



## COMMUNITY DEVELOPMENT DEPARTMENT

**DATE:** August 16, 2016

**FROM:** Carl D. Hokenstad, AICP, Director of Community Development

**ITEM:** Heritage Park Addition – Annexation (Corrective Ordinance)

### REQUEST

On June 23, 2015, the Board of City Commissioners approved Ordinance 6139, which annexed Heritage Park Addition as well as the right-of-way needed to connect this subdivision to the existing corporate limits. As an owner of property within the annexed area did not consent to annexation, a corrective ordinance is required to remove that property.

The property is located in north Bismarck, west of North Washington Street along the south side of 57<sup>th</sup> Avenue NW.

Please place this item on the August 23, 2016 and the September 13, 2016 City Commission meetings.

### BACKGROUND INFORMATION

The property annexed included the North 100 feet of Auditor's Lot H of the NE¼ of Section 17, T139N-R80 W. At the time, staff had assumed that the easement obtained by Burleigh County for the construction of 57th Avenue NW was similar to other easements obtained as could be treated as the dedication of right-of-way; however, the easement obtained was only for roadway purposes. As the owner of Auditor's Lot H did not consent to the annexation of his property, a corrective ordinance to remove that parcel is required.

### RECOMMENDED CITY COMMISSION ACTION

August 23<sup>rd</sup> Meeting of the Board of City Commissioners – consider Corrective Ordinance 6139 and call for a public hearing on this item for the September 13<sup>th</sup> meeting of the Board of City Commissioners.

September 13<sup>th</sup> Meeting of the Board of City Commissioners – hold a public hearing on Corrective Ordinance 6139 and take final action on the ordinance.

**STAFF CONTACT INFORMATION**

Please contact Kim L Lee, AICP, the planner in our office assigned to this action, at 355-1846 or [klee@bismarcknd.gov](mailto:klee@bismarcknd.gov).

Planning Manager Kim Lee will present this item at the meetings.

CORRECTIVE ORDINANCE NO. 6139

Correcting Ordinance Recorded as Document No. 837274

First Reading	June 9, 2015
Second Reading	June 23, 2015
Final Passage and Adoption	June 23, 2015
Publication Date	June 12 & 19, 2015
Corrected Date	

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

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

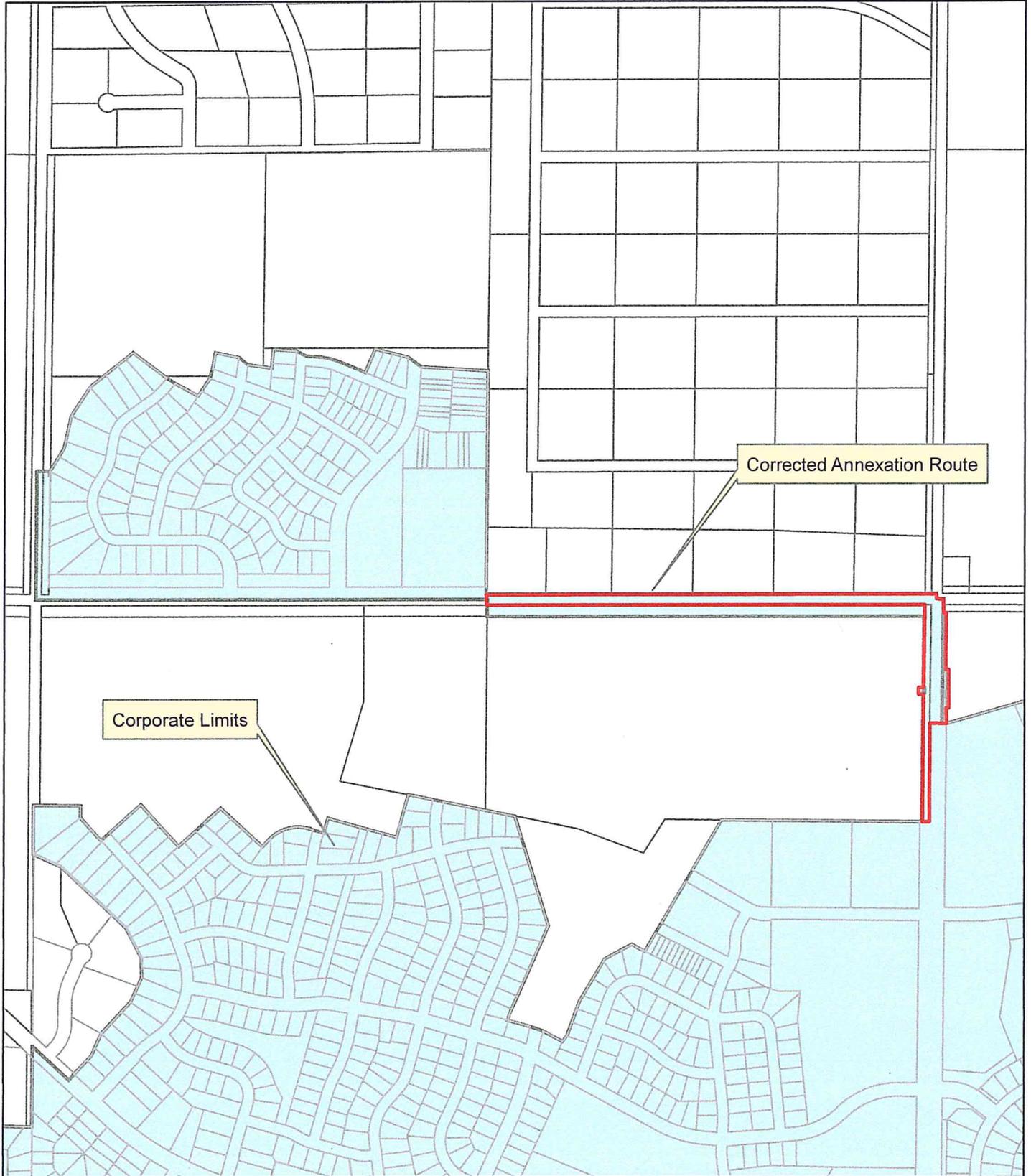
Section 1. Territory Annexed. The territory and land hereinafter described is hereby declared and found to be a part of the corporate limits of the City of Bismarck, North Dakota, as follows:

All of Heritage Park Addition, including Lot 1, Block 1, Lots 1-3, Block 2, Lots 1-4, Block 3, Lots 1-20, Block 4, Lots 1-11, Block 5, Lots 1-13, Block 6, Lots 1-17, Block 7 and Lots 1-26, Block 8; all of the 57<sup>th</sup> Avenue NW right-of-way adjacent to the southern edge of Block 6, as dedicated in the plat of Green Acres Estates; the North 100 feet and the North Washington Street right-of-way described as the East 75 60 feet of Auditor's Lot H of the NE¼ of Section 17, T139N-R80W; and the West 40 60 feet of the North 735 feet of the NW¼ of Section 16, T139N-R80W, and additional North Washington Street right-of-way identified as Parcel 7-2 and 7-3 as described in Project No. NHU-1-981(101)000, Plat No. 7 of 9, recorded as document number 822886 in the Burleigh County Recorder's Office, and acquired by the City of Bismarck via warranty deeds recorded as document numbers 844726 and 844722 in the Burleigh County Recorder's Office.

The above described tract of land contains ~~64.93~~ 56.81 acres, more or less.

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

# Heritage Park Addition - Corrective Annexation



August 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.

0 310 620 1,240 Feet



ORDINANCE NO. 6139

<i>First Reading</i>	<u>June 9, 2015</u>
<i>Second Reading</i>	<u>June 23, 2015</u>
<i>Final Passage and Adoption</i>	<u>June 23, 2015</u>
<i>Publication Date</i>	<u>June 12 &amp; 19, 2015</u>

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

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The above described tract of land contains 61.93 acres, more or less.

