



Community Development Department

BISMARCK PLANNING AND ZONING COMMISSION
MEETING AGENDA
September 25, 2013

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

Item No. Page

MINUTES

- 1. Consider approval of the minutes of the June 26, July 24, and August 28, 2013 meetings of the Bismarck Planning & Zoning Commission.

CONSENT AGENDA

CONSIDERATION

The following items are requests for a public hearing.

- 2. Definitions/Brewery, Brew Pub and Microbrewery – Zoning Ordinance Text Amendment (JT) ..... 1
Staff recommendation: schedule a hearing [ ] schedule a hearing [ ] table [ ] deny
3. Zoning Administrator/Multiple Sections – Zoning Ordinance Text Amendment (CH) ..... 7
Staff recommendation: schedule a hearing [ ] schedule a hearing [ ] table [ ] deny

REGULAR AGENDA

FINAL CONSIDERATION/PUBLIC HEARINGS

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

- 4. High Meadows 12th Addition (Klee) – Final Plat (Klee) ..... 25
Staff recommendation: continue [ ] approve [ ] continue [ ] table [ ] deny

Bismarck-Burleigh County Community Development Department
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<b>5. South Meadows Addition (Klee)</b>	
a. Zoning Change (A to R5, R10, RM30 & P).....	31
<i>Staff recommendation: continue</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
b. Final Plat.....	35
<i>Staff recommendation: continue</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>6. Wagner Subdivision (JW)</b>	
<i>Apple Creek Township</i>	
a. Zoning Change (A to RR5).....	41
<i>Staff recommendation: continue</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
b. Final Plat.....	45
<i>Staff recommendation: continue</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>7. Lots 1-3, Block 1, Lots 1-3, Block 2 and the vacated Mayfair Avenue, Mayfair Managers Addition and the adjacent Tract S – Zoning Change (MA to CG) (Klee).....</b>	<b>53</b>
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>8. Missouri Valley Complex – Major PUD Amendment (Klee).....</b>	<b>57</b>
<i>Staff recommendation: approve w/changes</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>9. West 206 feet of Tract 1503, Section 3, Lincoln Township (City Lands) – Special Use Permit (drive-through) (JW).....</b>	<b>69</b>
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>10. Subdivision Regulations/Recording of Documents – Zoning Ordinance Text Amendment (Klee).....</b>	<b>75</b>
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
<b>11. Subdivision Regulations/Neighborhood Parks – Zoning Ordinance Text Amendment (CH).....</b>	<b>89</b>
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny

**OTHER BUSINESS**

- 12. Other**

**ADJOURNMENT**

- 13. Adjourn.** The next regular meeting date is scheduled for Wednesday, October 23, 2013.

Enclosures: Meeting Minutes of June 26, 2013  
Meeting Minutes of July 24, 2013  
Meeting Minutes of August 28, 2013  
Building Permit Activity Report for August 2013

# CITY OF BISMARCK

## Ordinance No. XXXX

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

AN ORDINANCE TO AMEND AND RE-NACT SECTIONS 14-02-03, 14-04-21, 14-04-21.3 AND 14-04-21.4 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO DEFINITIONS AND THE DOWNTOWN DISTRICTS.

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

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

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

\* \* \* \* \*

Brewery: A facility that manufactures over 5,000 barrels (31 gallons/barrel = 155,000 gallons) of fermented malt beverages per year for wholesale with no direct sales to the general public.

Brewpub: A restaurant that manufactures up to ~~5,000~~ 10,000 barrels (31 gallons/barrel = ~~155,000~~ 310,000 gallons) of fermented malt beverages per year for consumption on the premises.

\* \* \* \* \*

Micro-brewery: A facility that manufactures up to ~~5,000~~ 10,000 barrels of fermented malt beverages per year for wholesale or sale directly to the consumer.

\* \* \* \* \*

Section 5. Amendment. Section 14-04-21 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the Downtown Districts is hereby amended and enacted to read as follows:

14-04-21. Downtown Districts.

