



COMMUNITY DEVELOPMENT DEPARTMENT

DATE: October 4, 2016

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

ITEM: Memory 1st Addition – Partial Annexation, Future Land Use Plan Amendment, Zoning Change and Final Plat

REQUEST

Ron and Ruth Knutson and RBK Ventures, LLP are requesting approval of a partial annexation, a Future Land Use Plan amendment to extend the Industrial land use classification southwest of Hay Creek west to North 19th Street, a zoning change from the A – Agricultural zoning district to the CG – Commercial and MA – Industrial zoning districts, and the final plat for Memory 1st Addition. These actions would allow development on one CG-zoned lot and future commercial and industrial development on the remaining lots upon annexation.

The property is located in north Bismarck along the east side of US Highway 83/State Street and the north side of an eastern extension of 57th Avenue NE.

Please place this item on the October 11 City Commission meeting and the October 25, 2016 City Commission meeting.

BACKGROUND INFORMATION

The Planning & Zoning Commission held a public hearing on this item on September 28, 2016.

No members of the public spoke at the public hearing; however, there was considerable discussion amongst the members of the Planning & Zoning Commission regarding the partial annexation of the proposed plat.

At the conclusion of the hearing, and based on the findings contained in the staff report, the Planning & Zoning Commission recommended, on a 7 to 2 vote, approval of the partial annexation as outlined in Ordinance 6236; the Future Land Use Plan amendment to extend the Industrial classification in the southwest portion of the SW¼ of Section 10, T139N-R80W west to the future extension of North 19th Street from 57th Avenue NE north to where Hay Creek crosses North 19th Street as outlined in the attached resolution; the zoning change from the A – Agricultural zoning

district to the CG – Commercial zoning district on Lots 1 & 2, Block 1 and Lots 1 & 2, Block 2 and to the MA – Industrial zoning district on Lots 1-4, Block 3 as outlined in Ordinance 6237; and the final plat for Memory 1st Addition, with the understanding that individual lots will be annexed and that all municipal services needed to serve that lot, including roadways and utilities, will be in place or under contract prior to development of that lot.

RECOMMENDED CITY COMMISSION ACTION

October 11th Meeting of the Board of City Commissioners – consider the request for the partial annexation as outlined in Ordinance 6236, the Future Land Use Plan amendment as outlined in the attached resolution and the zoning change as outlined in Ordinance 6237 and call for a public hearing on these three items for the October 25th meeting of the Board of City Commissioners.

October 25th Meeting of the Board of City Commissioners – hold a public hearing on the partial annexation as outlined in Ordinance 6236, the Future Land Use Plan amendment as outlined in the attached resolution and the zoning change as outlined in Ordinance 6237; consider the final plat for Memory 1st Addition; and take final action on these four related items.

STAFF CONTACT INFORMATION

Please contact Kim L. Lee, AICP, the planner in our office assigned to this request, at 355-1846 or klee@bismarcknd.gov.

Planning Manager Kim Lee will also present this item at the meeting.

ORDINANCE NO. 6236

| | |
|-----------------------------------|-------|
| <i>Introduced by</i> | _____ |
| <i>First Reading</i> | _____ |
| <i>Second Reading</i> | _____ |
| <i>Final Passage and Adoption</i> | _____ |
| <i>Publication Date</i> | _____ |

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:

Lot 1, Block 2, Memory 1st Addition, along with all of the Elbowoods Lane right-of-way adjacent to Lots 1 and 2, Block 1, and Lot 1, Block 2, and that part of the North 19th Street right-of-way from an extension of the southern right-of-way line of Elbowoods Lane north to the northern edge of the plat adjacent to Lots 1 and 2, Block 2 and Lots 3 and 4, Block 3.

The above described tract of land contains 13.27 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.

**RESOLUTION OF ADOPTION
of an Amendment to the Future Land Use Plan
for Section 10, T139N-R80W/Hay Creek Township**

WHEREAS, the Bismarck Board of City Commissioners received the Future Land Use Plan (FLUP) of the 2014 Growth Management Plan Study on April 22, 2014; and

WHEREAS, the City of Bismarck amended the Future Land Use Plan on December 15, 2014, to address changes in conditions since the Future Land Use Plan was established, including the adoption of the 2014 Fringe Area Road Master Plan, the acceptance of the 2015 Ash and Ward Coulee Watershed Study, and ongoing land development; and

WHEREAS, the land use identified in the FLUP is used as a policy tool in conjunction with the 2014 Bismarck Growth Management Plan and the Bismarck Comprehensive Policy Plan; and

WHEREAS, the City of Bismarck finds it necessary, from time to time, to amend portions of the FLUP to further the public interest; and

WHEREAS, the proposed amendment does reflect a change in conditions since the FLUP was received.

NOW, THEREFORE BE IT RESOLVED, by the Bismarck Board of City Commissioners that it adopts the attached amendment to the FLUP for Section 10, T139N-R80W/Hay Creek Township, to extend the Industrial classification in the southwest portion of the SW¼ of the section west to the future extension of North 19th Street from 57th Avenue NE north to where Hay Creek crosses North 19th Street, as shown on the attached exhibit.

CERTIFICATE

The undersigned, duly qualified members of the Bismarck Board of City Commissioners certify that the foregoing is a true and correct copy of a Resolution, adopted at a legally convened meeting of the Board of City Commissioners held on October 25, 2016.

Mike Seminary, President
Bismarck Board of City Commissioners

Keith J. Hunke
Bismarck City Administrator

ORDINANCE NO. 6237

| | |
|-----------------------------------|-------|
| <i>Introduced by</i> | _____ |
| <i>First Reading</i> | _____ |
| <i>Second Reading</i> | _____ |
| <i>Final Passage and Adoption</i> | _____ |
| <i>Publication Date</i> | _____ |

AN ORDINANCE TO AMEND AND RE-ENACT 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 A-Agriculture zoning district and included in the CG-Commercial zoning district:

Lots 1-2, Block 1 and Lots 1-2, Block 2, Memory 1st Addition.

