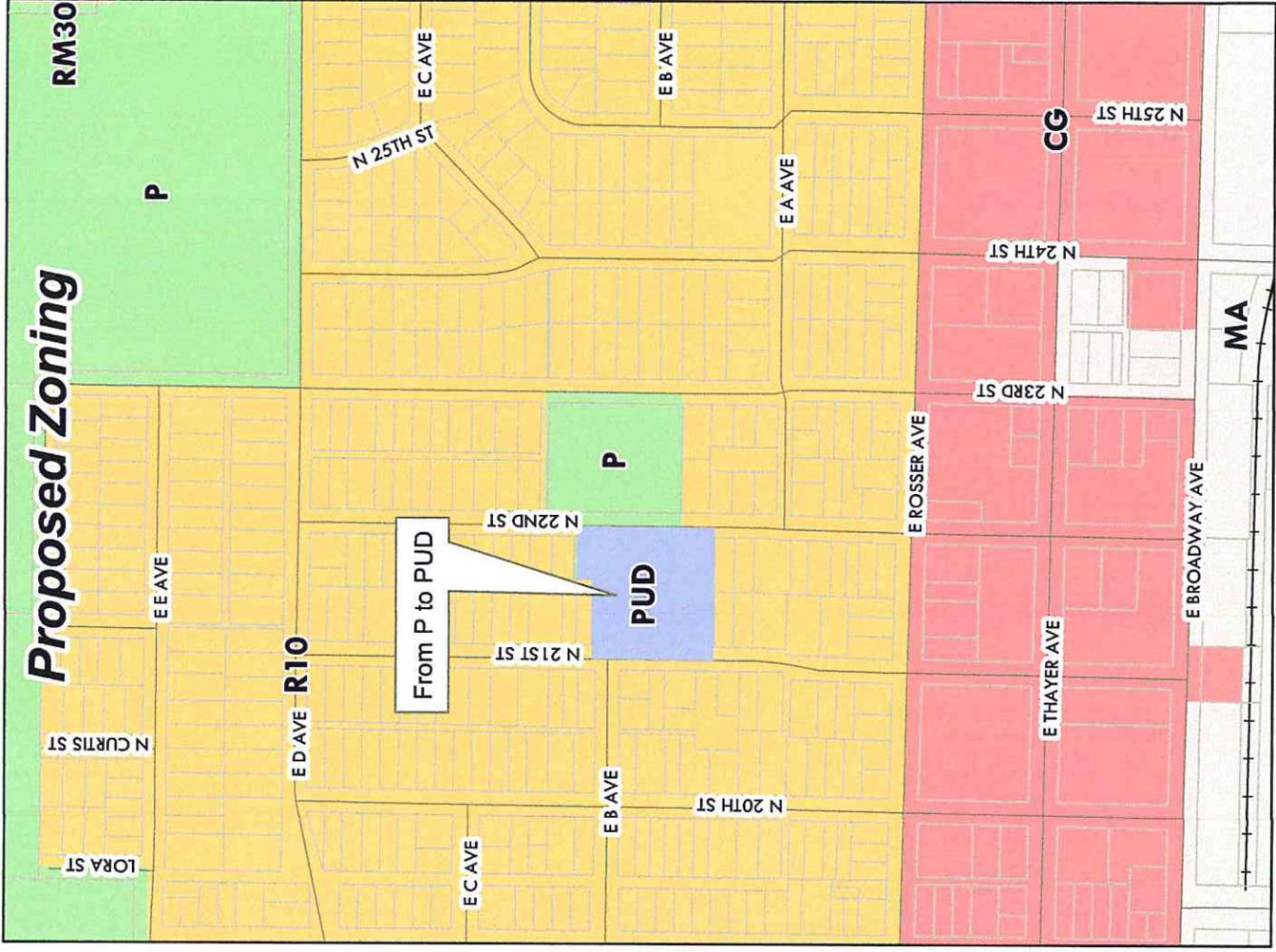


# Lounsberry Outlots, Part of Lot 21

## Existing Zoning



## Proposed Zoning



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

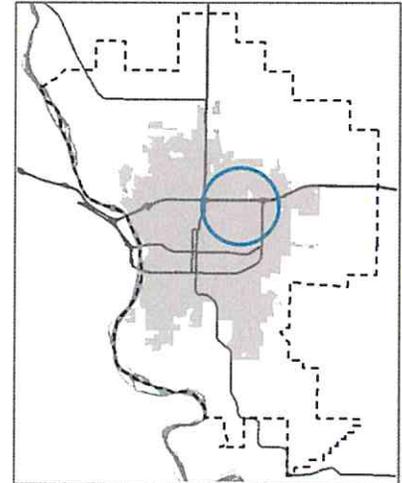
Agenda Item # 12  
 July 27, 2016

**Application for: Special Use Permit**

TRAKiT Project ID: SUP2016-005

## Project Summary

|                         |   |
|-------------------------|---|
| <b>Title:</b>           | 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   |
| <b>Status:</b>          | Planning & Zoning Commission – Public Hearing   |
| <b>Owner(s):</b>        | Chris Krein, CK Auto  |
| <b>Project Contact:</b> | Jason Petryszyn, Swenson Hagen & Co.  |
| <b>Location:</b>        | In east Bismarck, along East Divide Avenue west of Bismarck Expressway. 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. |
| <b>Project Size:</b>    | 9.04 acres, more or less  |
| <b>Request:</b>         | Approval of a special use permit for a motor vehicle parts salvage yard.  |