\* \* \* \* \*

2. Use Table. The table contained herein lists the uses allowed within the downtown zoning districts.

\* \* \* \* \*

*Use Table.*

Proposed Use Category	Definition	Use Standards	District	
			DC	DF
Commercial Uses				
Drive-through Facilities	Drive-through facilities in conjunction with a permitted principal use.	X	SUP	SUP
Entertainment Event, Major	Activities and structures that draw large numbers of people to specific events or shows. This category does not include outdoor recreation and entertainment uses, such as golf driving ranges and racetracks.		P	---
Microbrewery	Small-scale brewery that manufactures up to <del>5,000</del> <u>10,000</u> barrels of fermented malt beverages per year.	X	SUP	---
Office	Activities conducted in an office setting and generally focusing on business, government, professional, medical or financial services.		P	P

Parking, Accessory	Parking that is accessory to a specific use, but not located on the same parcel as the use - use standards for accessory parking that is adjacent to a residential use.	X	SUP	SUP
Parking, Commercial	Parking that is not accessory to a specific use - fees may or may not be charged.	X	SUP	SUP
Retail Sales and Services Sales-Oriented Personal Service-Oriented Entertainment-Oriented Repair-Oriented	Establishments involved in the sale, lease or rental of any new or used products to the general public - they may also provide personal services or entertainment or provide product repair or services for consumer and business goods - use standards for convenience store/gas stations, mortuaries/funeral homes and vehicle sales lots. This category does not include self-service storage uses, adult entertainment centers, animal hospitals or kennels, or off-premise advertising signs or microbreweries. Convenience store/gas stations are not allowed within the Downtown Core.	X	P	P

(Ord. 5422, 05-24-05)

Section 6. Amendment. Section 14-04-21.3 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the Downtown Districts Use Categories is hereby amended and enacted to read as follows:

14-04-21.3 Use Categories.

\* \* \* \* \*

2. *Commercial Use Categories.*

\* \* \* \* \*

c. *Microbrewery.* *Microbreweries are small-scale breweries that manufacture up to ~~5,000~~ 10,000 barrels of fermented malt beverages per year for wholesale or sale directly to the consumer.*

\* \* \* \* \*

g. *Retail Sales and Services.* Retail sales and services are firms that are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods. Examples of retail sales and services are broken down into four categories: sales-oriented, personal-service-oriented, entertainment-oriented, and repair oriented.

Examples of sales-oriented uses include stores selling, leasing or renting consumer, home and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery and videos; food sales; and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light trucks and other recreational vehicles.

Examples of personal services-oriented uses include branch banks; laundromats; photographic studios; photocopy and blueprint services; hair, tanning and personal care services; business, martial arts and other trade schools; dance or music classes;

taxidermists; mortuaries; veterinarians (out-patient only); and animal grooming.

Examples of entertainment-oriented uses include restaurants, cafes, delicatessens, brewpubs, bars and taverns; indoor entertainment activities such as bowling alleys, ice rinks, game arcades, and pool halls; dance halls; indoor firing ranges; theaters; health clubs and gyms; membership clubs and lodges; and hotels, motels and other temporary lodging with an average stay of less than 30 days, including bed and breakfast facilities.

Examples of repair-oriented uses include repair of televisions, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop-off; tailor; locksmith; and upholsterer.

This category does not include self-service storage uses, adult entertainment centers, animal hospitals or kennels, or off-premise advertising signs or microbreweries.

\* \* \* \* \*

Section 7. Amendment. Section 14-04-21.4 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the Downtown Districts Use Standards is hereby amended and enacted to read as follows:

14-04-21.4 Use Standards.

\* \* \* \* \*

Section 8. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 9. Effective Date. This ordinance shall take effect following final passage and adoption.

# CITY OF BISMARCK

## Ordinance No. XXXX

*First Reading* \_\_\_\_\_  
*Second Reading* \_\_\_\_\_  
*Final Passage and Adoption* \_\_\_\_\_  
*Publication Date* \_\_\_\_\_

AN ORDINANCE TO AMEND AND RE-ENACT PORTIONS OF TITLE 14 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO ZONING AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND.

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

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

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

\* \* \* \* \*

Building Official: The person designated by the Director of Community Development to administer and enforce the City's building regulations and other duties as specified in this Chapter.

\* \* \* \* \*

Special use: A use permitted in a particular zoning district only upon showing that such in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in a zoning ordinance and authorized by the city planning zoning commission or the Building Official Zoning Administrator (where allowed).