The following described property shall be excluded from the A-Agriculture zoning district and included in the MA-Industrial zoning district:

Lots 1-4, Block 3, Memory 1st Addition

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

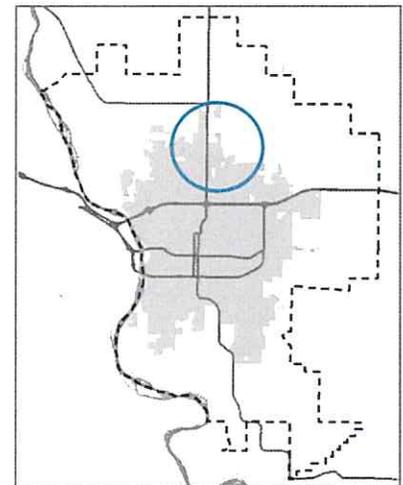
September 28, 2016

Application for: Annexation (Partial)
Future Land Use Plan Amendment
Zoning Change
Major Subdivision Final Plat

TRAKiT Project ID: ANNX2016-003
 FLUP2016-002
 ZC2016-015
 FPLT2016-007

Project Summary

| | |
|-------------------------|--|
| Title: | Memory 1 st Addition |
| Status: | Planning & Zoning Commission – Public Hearing |
| Owner(s): | Ronald and Ruth Knutson and RBK Ventures, LLP |
| Project Contact: | Michael Gunsch, PE, Houston Engineering Inc. |
| Location: | North of Bismarck, along the east side of US Highway 83/State Street and the north side of an eastern extension of 57 th Avenue NE. |
| Project Size: | 66.53 acres |
| Request: | Partially annex, amend the Future Land Use Plan, rezone and plat property for future commercial and light industrial development. |



Site Information

| Existing Conditions | | Proposed Conditions | |
|-----------------------------|--------------------------|-----------------------------|--|
| Number of Lots: | 3 parcels | Number of Lots: | 8 lots in 3 blocks |
| Land Use: | Agricultural/undeveloped | Land Use: | Commercial and light industrial |
| Designated GMP | Commercial | Designated GMP | Commercial |
| Future Land Use: | Industrial | Future Land Use: | Industrial |
| Zoning: | A – Agricultural | Zoning: | CG – Commercial MA – Industrial |
| Uses Allowed: | A – Agriculture | Uses Allowed: | CG – General commercial, multi-family residential, and offices MA – Light industrial, general commercial, warehouses, manufacturing and shop condos |
| Max Density Allowed: | A – 1 unit / 40 acres | Max Density Allowed: | CG – 42 units / acre 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 four lots for commercial development, three lots for light industrial development and one lot to privately manage storm water for the development.

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies 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 19th Street. Although adjacent property is undeveloped, the land to the south across 57th Avenue NE is zoned CG – Commercial on the west side of North 19th Street and there is a combination of PUD – Planned Unit Development and MA – Industrial zoning on the east side of North 19th Street. The property to the north across 64th 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 19th Street would be appropriate, as would having North 19th Street serve as the dividing line between land uses.

Only a portion of the plat will be annexed at this time; however, all other lots must be annexed prior to development of the lot. 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 10-foot wide multi-use trail along the Hay Creek corridor will be extended north into this area along the east side of North 19th Street when it is constructed. As no urban residential uses are included within the proposed plat, it is not subject to the Neighborhood Parks and Open Space provisions.

The North Dakota Department of Transportation has indicated that the frontage road access point on 57th Avenue NE would need to be closed in conjunction with development of this subdivision. It is unclear if this is expected to occur immediately, or upon improvements to 57th Avenue NE and North 19th Street north of 57th Avenue NE.

Required Findings of Fact

Annexation

1. 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 annexation at the time the property is developed;
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck;
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

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;

(continued)

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

3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
4. The stormwater 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 proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located 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;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Final Plat

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.

Staff Recommendation

Based on the above findings, staff recommends approval of the partial annexation; 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 19th Street from 57th Avenue NE north to where Hay Creek crosses North 19th Street; the zoning change from the A – Agricultural zoning

(continued)

district to the CG – Commercial zoning district on Lots 1 & 2, Block 1 and Lots 1 & 2, Block 2 and to the MA – Industrial zoning district on Lots 1-4, Block 3; and the final plat for Memory 1st Addition, with the understanding that individual lots will be annexed and that all municipal services needed to serve the lot, including roadways and utilities, will be in place or under contract prior to development of the lot.