## Site Information

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

(continued)

|                      |          |                      |          |
|----------------------|----------|----------------------|----------|
| Max Density Allowed: | MA – N/A | Max Density Allowed: | MA – N/A |
|----------------------|----------|----------------------|----------|

**Property History**

|        |          |          |         |          |          |
|--------|----------|----------|---------|----------|----------|
| Zoned: | Pre-1980 | Platted: | 09/1975 | Annexed: | Pre-1980 |
|--------|----------|----------|---------|----------|----------|

**Staff Analysis**

The Bismarck Planning Commission, at their meeting of June 22, 2016, continued action for the proposed special use request to allow the owner and consulting engineer time to prepare a more detailed action plan, in addition to the narrative that was submitted with the application, that includes a timeline outlining when the properties associated with CK Auto, Inc. will comply with the requirements of the City Code of Ordinances. An updated narrative outlining CK Auto, Inc.'s business operations and proposed time-frame for compliance of existing violations has been submitted and is attached for your review.

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.

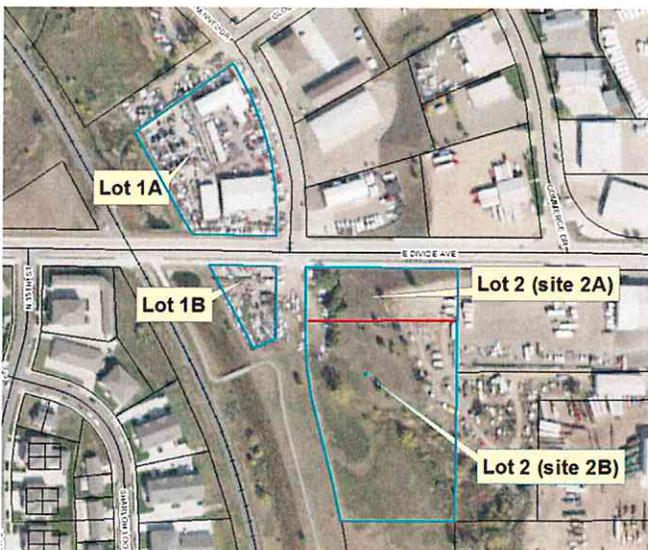
*Current Operations*

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 parked within the public right-of-way and or outside the required fencing 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 July 2000 regarding the operation of a Motor Vehicle Parts Salvage Yard without the approval of a special use permit and the placement of fill materials in the Hay Creek floodway without a development permit. A copy of the notice and order is attached.

A notice and order was sent to the applicant in October 2003 regarding the placement of fill materials in the



(continued)

Hay Creek floodway without a development permit. A copy of the notice and order is attached.

A notice and order was sent to the applicant in May 2007 regarding vehicle parts, frames and bodies being stored outside of buildings and required fencing. A copy of the notice and order is attached. The applicant appealed this 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 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 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 within 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 with floodplain regulations.

#### *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 floodway 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

(continued)

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 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.

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.

**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.

**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

1. All encroachments into the public rights-of-way, drainage ways, and the floodway 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

(continued)

with CK Auto, Inc. that function as storage or salvage operations that border 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.

#### **Attachments**

1. Location Map
2. Preliminary Site Plan
3. Section 14-03-08(4)(H) of the City Code of Ordinances
4. July 2000 notice and order
5. October 2003 notice and order
6. May 2007 notice and order
7. September 6, 2007 Board of Adjustment meeting minutes
8. Proposed operations narrative (May 2016)
9. Supplemental operations narrative and proposed time frame for compliance (July 2016)

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Staff report prepared by: Jenny Wollmuth, CFM, Planner  
701-355-1845 | [jwollmuth@bismarcknd.gov](mailto: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.



|          |  |
|----------|--|
| DATE     |  |
| REVISION |  |

**SITE SURVEY AND REMOVALS**  
 PORTION OF LOT 2, BLOCK 1,  
 MIRAM INDUSTRIAL PARK SECOND ADDITION,  
 BISMARCK, NORTH DAKOTA

**SWENSON, HAGEN & COMPANY P.C.**  
 2000 Main Street, P.O. Box 1131  
 Bismarck, North Dakota 58103  
 Phone: (701) 221-2200  
 Fax: (701) 221-2204  
 E-mail: shagen@swensonhagen.com

**SH&C**  
 Swenson, Hagen & Company  
 Licensed Professional Surveyors  
 License No. 1000000000

DRAWN BY: [ ]  
 CHECKED BY: [ ]  
 DATE: [ ]  
 FILE NO.: [ ]  
 COMPUTER FILE: [ ]  
 SURVEY FILE: [ ]