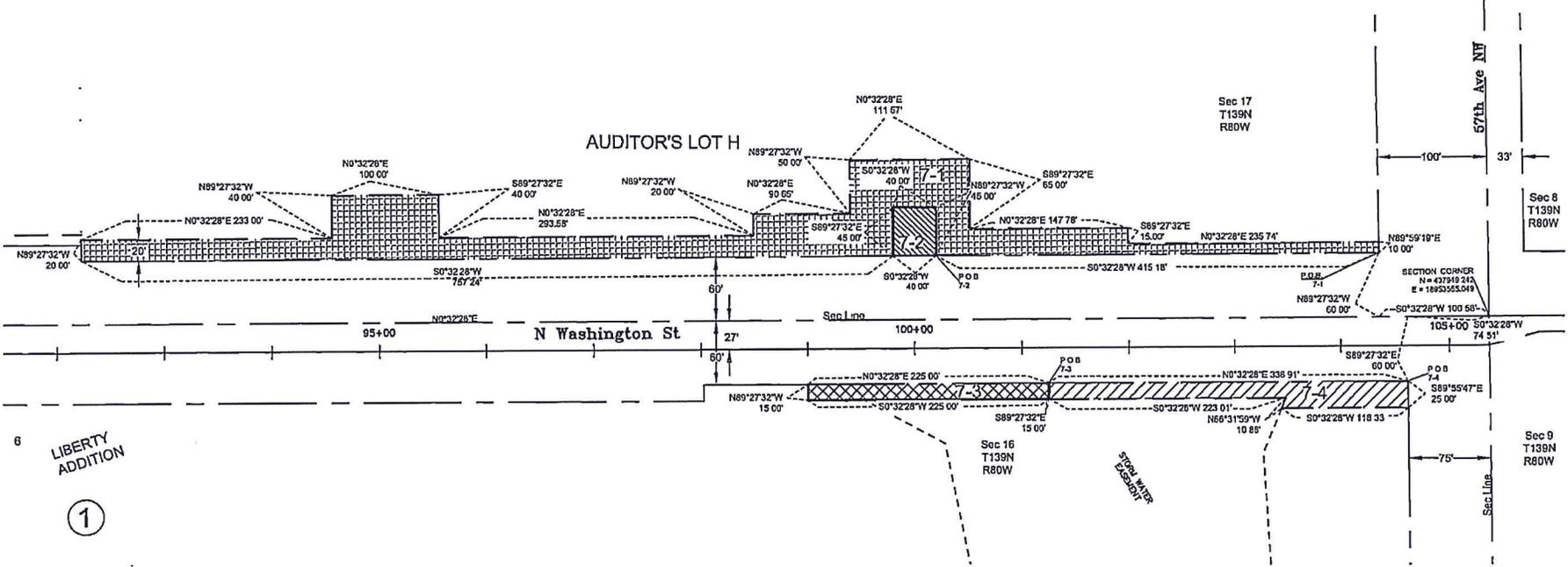
Section 2. Provisions Applicable. From and after the final passage and adoption of this Ordinance and upon recording of this ordinance with the Burleigh County Recorder, the territory herein described shall be a part of the corporate limits of the City of Bismarck, North Dakota.



NEK/NEK 17-139-80  
Auditor's Lot H Block 1  
PARCEL NO 7-1  
TEMP CONST ESMT 34452 S F  
William E. Clairmont Revocable Living Trust  
1720 Burnt Boat Dr. Ste #203  
Bismarck ND, 58503

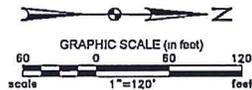
NEK/NEK 17-139-80  
Auditor's Lot H Block 1  
PARCEL NO. 7-2 1800 S F  
William E. Clairmont Revocable Living Trust  
1720 Burnt Boat Dr. Ste #203  
Bismarck ND, 58503

PROJECT	PARCEL	PLAT NO	SUPPLEMENTS
NHU-1-981(101)111	7-1, 7-2, 7-3, 7-4	7 of 9	2



NW/4NW/4 16-139-80  
PARCEL NO 7-3 3375 S F  
Five Guys Investment, LLP  
1291 Eaglecrest Loop  
Bismarck, ND 58503

NW/4NW/4 16-139-80  
PARCEL NO 7-4 6217 S F  
TEMP CONST ESMT  
Five Guys Investment, LLP  
1291 Eaglecrest Loop  
Bismarck, ND 58503



822886  
\$92.00  
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Burlington County



KEPT IN OFFICE

ROWPL

**822886**

\$92.00  
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Burleigh County

PROJECT NO. NHU-1-981(101)111  
1<sup>st</sup> SUPPLEMENT TO PLAT NO. 7 OF 9

PARCEL NO. 7-1

A tract of land lying in the NE ¼ of the NE ¼ of Section 17, Township 139 North, Range 80 West of the Fifth Principal Meridian, Burleigh County, North Dakota, described more particularly as follows:

Commencing at the Northeast Corner of Section 17, Thence S0°32'28"W along the east line of Section 17 a distance of 100.58 feet; Thence N89°27'32"W a distance of 60.00 feet to the Point of Beginning; Thence from said Point of Beginning S0°32'28"W along a line 60 feet westerly of and parallel with the east line of Section 17 a distance of 415.18 feet; Thence N89°27'32"W a distance of 45.00 feet; Thence S0°32'28"W a distance of 40.00 feet; Thence S89°27'32"E a distance of 45.00 feet; Thence S0°32'28"W a distance of 757.24 feet; Thence N89°27'32"W along the south line of Auditor's Lot H a distance of 20.00 feet; Thence N0°32'28"E a distance of 233.00 feet; Thence N89°27'32"W a distance of 40.00 feet; Thence N0°32'28"E a distance of 100.00 feet; Thence S89°27'32"E a distance of 40.00 feet; Thence N0°32'28"E a distance of 293.58 feet; Thence N89°27'32"W a distance of 20.00 feet; Thence N0°32'28"E a distance of 90.65 feet; Thence N89°27'32"W a distance of 50.00 feet; Thence N0°32'28"E a distance of 111.57 feet; Thence S89°27'32"E a distance of 65.00 feet; Thence N0°32'28"E a distance of 147.78 feet; Thence S89°27'32"E a distance of 15.00 feet; Thence N0°32'28"E a distance of 235.74 feet; Thence N89°59'19"E a distance of 10.00 feet to the said Point of Beginning.