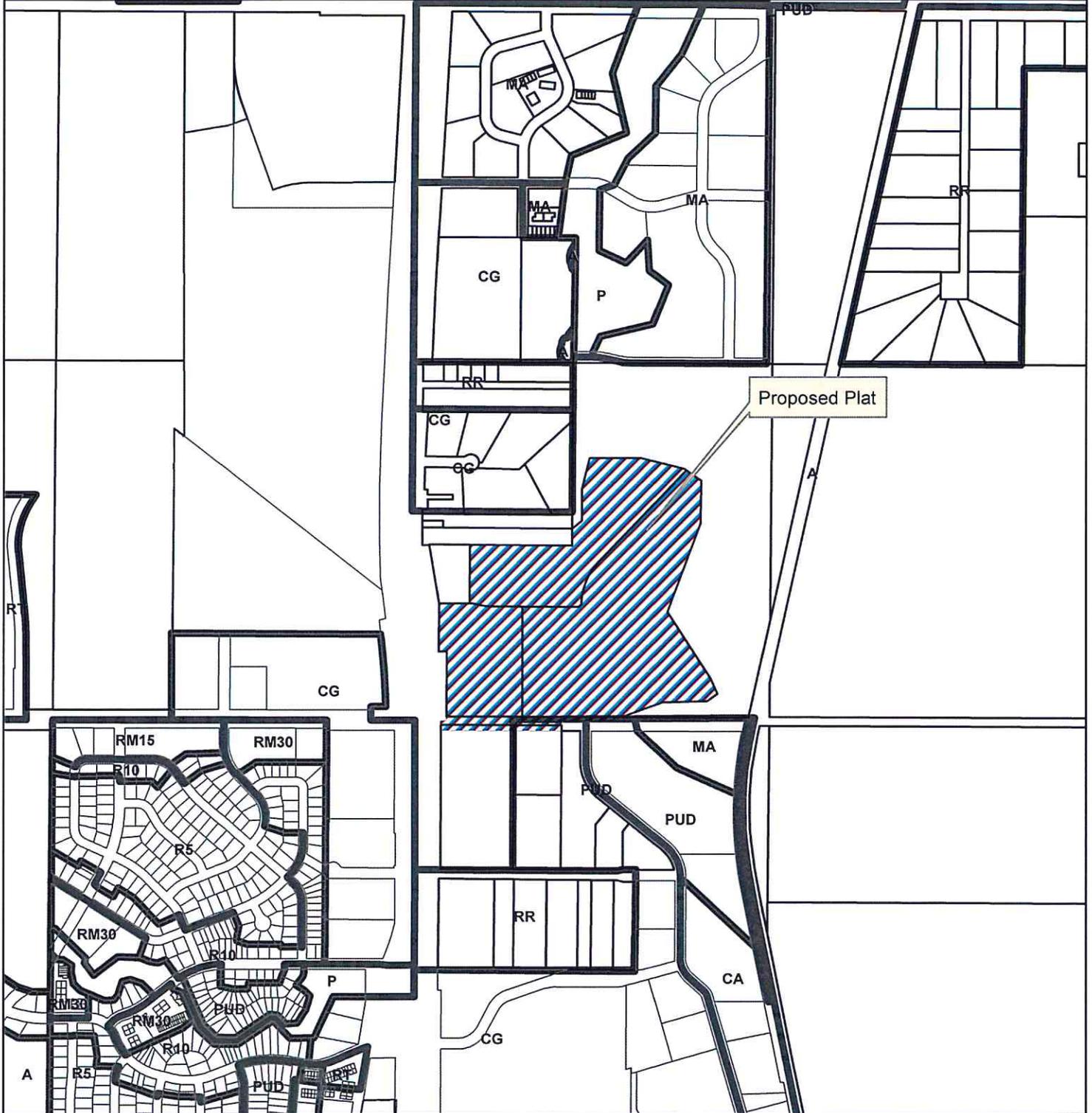
Attachments

1. Location Map

2. Annexation Location Map
3. Annexation Map
4. Future Land Use Plan Map
5. Zoning Map
6. Reduction of Final Plat
7. Reduction of Preliminary Plat
8. Written Justification for FLUP Amendment

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

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

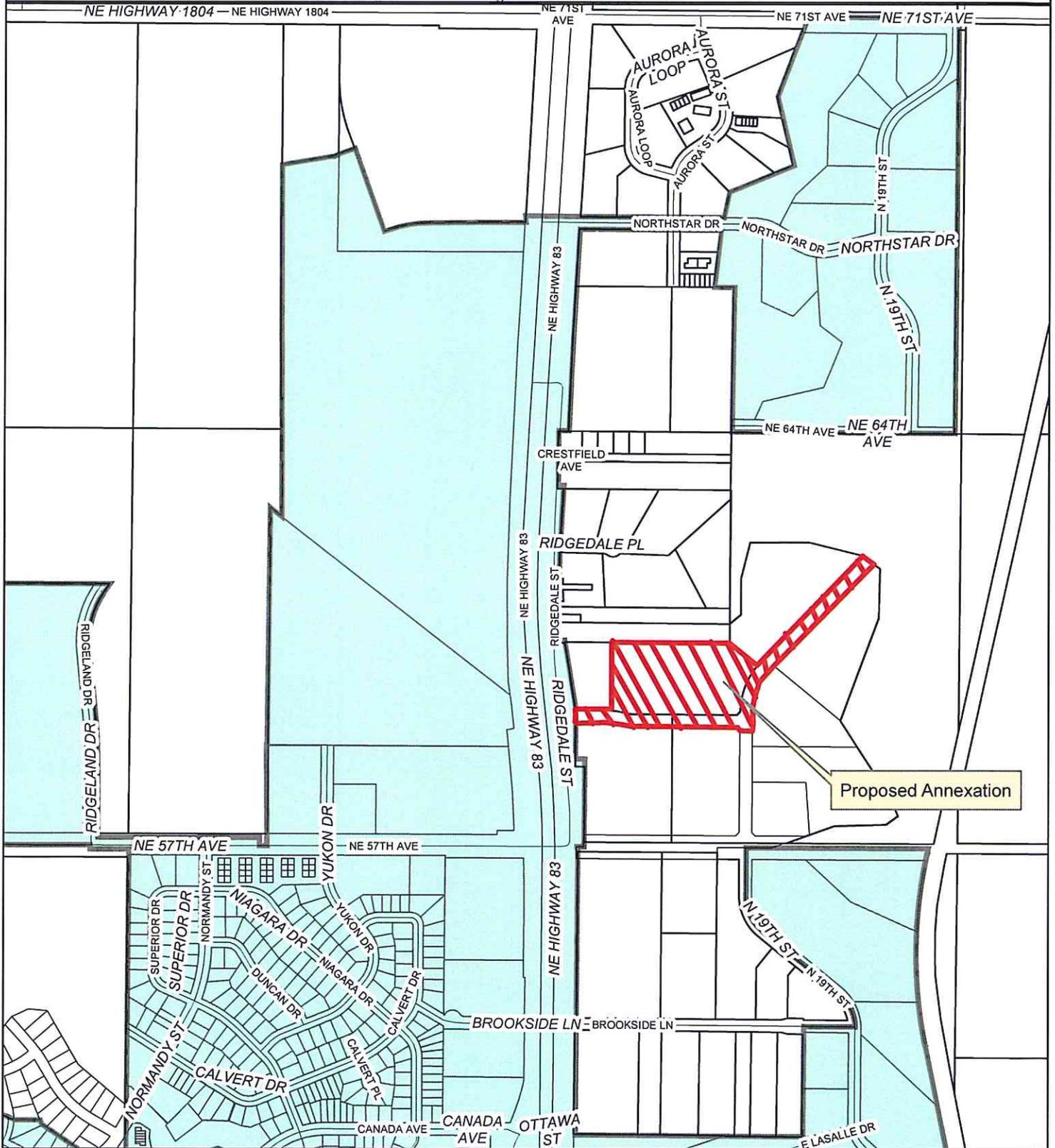


August 31, 2016 (klee)

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.