**SHEET INDEX**  
 C1A SITE SURVEY AND REMOVALS  
 C1B SITE SURVEY AND REMOVALS  
 C1C SITE SURVEY AND REMOVALS

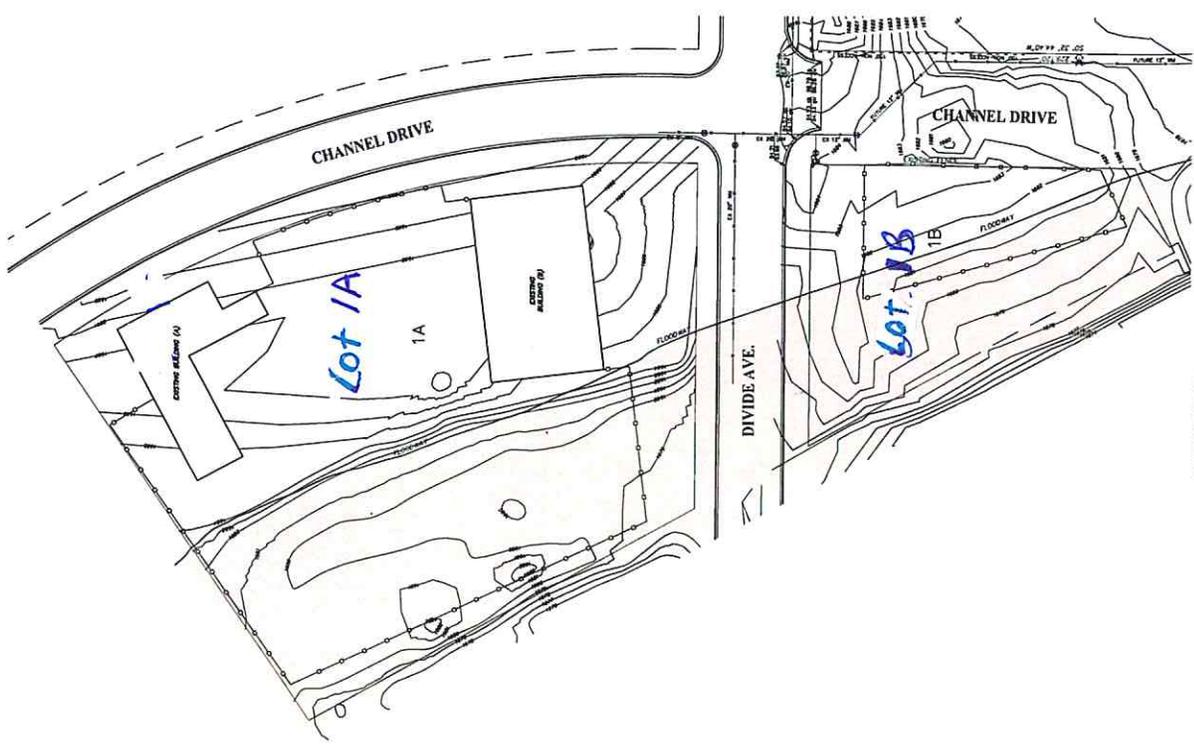
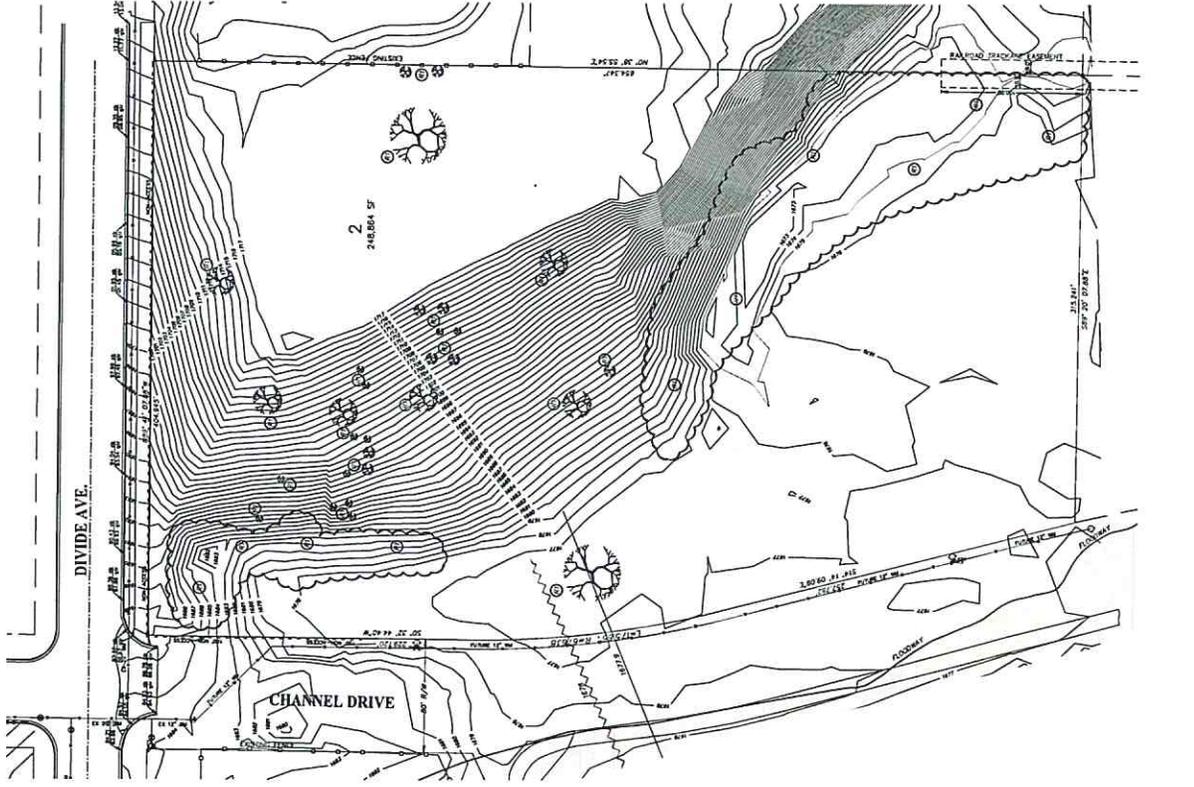
**DESCRIPTION**  
 LOT 1, AND A PORTION OF LOT 2, BLOCK 1,  
 MIRAM INDUSTRIAL PARK SECOND ADDITION, BISMARCK, ND