\* \* \* \* \*

Zoning Administrator: The person or persons designated by the Director of Community Development to administer and enforce the City's zoning and subdivision regulations.

Section 2. Amendment. Section 14-03-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to General Provisions is hereby amended and re-enacted as follows:

**14-03-04. General Provisions.**

\* \* \* \* \*

5. Nonconforming uses. The Building Official is authorized to issue a certificate of occupancy for a building only if said building fully complies with the zoning ordinance in effect at the date of issuance of the building permit and with the building code and with other applicable ordinances of the City of Bismarck.

\* \* \* \* \*

Section 3. Amendment. Section 14-03-05 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Districts is hereby amended and re-enacted as follows:

**14-03-05. Supplementary Provisions.**

\* \* \* \* \*

9. Residential Area Identification Signs.

\* \* \* \* \*

j. A permit for a residential area identification sign must be issued by the City Building Official prior to the construction or installation of such sign in accordance with the provisions of Chapter 4-04 of the City Code of Ordinances (Signs and Outdoor Display Structures). If a homeowners' association is established, documentation on such association shall be submitted to ~~and approved by~~ the City Building Official prior to the granting of a permit for the residential area identification sign.

10. Industrial Park Area Identification Signs.

\* \* \* \* \*

i. Maintenance of all industrial park area identification signs and plantings shall be the responsibility of the industrial park owner(s). ~~If a property owners' association is established, documentation on such association shall be submitted to and approved by the City Building Official prior to the granting of a permit for the industrial park area identification sign.~~

j. A permit for an industrial park area identification sign must be issued by the Building Official prior to the construction or installation of such sign in accordance with the provisions of Chapter 4-04 of the City Code of Ordinances (Signs and Outdoor Display Structures). If a homeowner's association is established, documentation on such association shall be submitted to the Building Official prior to the granting of a permit for the industrial park area identification sign.

\* \* \* \* \*

Section 4. Amendment. Section 14-03-06 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Incidental Uses is hereby amended and re-enacted as follows:

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

\* \* \* \* \*

2. Home occupation:

a. There is permitted in a dwelling any occupation customarily incidental to the principal use as a dwelling subject to the following limitations:

1. A permit for the home occupation shall be obtained from the Building Official Zoning Administrator prior to the initiation of the use. Said permit shall be valid for two years. An administrative fee may be charged. Any appeal

from a decision relative to said permit shall be referred to the Board of Adjustment.

\* \* \* \* \*

Section 5. Amendment. Section 14-03-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Special Uses is hereby amended and re-enacted as follows:

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

1. General provisions.

a. The uses listed in this section are designated as special uses, and no building permit or certificate of occupancy shall be issued by the Building Official until the application for such permit or certificate has been reviewed and authorized by the city planning and zoning commission except that certain uses may be authorized by the ~~Building Official~~ Zoning Administrator.

\* \* \* \* \*

c. Before approving the issuance of a building permit or certificate of occupancy for a special use, the city planning and zoning commission or ~~Building Official~~ the Zoning Administrator (where allowed) shall find:

\* \* \* \* \*

d. The city planning and zoning commission or ~~Building Official~~ the Zoning Administrator (where allowed) is authorized to impose any conditions on the grant of a building permit or certificate of occupancy

for a special use it deems necessary for the protection of the neighborhood and the general welfare of the public.

e. The city planning and zoning commission or ~~Building Official~~ the Zoning Administrator (where allowed) shall not authorize the location of a special use in any district from which it is prohibited.

f. The city planning and zoning commission or ~~Building Official~~ the Zoning Administrator shall not be authorized to permit the issuance of a building permit or certificate of occupancy for any special use if it is found that such special use would fail to comply with any of the requirements of this title or this section.

g. The city planning and zoning commission or ~~Building Official~~ the Zoning Administrator (where allowed) shall require the applicant for authorization of a special use to furnish any engineering drawings or specifications, site plans, operating plans or any other data ~~the board finds~~ necessary to appraise the need for or effect of such special use.