Proposed Annexation Lot 1, Block 2, Elbowoods Lane and Part of North 19th Street Memory 1st Addition

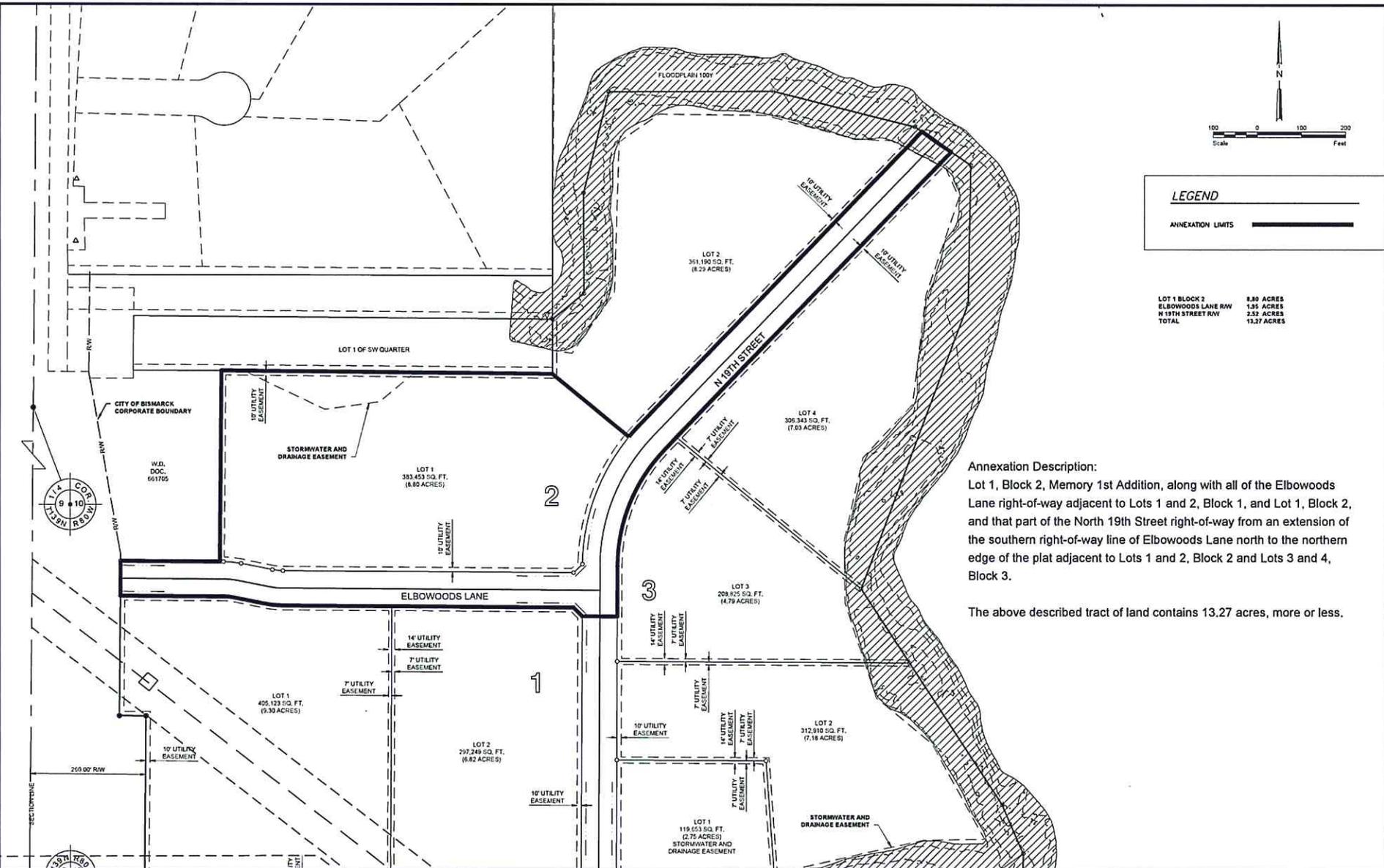


October 4, 2016 (klee)

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H:\Bismarck\5355-004-Sub-Section 8 and Section 10, 139-80\3555-004-Section 10 Development\CAD\DATA\Annexation\Lot1, Block 2.dwg, Layout 1, 9/15/2016, 7:10 AM, [jw@hst]



LEGEND

ANNEXATION LIMITS

| | |
|-------------------|--------------------|
| LOT 1 BLOCK 2 | 8.80 ACRES |
| ELBOWOODS LAKE RW | 1.95 ACRES |
| N 19TH STREET RW | 2.52 ACRES |
| TOTAL | 13.27 ACRES |

Annexation Description:
 Lot 1, Block 2, Memory 1st Addition, along with all of the Elbowoods Lane right-of-way adjacent to Lots 1 and 2, Block 1, and Lot 1, Block 2, and that part of the North 19th Street right-of-way from an extension of the southern right-of-way line of Elbowoods Lane north to the northern edge of the plat adjacent to Lots 1 and 2, Block 2 and Lots 3 and 4, Block 3.