**OWNER**  
 STATE OF NORTH DAKOTA  
 BISMARCK, ND 58103

**ZONING**  
 UNZONED  
 15 FEET MIN.  
 5000 SQUARE FEET MIN.  
 15 FEET MIN.  
 15 FEET MIN.  
 15 FEET MIN.  
 15 FEET MIN.

**BENCHMARKS (MAD 88)**  
 TO BE SET AT TIME OF CONSTRUCTION

**REMOVALS**  
 OWNER WILL REMOVE ALL UTILITIES, OUTFALLS, ETC.  
 RESPONSIBILITY FOR REMOVING THE TREE STUMPS



**PRELIMINARY NOT FOR CONSTRUCTION**  
 RECORDING PURPOSES OR IMPLEMENTATION

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 All rights reserved. No part of this document may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Swenson, Hagen & Company, P.C.

**CALL BEFORE YOU DIG**  
 UTILITIES UNDERGROUND LOCATION SPRINGS  
 1-800-799-0888

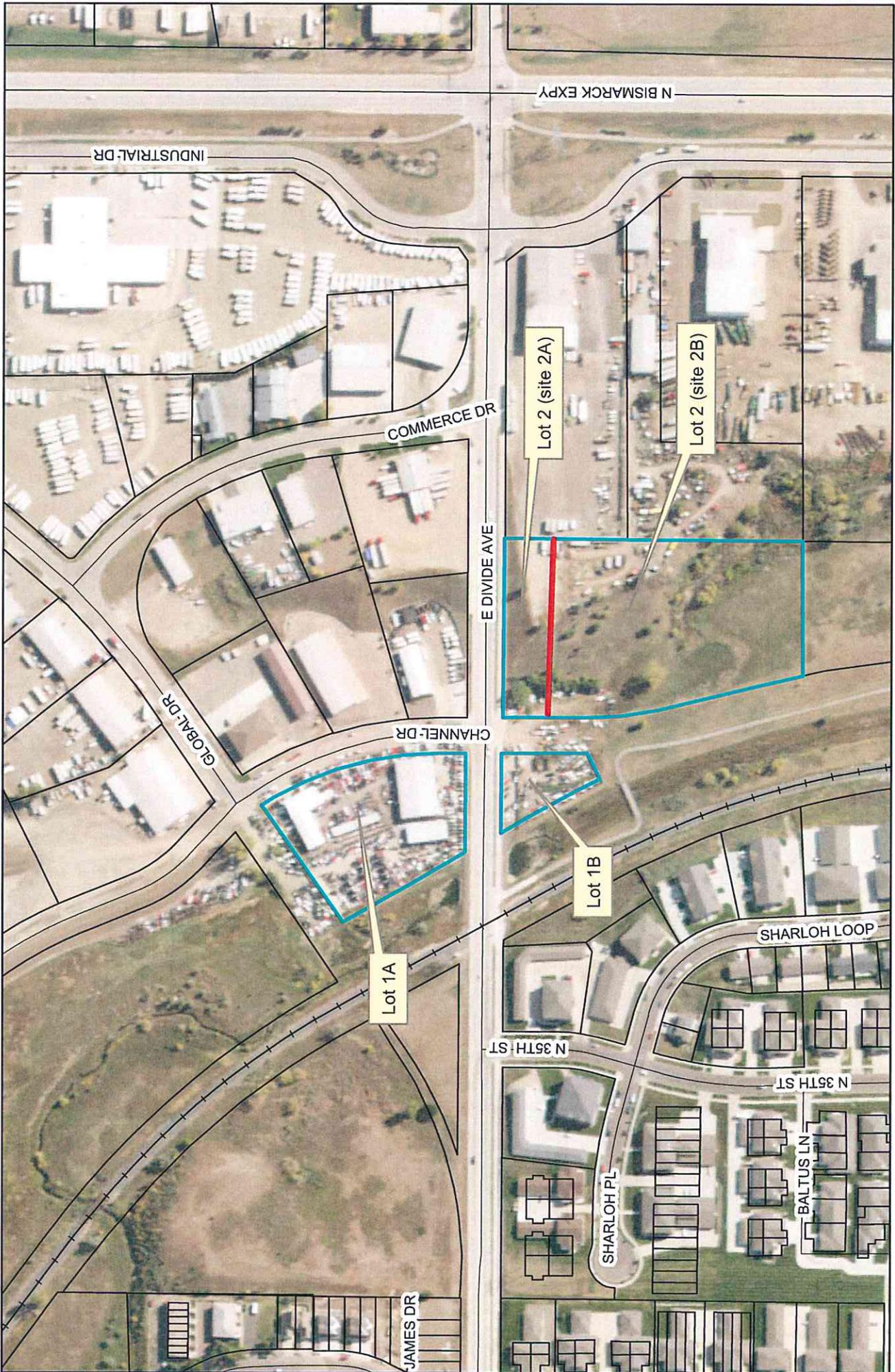
**WARRANTY / DISCLAIMER**  
 The information contained herein is based on the best information available to the Surveyor at the time of the survey. The Surveyor does not warrant the accuracy of the information and is not responsible for any errors or omissions. The Surveyor's liability is limited to the amount of the fee paid for the survey.