\* \* \* \* \*

2. Temporary uses (administrative approval). The ~~Building Official~~ Zoning Administrator is authorized to grant permits for certain temporary uses without a public hearing or approval of the city planning and zoning commission. All temporary structures used for the following uses shall be removed within fifteen days after termination of the use. The following are temporary uses to which such regulations apply:

\* \* \* \* \*

f. For a show, circus, menagerie or carnival in a CA, CR, CG, MA, MB, A or P Zone for a period of no more than ten days provided that proof of a bond or liability insurance as required by City Ordinance 5-03-08 is provided prior to the first day of the event and that no less than thirty days prior to the first day of the event the applicant shall submit an application for the event to the ~~Building Official~~ Zoning Administrator. Such application shall be

accompanied by a fee of \$100.00 per day for each day of the event fee which shall be in addition to any other license or inspection fees, and a site plan of the event showing at least the following details:

1) General layout with dimensions and legal description.

2) Location and type of sanitary facilities. There shall be at least one toilet facility for each sex for every ten concessions.

3) Circulation plan showing access points, pedestrian areas and parking areas.

4) At least nine hundred square feet of area shall be required for each concession.

5) No public right-of-way shall be utilized for any portion of the event without special permission of the Board of City Commissioners.

6) No noise in excess of sixty decibels may be emitted after 11:00 p.m.

7) No event may begin earlier than 9:00 a.m. nor continue later than 1:00 a.m.

8) Each event which conducts, operates, manages or sponsors any ferris wheel, merry-go-round or other amusement ride shall post a \$500,000 bond or liability insurance as required by City Ordinance 5-03-08.

9) Shows, circuses, menageries or carnivals held at the Civic Center or the Missouri Valley Complex do not require a special use permit. Events held at those locations must still comply with all applicable City Ordinances and adopted codes.

10) The Zoning Administrator will provide a copy of each application for a temporary special use permit for a show, circus, menagerie or carnival to the Police Department, Fire Department, the Building Official, the Traffic

Engineer and to the Environmental Health Administrator for events held within the City and to the Sheriff, the County Engineer, the Building Official, the Environmental Health Administrator and the Rural Fire Department for events held outside the City.

\* \* \* \* \*

3. Permanent uses (administrative approval). The ~~Building Official~~ Zoning Administrator may issue special use permits for the following uses without a public hearing or approval of the city planning and zoning commission:

\* \* \* \* \*

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

\* \* \* \* \*

c. Golf driving range. A golf driving range not an accessory use to a golf course may be permitted in an A, CG, or MA district as a special use, provided:

\* \* \* \* \*

4. Parking shall be provided to equal 90% of the facility's rated capacity ~~as determined by the Building Official.~~

\* \* \* \* \*

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 ~~certificate of occupancy~~ special use permit granted under the provisions of this article shall be revoked by the ~~Building Official~~ Zoning Administrator if the holder violates any provisions of this ordinance or any

special provision imposed by the city planning and zoning commission.

\* \* \* \* \*

v. Small Wind Energy Systems. This section is intended to provide reasonable standards for the use of a Small Wind Energy System (SWES) which would allow electrical power consumers to supplement or replace their use of utility-provided electrical power without creating negative impacts to adjacent properties or the public.

\* \* \* \* \*

7. Additional rules regarding SWES's.

\* \* \* \* \*

a. Sound Measurements. Following approval and installation of a SWES, the ~~Building Official~~ Zoning Administrator may require the owner/operator of the SWES to engage a certified technician to perform sound measurements at the closest property line to determine and report ambient and operating decibel levels.

\* \* \* \* \*

Section 6. Amendment. Section 14-03-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Off-Street Parking and Loading is hereby amended and re-enacted as follows:

**14-03-10. Off-Street Parking and Loading.**

1. Off-street parking.

\* \* \* \* \*

h. Retail establishments, including personal service shops, equipment or repair shops:

\* \* \* \* \*

2) In a CR commercial zone - Off-street parking shall be provided in an amount equivalent

to five 5.0 spaces per thousand square feet of gross leasable area. Where minimum setbacks occur, no parking shall be allowed between a building and an adjacent street. A site circulation plan shall be prepared by the shopping center and approved by the ~~Building Official~~ Zoning Administrator.