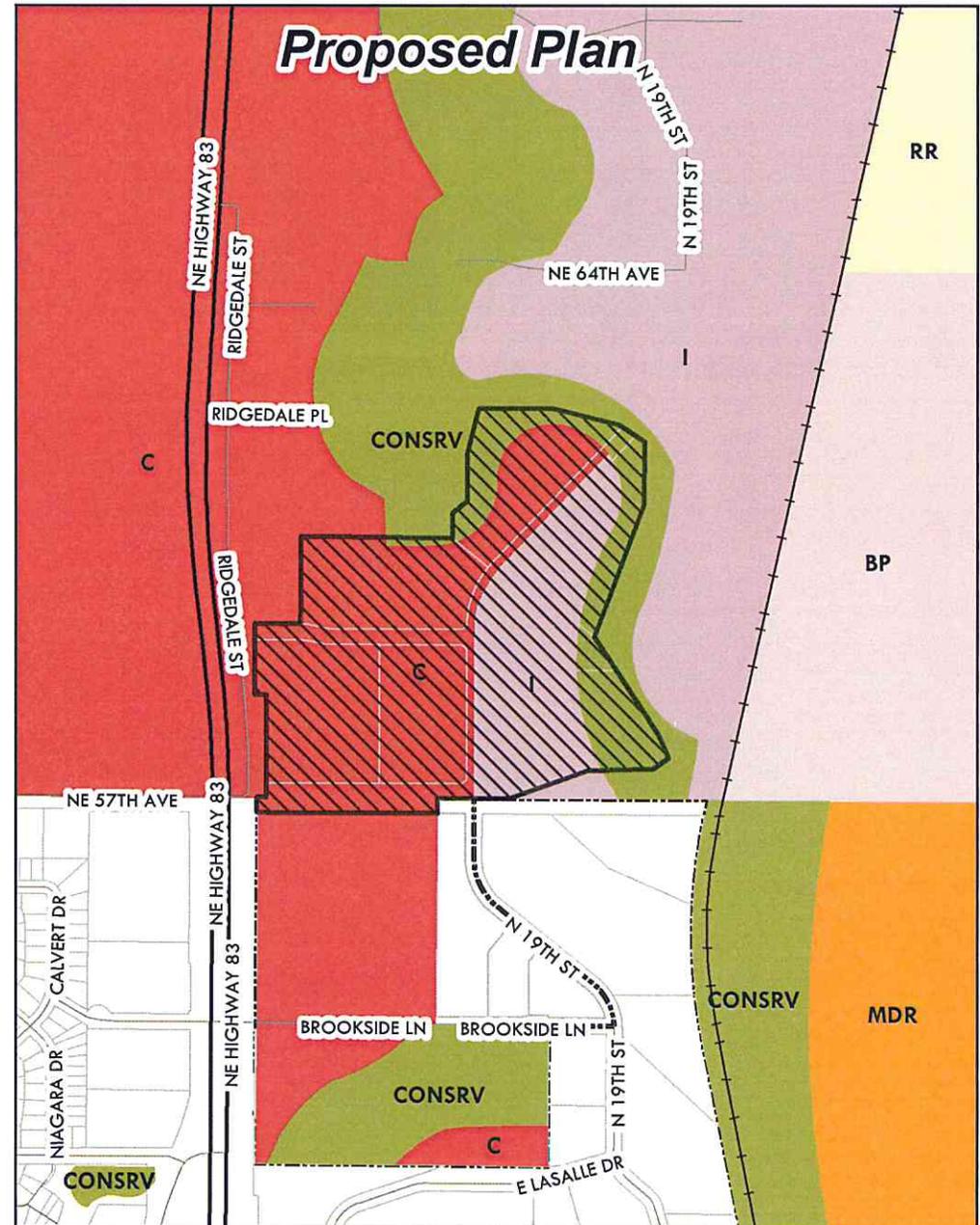
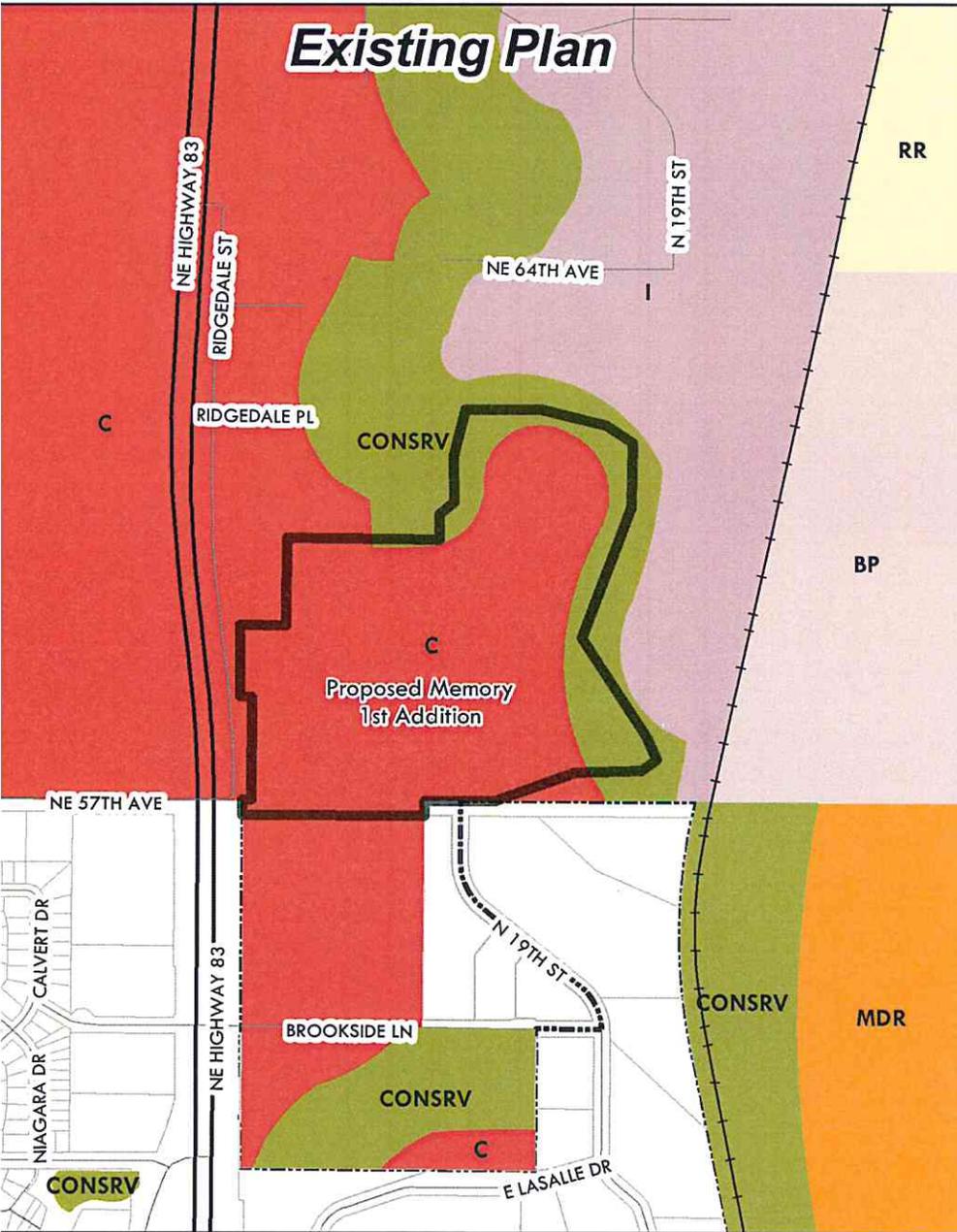
The above described tract of land contains 13.27 acres, more or less.