**UTILITY HOUSE ID CORRELATOR**  
 The information contained herein is based on the best information available to the Surveyor at the time of the survey. The Surveyor does not warrant the accuracy of the information and is not responsible for any errors or omissions. The Surveyor's liability is limited to the amount of the fee paid for the survey.

**SMITH HOUSE ID CORRELATOR**  
 The information contained herein is based on the best information available to the Surveyor at the time of the survey. The Surveyor does not warrant the accuracy of the information and is not responsible for any errors or omissions. The Surveyor's liability is limited to the amount of the fee paid for the survey.



**CK Auto, Inc.  
Motor Vehicle Parts Salvage Yard**



Date: 6/22/2016



*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.*

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.

**IN THE MATTER OF MULTIPLE ZONING VIOLATIONS LOCATED ON  
PROPERTY DESCRIBED AS LOT "A" OF LOT 1, MIRIAM INDUSTRIAL  
PARK 2<sup>ND</sup> ADDITION TO THE CITY OF BISMARCK ND AND HAVING AN  
ADDRESS OF 3405 E DIVIDE AVENUE, BISMARCK ND 58501.**

**NOTICE AND ORDER**

(Certified)

To: Christopher L Krein  
3405 E Divide Avenue  
Bismarck ND 58501-2568

You are hereby notified that the undersigned Building Official acting on behalf of the City of Bismarck, North Dakota and acting pursuant to Title fourteen (14) of the 1986 Code of Ordinances of the City of Bismarck, North Dakota, as amended, has determined that the present usage of the above described property constitutes a violation of Chapters 14-03-08 and 14-04-19 of said Title fourteen (14) of the 1986 Code of Ordinances of the City of Bismarck, North Dakota, as amended, in the following particulars:

You are operating a "Motor Vehicle Parts Salvage Yard" without benefit of a special use permit as required by chapter 14-03-08 of the above referenced code of ordinances.

You have also placed, or caused to be placed, fill materials in the Hay Creek floodway without a development permit as required by chapter 14-04-19 of the above referenced code of ordinances.

**YOU ARE THEREFORE ORDERED TO:** Cease operation as a "Motor Vehicle Parts Salvage Yard" and to remove all fill materials from the Hay Creek floodway all within thirty (30) days of receipt of this notice and order.

IF YOU DESIRE TO APPEAL THIS NOTICE AND ORDER YOU MUST FILE A WRITTEN REQUEST WITHIN THIRTY (30) DAYS WITH THE OFFICE OF FIRE AND INSPECTIONS, 1020 EAST CENTRAL AVENUE, PO BOX 5503, BISMARCK, NORTH DAKOTA 58502. A HEARING WILL THEN BE SCHEDULED BEFORE THE BOARD OF ADJUSTMENT. IF A HEARING IS NOT REQUESTED YOU MUST COMPLY WITH THIS ORDER IN THE TIME ALLOWED.

DATED THIS 5<sup>th</sup> DAY OF JULY 2000

  
Bill Augustadt  
Building Official

c: Charles Whitman, City Attorney  
Mel Bullinger, City Engineer

**IN THE MATTER OF A ZONING VIOLATION LOCATED ON PROPERTY  
DESCRIBED AS LOT "B" OF LOT 1, MIRIAM INDUSTRIAL PARK 2<sup>ND</sup>  
ADDITION TO THE CITY OF BISMARCK ND AND HAVING AN ADDRESS  
OF 1700 CHANNEL DR, BISMARCK ND 58501.**

**NOTICE AND ORDER**

(Certified)

To: Christopher L Krein  
3405 E Divide Avenue  
Bismarck ND 58501-2568

You are hereby notified that the undersigned Building Official acting on behalf of the City of Bismarck, North Dakota and acting pursuant to Title fourteen (14) of the 1986 Code of Ordinances of the City of Bismarck, North Dakota, as amended, has determined that the present usage of the above described property constitutes a violation of Chapter 14-04-19 of said Title fourteen (14) of the 1986 Code of Ordinances of the City of Bismarck, North Dakota, as amended, in the following particulars:

You have placed, or caused to be placed, fill materials in the Hay Creek floodway without a development permit as required by chapter 14-04-19 of the above referenced code of ordinances.