\* \* \* \* \*

4. Uses not specifically mentioned or unique situations. For any use not specifically mentioned in this section or in unique situations, the ~~Building Official~~/Zoning Administrator has the authority to modify the number of off-street parking spaces required based on the occupancy load. In such cases, either the ~~Building Official~~/Zoning Administrator or the applicant for the certificate of occupancy or building permit may apply to the board of adjustment for an interpretation of the provisions of this article for such off-street parking and off-street loading requirements and the board of adjustment shall render a decision in writing in the manner provided for in this article for such action.

\* \* \* \* \*

9. Plan of required off-street parking or loading areas. For the purpose of converting parking or loading spaces into the required parking or loading area, plans must be submitted to the ~~Building Official~~ Zoning Administrator to show how the required parking or loading space shall be arranged in the area supplied for that purpose and to indicate sufficient space for parking maneuvers, as well as adequate ingress and egress to the parking or loading area. For each parking space, not under roof, there shall be provided additional area for lanes, alleys, aisles and drives necessary for safe and adequate parking maneuvering. For each off-street loading space required by this section there shall be provided space clear and free of all obstructions, at least ten (10) feet in width, fifty feet (50) feet in length and fourteen (14) feet in height. Off-street parking and off-street loading space shall be provided with methods of ingress and egress such that it will be unnecessary for trucks or tractor-trailer combinations to back into them from a street or out of them into a street.

\* \* \* \* \*

Section 7. Amendment. Section 14-04-05 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to RMH Residential District is hereby amended and re-enacted as follows:

**14-04-05. RMH Residential District**

\* \* \* \* \*

4. Community Storage Buildings. Private garages or storage buildings located within manufactured home parks but not located on individual lots may be allowed, provided:

\* \* \* \* \*

f. Site Plan. No community storage building or buildings shall be constructed until a site plan has been approved by the ~~Building~~ Official Zoning Administrator.

\* \* \* \* \*

Section 8. Amendment. Section 14-04-05 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to CR Commercial District is hereby amended and re-enacted as follows:

**14-04-13. CR Commercial District.**

\* \* \* \* \*

8. Off-street parking. Off-street parking shall be provided in an amount equivalent to five 5.0 spaces per thousand (1,000) square feet of gross leasable area. Where minimum setbacks occur, no parking shall be allowed between a building and an adjacent street. A site circulation plan shall be prepared by the shopping center and approved by the ~~Building Official~~ Zoning Administrator.

\* \* \* \* \*

Section 9. Amendment. Section 14-04-05 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to FP Floodplain District is hereby amended and re-enacted as follows:

**14-04-19. FP Floodplain District.** In any FP floodplain district, the following regulations shall apply:

\* \* \* \* \*

3. Definitions. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application.

\* \* \* \* \*

"Floodplain Administrator" means the person designated by the ~~City of Bismarck~~ Director of Community Development to administer and enforce the City's floodplain regulations.

\* \* \* \* \*

5. Administration.

\* \* \* \* \*

c. ~~Designation of~~ Administration by the Floodplain Administrator. ~~The Building Official Floodplain Administrator, as defined herein, shall is hereby appointed to~~ administer and implement this section by granting or denying development permit and non-structural development permit applications in accordance with its provisions.

Section 10. Amendment. Section 14-05-01 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Administration and Enforcement is hereby created and enacted as follows:

14-05-01. Administration and Enforcement. This title shall be administered and enforced by the Zoning Administrator except as provided herein.

Section 11. Amendment. Section 14-05-01 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Building Permits and Approval of Plan is hereby amended and re-enacted as follows:

**14-05-01 01.1. Building Permits and Approval of Plan.**

~~This article shall be enforced by the The Building Official, who shall in no case grant any permit for the construction, moving, or alteration of any building if the building as proposed to be constructed, moved or altered would be in violation of any of the provisions of this article. All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the plot to be built upon, the exact sizes and locations on the plot of the buildings and accessory buildings then existing, and the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of such building or part of a building, the number of families or housekeeping units the building is designed to accommodate, and such other information with regard to the plot and neighboring plots as may be necessary to determine and provide for the enforcement of this chapter. One copy of such plans shall be returned to the owner when such plans shall have been approved by the Building Official.~~

*(Ord. 4486, 04-27-93; Ord. 5728, 05-26-09)*

Section 12. Amendment. Section 14-05-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Duties of Building Official, Fire Chief, Courts, City Planning and Zoning Commission and Board of City Commissioners as to Matter of Appeal is hereby amended and re-enacted as follows:

\* \* \* \* \*

**14-05-03 04. Duties of Building Official, Zoning Administrator, Board of Adjustment, Fire Chief, Courts, City Planning and Zoning Commission and Board of City Commissioners as to Matter of Appeal.**

~~It is the intent of this article that questions arising in connection with the enforcement of the article shall be presented first to the Building Official Zoning Administrator and that such questions shall be presented to the board of adjustment only on appeal from the Building Official Zoning Administrator and that from the decision of the board of adjustment, appeal may be made to the board of city commissioners as provided by ordinance. Questions involving the enforcement of Section 14-05-05.1 shall be presented first to the Fire Chief and that such questions shall be presented to the board of adjustment only on appeal from the Fire Chief and that from the decision of the board of adjustment, appeal may be made to the board of city commissioners as provided by ordinance. Questions involving special uses shall be presented to the city planning and zoning commission and appeal may be made to the~~

board of city commissioners as provided by ordinance. Temporary special uses may be granted by the ~~Building Official Zoning Administrator~~ and appealed to the board of city commissioners.  
(Ord. 4486, 04-27-93; Ord. 5728, 05-26-09)

Section 13. Amendment. Section 14-05-03.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Notice and Order is hereby amended and re-enacted as follows:

**14-05-03.1. Notice and Order.** Whenever a violation of this title is found, the ~~Building Official Zoning Administrator~~ or his or her agent shall give written notifications to the owner of the property or to the occupant or renter of the property that a violation has occurred and order the violation abated and the property, building or use brought into compliance with this title. ~~Whenever a violation of Section 14-05-05.1 of this title is found, the Fire Chief or his or her agent shall give written notifications to the owner of the property or to the occupant or renter of the property that a violation has occurred and order the violation abated and the property, building or use brought into compliance with this title.~~ A reasonable amount of time must be allowed for compliance.  
(Ord. 4862, 08-12-97; Ord. 5728, 05-26-09)

Section 14. Amendment. Section 14-05-05.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Accumulation of Certain Items Prohibited is hereby amended, re-enacted and moved from Chapter 14-05 to Chapter 8-01 as follows:

**14-05-05 8-01-06.1. Accumulation of Certain Items Prohibited.**

1. No person shall cause, permit, keep, accumulate or allow the accumulation of any commercial equipment, junk, refuse, surplus, scrap, salvage or other similar items outside of a closed building in any residentially-zoned district. The items for which accumulations are prohibited under this section may include one or more of the following but are not limited to hazardous wastes, scrap metals, used or scrap lumber, household appliances, machinery, farm machinery, commercial equipment, new or used building materials, construction or demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, tires, used oil or solvents, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or other similar items. The fact that an item or items has value or is

operational shall not excuse conduct prohibited by this section. For the purposes of this section, residential districts shall include RR, RR5, R5, RMH, R10, RM, RT, PUD, and HM. Prior to signing a complaint under this section, ~~the Fire Chief or his or her agent~~ Environmental Health Administrator must serve the property owner or tenant with a notice and order pursuant to Section ~~14-05-03.1~~ 8-01-07.

2. No person shall cause, permit, keep, accumulate or allow the accumulation of any junk, refuse, surplus, scrap, salvage or similar items outside of a closed building or opaque fencing in any commercially, industrially or agriculturally-zoned district absent a special use permit. The items for which accumulations are prohibited under this section may include one or more of the following but are not limited to hazardous wastes, scrap metals, used or scrap lumber, household or commercial appliances, used building materials or salvage, construction demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, used tires, used oil or solvents, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or other similar items. The fact that an item or items may have value does not excuse the conduct prohibited by this section. The prohibitions contained in this section shall apply to properties zoned CA, ~~CB,~~ DC, DF, PUD, CR, CG, MA, MB, or A. Prior to signing a complaint under this section, ~~the Fire Chief or agent~~ Environmental Health Administrator must serve the property owner or tenant with a notice and order pursuant to Section ~~14-05-03.1~~ 8-01-07.