Said tract is shown on the plat as Parcel No 7-1 and contains 34452 S.F.

The legal description was prepared by Kent A. Orvik, KLJ, 4585 Coleman Street, Bismarck, ND 58503, or obtained from a previously recorded instrument.

PARCEL NO. 7-2

A tract of land lying in the NE ¼ of the NE ¼ of Section 17, Township 139 North, Range 80 West of the Fifth Principal Meridian, Burleigh County, North Dakota, described more particularly as follows:

Commencing at the Northeast Corner of Section 17, Thence S0°32'28"W along the east line of Section 17 a distance of 100.58 feet; Thence N89°27'32"W a distance of 60.00 feet; Thence S0°32'28"W along a line 60 feet westerly of and parallel with the east line of Section 17 a distance of 415.18 feet to the Point of Beginning; Thence from said Point of Beginning S0°32'28"W a distance of 40.00 feet; Thence N89°27'32"W a distance of 45.00 feet; Thence N0°32'28"E a distance of 40.00 feet; Thence S89°27'32"E a distance of 45.00 feet to the said Point of Beginning.

Said tract is shown on the plat as Parcel No 7-2 and contains 1800 S.F.

The legal description was prepared by Kent A. Orvik, KLJ, 4585 Coleman Street, Bismarck, ND 58503, or obtained from a previously recorded instrument.

PARCEL NO. 7-3

A tract of land lying in the NW ¼ of the NW ¼ of Section 16, Township 139 North, Range 80 West of the Fifth Principal Meridian, Burleigh County, North Dakota, described more particularly as follows:

Commencing at the Northwest Corner of Section 16, Thence S0°32'28"W along the west line of Section 16 a distance of 74.51 feet; Thence S89°27'32"E a distance of 60.00 feet; S0°32'28"W along a line 60' easterly of and parallel with the west line of Section 16 a distance of 336.91 feet to the Point of Beginning; Thence from said Point of Beginning S89°27'32"E a distance of 15.00 feet; Thence S0°32'28"W a distance of 225.00 feet; Thence N89°27'32"W a distance of 15.00 feet; Thence N0°32'28"E along a line 60' easterly of and parallel with the west line of Section 16 a distance of 225.00 feet to the said Point of Beginning.

Said tract is shown on the plat as Parcel No 7-3 and contains 3375 S.F.

The legal description was prepared by Kent A. Orvik, KLJ, 4585 Coleman Street, Bismarck, ND 58503, or obtained from a previously recorded instrument.



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ROWPL

**822886**

\$92.00  
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Burleigh County

PROJECT NO. NHU-1-981(101)111  
2<sup>nd</sup> SUPPLEMENT TO PLAT NO. 7 OF 9

PARCEL NO. 7-4

A tract of land lying in the NW ¼ of the NW ¼ of Section 16, Township 139 North, Range 80 West of the Fifth Principal Meridian, Burleigh County, North Dakota, described more particularly as follows:

Commencing at the Northwest Corner of Section 16, Thence S0°32'28"W along the west line of Section 16 a distance of 74.51 feet; Thence S89°27'32"E a distance of 60.00 feet to the Point of Beginning; Thence from said Point of Beginning S89°55'47"E along a line 75' southerly of and parallel with the north line of Section 16 a distance of 25.00 feet; Thence S0°32'28"W a distance of 118.33 feet; Thence N66°31'59"W along the existing storm water easement a distance of 10.86 feet; Thence S0°32'28"W along the said existing storm water easement a distance of 223.01 feet; Thence N89°27'32"W a distance of 15.00 feet; Thence N0°32'28"E along a line 60' easterly of and parallel with the west line of Section 16 a distance of 336.91 feet to the said Point of Beginning.

Said tract is shown on the plat as Parcel No 7-4 and contains 6217 S.F.

The legal description was prepared by Kent A. Orvik, KLJ, 4585 Coleman Street, Bismarck, ND 58503, or obtained from a previously recorded instrument.