**YOU ARE THEREFORE ORDERED TO:** Remove all fill materials from the Hay Creek floodway within thirty (30) days of receipt of this notice and order.

IF YOU DESIRE TO APPEAL THIS NOTICE AND ORDER YOU MUST FILE A WRITTEN REQUEST WITHIN THIRTY (30) DAYS WITH THE OFFICE OF FIRE AND INSPECTIONS, 1020 EAST CENTRAL AVENUE, PO BOX 5503, BISMARCK, NORTH DAKOTA 58502. A HEARING WILL THEN BE SCHEDULED BEFORE THE BOARD OF ADJUSTMENT. IF A HEARING IS NOT REQUESTED YOU MUST COMPLY WITH THIS ORDER IN THE TIME ALLOWED.

DATED THIS 31st DAY OF OCTOBER 2003

  
Bill Augustadt  
Building Official

c: Charles Whitman, City Attorney  
Mel Bullinger, City Engineer  
Lisa Ansley  
Swenson Hagen Engineers

IN THE MATTER OF A PUBLIC NUISANCE AND ZONING VIOLATION LOCATED ON  
LOTS A AND B OF LOT 1, MIRIAM INDUSTRIAL PARK 2ND ADDITION WITH  
ADDRESS'S 3405 EAST DIVIDE AVENUE AND 1700 CHANNEL DRIVE, BISMARCK,  
NORTH DAKOTA

NOTICE AND ORDER

(Certified)

Christopher L. Krein  
3405 E Divide Av  
Bismarck ND 58501-2568

You are hereby notified that the undersigned, acting under the authority of the Director of Inspections of the City of Bismarck, North Dakota, and pursuant to Title 14 Zoning of the 1986 Code of Ordinances of the City of Bismarck, North Dakota, as amended, conducted an inspection (See enclosed pictures) of the foregoing described property on May 21, 2007 and found the following:

**Numerous vehicle parts and vehicle frames and bodies stored outside the buildings and fence.**

From such findings, the undersigned concludes that such storage is in violation of Section 14-03-08.1 under Special Uses and Pertaining to the Operation of a Motor Vehicle Parts Salvage Yard of the 1986 Code of Ordinances of the City of Bismarck, as amended.

The use of this property for this purpose constitutes a public nuisance as stated in Section 14-05-06 of the Code of Ordinances of the City of Bismarck, as amended.

YOU ARE THEREFORE ORDERED to remove the vehicle parts, frames and bodies stored outside the buildings and fence within 30 days of the date of this notice and order.

IF YOU DESIRE TO APPEAL THIS NOTICE AND ORDER, YOU MUST FILE A WRITTEN REQUEST WITHIN THIRTY (30) DAYS WITH THE OFFICE OF FIRE AND INSPECTIONS, ENVIRONMENTAL HEALTH DIVISION, 1020 E. CENTRAL AVENUE, BISMARCK, NORTH DAKOTA 58501-1936. YOUR REQUEST FOR A HEARING WILL BE FORWARDED TO THE BOARD OF ADJUSTMENT. IF A HEARING IS NOT REQUESTED, YOU MUST COMPLY WITH THE ORDER WITHIN THE TIME ALLOWED.

Dated this 24th Day of May, 2007.



Dan Mattern  
Environmental Health Specialist

cc: Charles Whitman, City Attorney

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



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## 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 5<sup>th</sup> Street  
Bismarck, ND, 58506-5503

RE: Special Use Permit for Lots 1A, 1B and 2, Miriam Industrial Park 2<sup>nd</sup> 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 20<sup>th</sup> with a July 22<sup>nd</sup> completion date.

The paving project will be bid and awarded with an anticipated start around the end of July and a completion date of 26<sup>th</sup>. Gravel operations will be completed by August 12<sup>th</sup>. 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 15<sup>th</sup>, 2017 to complete.

Sincerely,



Jason Petryszyn, PE



3405 East Divide Avenue

Bismarck, ND 58501

Phone: 701-223-7774 Fax: 701-250-8064

7/11/2016

To the Bismarck Planning and Zoning Commission:

CK Auto is before you today asking for approval of a Special Use Permit. I thank you for allowing us the opportunity to provide you with additional information regarding our application and your consideration of approval of this Special Use Permit.

Before providing you with the information that I believe that you have requested upon consideration of the approval of the Special Use Permit, I would like to take a few minutes to give you some Background information on CK Auto. What makes CK Auto the business that it is and how has it evolved into what it is today.