| | | | | | | | | | | | |
|-----|----------|------|----|--|--|----------------|-----------------|-------------------|--|--|---------------------|
| No. | Revision | Date | By | | Bismarck P: 701.223.0200 F: 701.223.0300 | Drawn by AV | Date 9-15-16 | Scale AS SHOWN | MEMORY 1ST ADDITION ANNEXATION BISMARCK, NORTH DAKOTA | ANNEXATION EXHIBIT PROJECT NO. 5355-004 | SHEET 1 of 1 |
| | | | | | | | | | | | |

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

Existing Plan

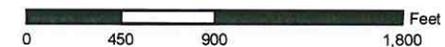
Proposed Plan



MDR = Medium Density Residential
 BP = Business Park
 C = Commercial

CONSRV = Conservation
 RR = Rural Residential
 I = Industrial

This map is for representational use only and does not represent a survey.
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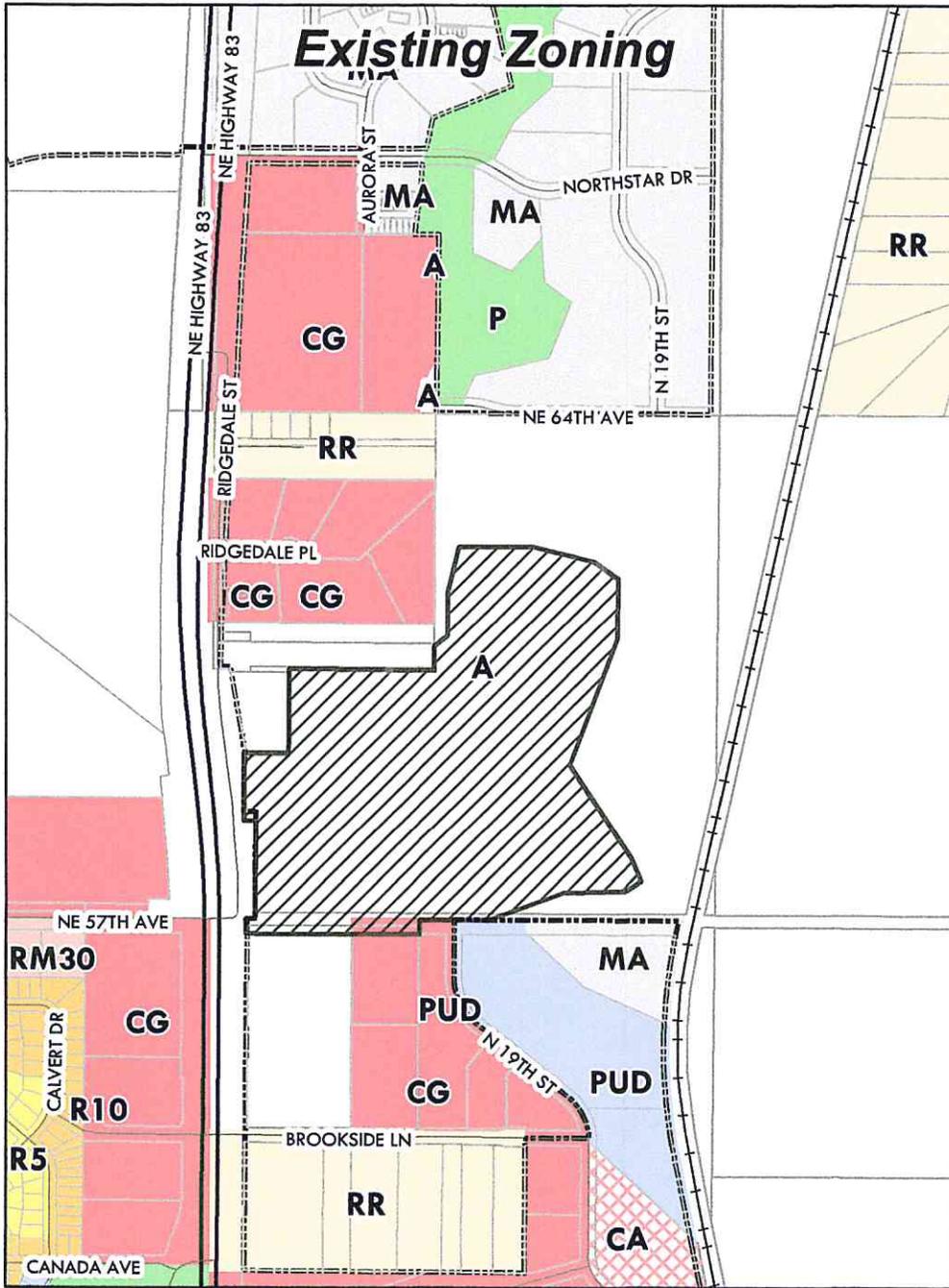