CK Auto Inc. started in 1996 as an Auto Body/ Frame Repair Shop. In between repairing vehicles for paying customers and Insurance companies, CK Auto Inc. would purchase repairable vehicles that we would repair when our shop was slow and sell them for supplemental Income. As time went on, CK Auto started to repair and sell more repairable vehicles, leading into getting a Used Auto Dealer License. We would selectively purchase vehicles then purchase another vehicle of the same year, make and model, that we would use for parts, not only to fix one vehicle but another one as well and possibly three if I was selective enough. This was the start of where CK Auto Inc. is today.

Our retail repaired used auto inventory gradually grew as well as our wholesale repairable inventory, meaning vehicles for sale to the public with existing damage in which they can purchase and fix themselves. Along with the growth in repairable inventory, my parts car inventory grew as well, leading me to invest in a Used Auto Parts Interchange System to market the auto parts that were left over and that gave me the ability to market them globally to Used Auto Parts Dealers Nation Wide.

CK Auto Inc. also is very different from your average car dealership we sell late model repairable vehicles, theft recovery vehicles, storm or hail damaged vehicles, mechanical damaged etc., saving the savvy buyers money on their next vehicle purchase. To make this whole business work we need late model donor vehicles to fix the repairable vehicles. It is not possible or economically feasible to fix these late model vehicles without recycled parts.

CK Auto Inc. provides our community many services offered at one location, Auto Body, Frame and Collision Repair, Mechanical, Electrical and Maintenance Repairs, Used Auto Sales and access to recycled used auto parts around the nation. All of these services feed off of the same need which is vehicles with recyclable parts.

Insurance companies and individuals bringing work into our Body Shop require the use of new and recycled used auto parts. Those parts have to come from somewhere, and we fortunately have a wide variety of parts vehicles of all makes and models. The convenience of having these recycled parts on site saves insurance companies and our customers time and money.

The same goes for our Mechanic, Electrical and Maintenance facility. Having recycled used parts on hand is definitely a huge plus in our customers pocket when replacing an engine, transmission or even just a wheel or the mirror they broke off backing out of their garage this morning. Especially if you are driving a newer model truck in which case most of the mirrors are listing out anywhere from \$500-\$1200 each from the Dealer and they can be purchased from us for half the price. That being said, we sell recycled used auto parts to almost every mechanic shop and Dealership in Bismarck-Mandan and surrounding communities State and Nation Wide. We also repair many state and city vehicles as well with the ability of saving money on the repairs by using recycled parts. We have great relationships with many of our local and State wide accounts that we have served over the years.

Our community is always growing and with that growth comes more businesses, more people, more housing and more vehicles. As our community grows so do successful businesses by evolving with the growth of the community to fit the new needs and demands of the community during that growth.

We do in fact selectively purchase vehicles from local Insurance companies, insurance auto auctions and the general public. We purchase these vehicles based on the needs for the parts most requested in our area so that we can meet those needs of our customers.

We also have vehicles that have been abandoned at our facility, we have vehicles that have been left at our facility because people brought them in for repairs and could not pay for the repairs, who quit making payments on the repairs and just never come back for the vehicle. And then we have people who have had vehicles sitting in their driveways, back yards, or in the city streets that just ask us to come get them because they have no other place to take them.

It has never been the intent of CK Auto to haul these vehicles in and place them in their final resting place for the duration of their life. All of the vehicles are recycled. Each vehicle is torn down, keeping the good, non-damaged recycled parts which are then inventoried and put into the parts system for sale. All of the fluids such as engine oils, transmission, brake fluids and antifreeze are drained. Air Conditioning Freon is recaptured, stored and reused in vehicles that we repair. Tires are sent out for recycling if they are not listed as used tires for sale. We strip the aluminum, lead, copper and any Mercury switches off the vehicles as well. We prevent any harmful liquids or gasses from entering our ground or atmosphere. The remainder of the vehicle is then crushed and then sent off to other facilities, locally or out of state that recycle what is left.

There is so much more to be said about what we do as a business within this community. However, for now I can just hope that what little light I have shed on the function and purpose of CK Auto Inc. is enough for you to consider the approval of this Special Use Permit.

Following these next few statements I will be submitting to you a Timeline of events that will take place with the end result of CK Auto Inc. being in full compliance with the City of Bismarck.

At this time, the repairable vehicles, for sale to the public, outside of the fence, north of our Body shop, in the right of way of Global and Channel Dr., have been moved.

My goal, by 5:00 July 27th, is to have the vehicles in the right away South of East Divide gone. The vehicles and the automobile frames and suspension gone off of the property to the North of our body shop, next to the new Channel Dr. (ORDO Property). Also to keep any vehicles, other than paying customer vehicles that are at our facility for repairs, off of Channel Dr.

I will provide you with photos of the properties at the time of the July 27th meeting for the projects done. I will also be contacting and notifying Staff when these areas are cleared as well, encouraging them to come for an inspection to make sure these areas have in fact been cleared to the compliance standard.

In regards to providing a better site plan and timeline than what was submitted at the last meeting. I find it difficult to provide anything better than what was previously submitted. The timeline that was provided for the last meeting, constructed by Swenson and Hagen is full of detail in each step of the timeline. The only changes that I feel are needed to be made to the timeline would be changes to the actual dates.

1. Following the July 27th meeting, and upon approval of the Special Use Permit, we would begin to get Bids for grading, Utilities and Paving on the required extension of Channel Dr. with access to Lot 2 as early as July 28th.
2. The Bidding process will take up to 14 days to receive the Bids and enter into contracts after receiving the bids.
3. Once the grading process begins it will take all of 14 days to prepare for Utilities.

4. Utility Construction will take up to 27 days to complete and be ready for the Paving Process.

5. Paving is estimated to be in process for 5 weeks.

During this time, the extension of Channel Drive is being constructed, grading, landscaping and fencing of Lot 2 will be progressing as well.

6. As soon as there is proper access to Lot 2, the gravel will be hauled in for fire access within the Lot.

The timeline above, pending your approval of the Special Use Permit puts us at the end of October to mid-November for completion on the Channel Dr. Extension.

7. In consideration of the vehicles that we currently have, and were given permission in 2007, to fence and store in the floodway.

Upon the completion of the development of Lot2, CK Auto will begin the process of moving the vehicles and Cantilever racks over to Lot 2. Your approval of this project will allow us in a more efficient timeline to move these items out of the floodway more quickly. This move should take no more than 45 days from start to finish, weather permitting as we are projecting a start date of this move in mid to late November.

Prior to our purchase of this property, I personally met with City Engineering, City of Bismarck Building Inspector, of the City Planning people, Traffic Engineer, the Chief of Police and Fire Chief, to obtain prior approval of the land use of Lot 2, for CK Auto. Every one of them agreed per this conversation that Lot 2 would be an acceptable use of the property, to store vehicles on. Of course, following certain conditions that would need to be met. All of the conditions that were talked about during those conversations are being met per the site plan submitted.

All of the things that are being required to be addressed at our current location have been the incentive for us to invest in property. When this property came to us for sale, after several years of being in contact with the original owner, we considered ourselves blessed... This was just

"Meant to be" and excitement about this project ran through all of us at CK Auto Inc.

Most of the people that are employed by CK Auto Inc. have been with us from the beginning. They are much more than just employees that just come to work each day to collect a paycheck. We all have worked very hard over the years, and take great pride in bringing CK Auto Inc. from what it was 20 years ago to what it is today.

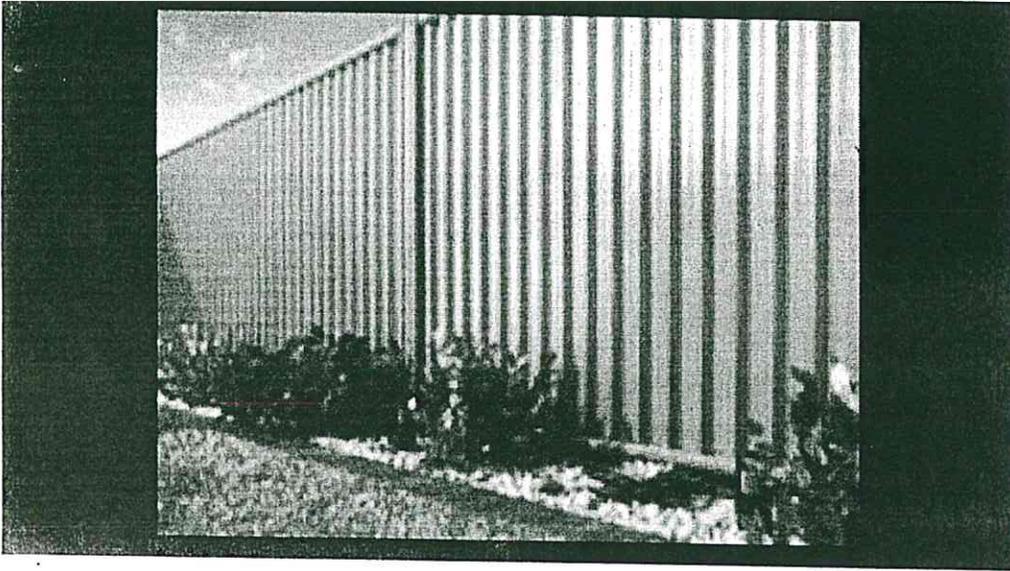
Our overall goal is to turn CK Auto Inc. into the nicest and most functional Auto Recycling Facility in the State. We would be honored, with your approval, to have the opportunity to provide this type of facility to our community and State. Once the timeline is complete and everything is moved to its new location on Lot 2, CK Auto Inc. will have sufficient retail and storage space available to do business, as well as giving CK Auto, Inc. the ability to run our business in compliance with the City of Bismarck.

Without your approval on this project, it will cause CK Auto Inc. hardship to comply with what is being requested by staff.

Thank you once again for the opportunity and consideration of approval of this Special Use Permit.



Chris Krein  
President/Vice President  
CK Auto, Inc.



Proposed fence Photo