September, 2016

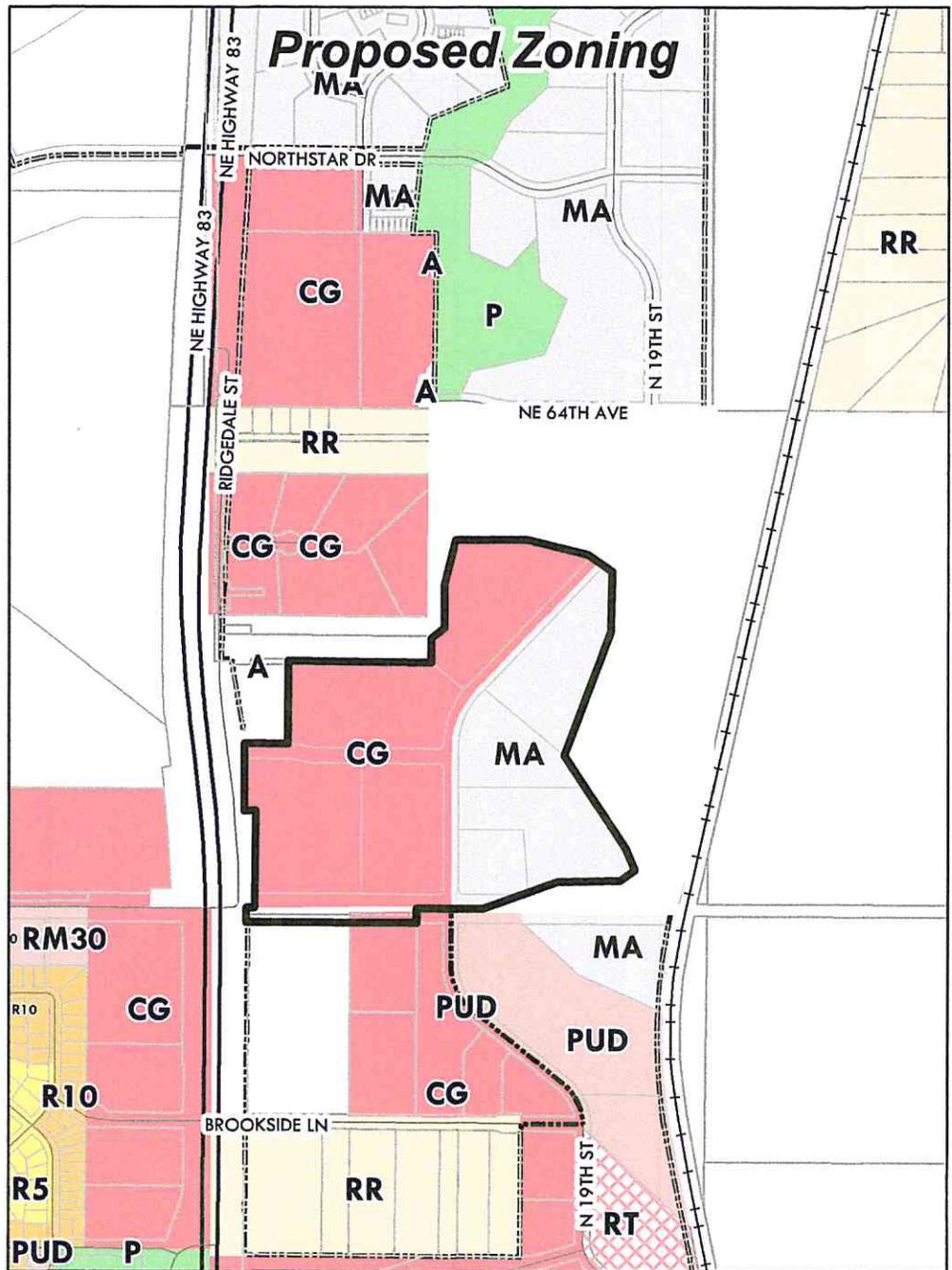


Memory 1st Addition

Existing Zoning

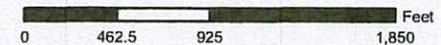


Proposed Zoning



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.



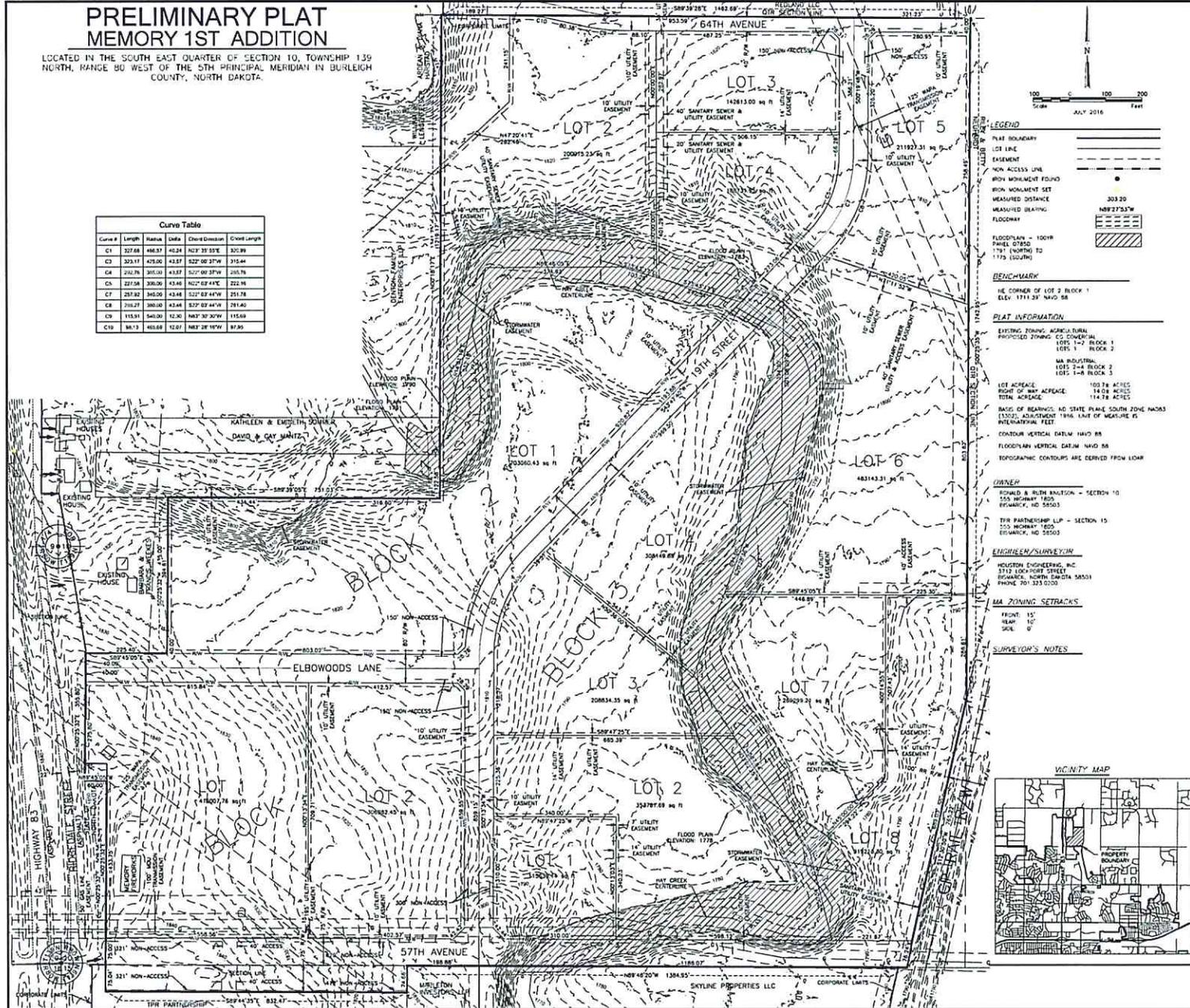
September, 2016



PRELIMINARY PLAT MEMORY 1ST ADDITION

LOCATED IN THE SOUTH EAST QUARTER OF SECTION 10, TOWNSHIP 139
NORTH, RANGE 90 WEST OF THE 5TH PRINCIPAL MERIDIAN IN BURLEIGH
COUNTY, NORTH DAKOTA.

| Curve Table | | | | |
|-------------|--------|--------|----------------|--------------|
| Curve # | Length | Radius | Chord Distance | Chord Length |
| C1 | 327.68 | 486.37 | N42° 33' 55"E | 325.89 |
| C2 | 223.17 | 425.00 | S22° 08' 37"W | 315.44 |
| C4 | 242.78 | 365.00 | S07° 09' 37"W | 285.76 |
| C5 | 227.28 | 309.00 | N02° 03' 41"E | 222.36 |
| C7 | 287.86 | 346.00 | S27° 03' 41"W | 251.78 |
| C8 | 218.27 | 360.00 | S27° 03' 41"W | 281.40 |
| C9 | 115.81 | 340.00 | N47° 30' 30"W | 115.69 |
| C10 | 84.13 | 465.68 | N47° 30' 30"W | 87.90 |



LEGEND

- PLAT BOUNDARY
- LOT LINE
- EASEMENT
- NON-ACCESS LINE
- IRON MONUMENT EDGWD
- IRON MONUMENT SET
- MEASURED DISTANCE
- MEASURED BEARING
- FLOODWAY

BENCHMARK

NE CORNER OF LOT 2 BLOCK 1
ELEV 1711.28 NAVD 88

PLAT INFORMATION

EXISTING ZONING: AGRICULTURAL
PROPOSED ZONING: CC CONVENTION
LOTS 1-2 BLOCK 1
LOTS 1-2 BLOCK 2
MA INDUSTRIAL
LOTS 3-4 BLOCK 2
LOTS 3-4 BLOCK 3

LOT ACREAGE: 103.78 ACRES
FRONT OF MAP ACREAGE: 14.08 ACRES
TOTAL ACREAGE: 114.78 ACRES

BASE OF BEARINGS: NO STATE PLANE SOUTH ZONE NAD83
ELEVATION ADJUSTMENT 1984.194 FT OF MEAN-SEA-LEVEL
INTERNATIONAL FEET

CONTIGUOUS VERTICAL DATUM: NAVD 88
FLOODWAY VERTICAL DATUM: NAVD 88
TOPOGRAPHIC CONTOURS ARE DERIVED FROM LIDAR

OWNER

SCHWAB & SMITH REALTOR - SECTION 10
155 HENRIETY RD
BISMARCK, ND 58503

DR. BARTHELEMY LLP - SECTION 15
200 HENRIETY RD
EDWARDS, ND 58543

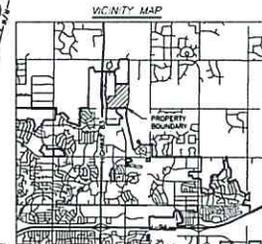
BURLEIGH SURVEYING

HEUSTON ENGINEERING, INC
5712 10th Street
Bismarck, North Dakota 58501
PHONE 701-323-0100

MA ZONING SETBACKS

FRONT: 15'
REAR: 10'
SIDE: 0'

SURVEYOR'S NOTES



BURLEIGH SURVEYING, Inc. Engineer, License No. 12867, 13800 13th Street, Bismarck, ND 58503, (701) 323-0100, Fax: (701) 323-0101, www.burleighsurveying.com, License No. 12867, 13800 13th Street, Bismarck, ND 58503, (701) 323-0100, Fax: (701) 323-0101, www.burleighsurveying.com

***Statement of Interest and Request to Modify the
City of Bismarck's Growth Management Plan
Memory 1st 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 19th 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 57th Avenue arterial street corridor was evaluated thoroughly via a review of four potential alignments and alternative access points for 19th 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 19th Street, and allowing for access to Lot 1 Block 1 in Memory 1st 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 57th 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 57th 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 19th 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 19th 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.