(Ord. 4861, 08-12-97; Ord. 4936, 09-08-98; Ord. 5728, 05-26-09)

Section 15. Amendment. Section 14-05-06.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Abatement is hereby amended and re-enacted as follows:

**14-05-06.1 Abatement.** The imposition of a penalty provided by the provisions of this title shall not preclude the city from instituting proceedings to restrain, correct or abate a continuing violation of this title. If within ten days of a final order that order has not been obeyed, the ~~Building Official~~ Zoning Administrator or his or her agent is hereby authorized to restrain, correct or abate the violation and have the costs incurred assessed against the property. An order of the ~~Fire Chief~~ Zoning Administrator issued pursuant to Section 14-05-03.1 becomes final when upheld by the Board of City

Commissioners or when the time specified for appeal to the board of city commissioners has expired.

(Enacted: Ord. 4963, 02-23-99)

(Ord. 5728, 05-26-09)

\* \* \* \* \*

Section 16. Amendment. Section 14-06-02 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Powers and Duties is hereby amended and re-enacted as follows:

\* \* \* \* \*

**14-06-02. Powers and Duties.** The board of adjustment is an administrative board whose powers and duties are limited generally by the laws of the State of North Dakota, particularly by the powers and duties set forth in this section. The board of adjustment shall not have the power to amend this article on zoning, nor to permit nor prohibit any actions which accomplish an amendment of this article on zoning, nor to permit any action nor fail to prohibit any action which would violate this article. However, it is declared the intent of this section that any actions taken by the board of adjustment in full compliance with the provisions of this section shall be deemed to be administrative actions, and shall not be interpreted as unauthorized amendments of the article. The board of adjustment shall have the following powers and duties:

1. Interpretation. On appeal from an order, requirement, determination or provision made by the ~~Building—Official~~ Zoning Administrator or other administrative official, or by request from any official, agency or head of the city, the board of adjustment shall decide any question involving the interpretation of any provision of this article. The board of adjustment may, in conformity with this article, reverse, affirm, or modify wholly or in part, or render a decision upon any such appeal or request.

\* \* \* \* \*

Section 17. Amendment. Section 14-06-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Appeal Procedure is hereby amended and re-enacted as follows:

**14-06-03. Appeal Procedure.**

1. Appeal - How taken: An appeal to the board of adjustment may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board, or bureau affected by any decision of the ~~Building Official~~ Zoning Administrator based in whole or in part upon the provisions of this article. Such appeal shall be taken within such time as shall be prescribed by the board of adjustment by general rule, by filing with the ~~Building Official~~ Zoning Administrator and with the board of adjustment a notice of appeal and specifying the grounds thereof. The ~~Building Official~~ Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the ~~Building Official~~ Zoning Administrator certifies to the board of adjustment, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application, and notice to the ~~Building Official~~ Zoning Administrator and on due cause shown.

2. Appeal - Procedure. The board of adjustment shall fix a reasonable time for the hearing of an appeal or for action on any matter upon which it is required to pass under this article and give due notice thereof to interested parties, and make all decisions within a reasonable time. Upon any hearing, any party may appear in person or by agent or attorney. The concurring vote of four members of the board shall be necessary to reverse an order, requirement, decision or determination of the ~~Building Official~~ Zoning Administrator or other official, or to decide in favor of the applicant any matter upon which it is required to pass under this article. The board shall adopt rules of procedure and shall keep records of applications and action thereon, which shall be a public record.

\* \* \* \* \*

Section 18. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of

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

Section 19. Effective Date. This ordinance shall take effect following final passage and adoption.

**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

<b>BACKGROUND:</b>		
<b>Title:</b> High Meadows 12 <sup>th</sup> Addition – Final Plat		
<b>Status:</b> Planning Commission – Public Hearing (continued)	<b>Date:</b> September 25, 2013	
<b>Owner(s):</b> Daniel Haakenson – Lot A of L3, B2 Robert & Nadine Schaff – Lot B of L3, B2 Curt & Diane Wentz – L4, B2	<b>Engineer:</b> Swenson, Hagen & Co.	
<b>Reason for Request:</b> Re-plat property for further development upon annexation (currently scheduled for 2014).		
<b>Location:</b> In northwest Bismarck, west of North Washington Street between Colt Avenue and Buckskin Avenue (A replat of Lots A and B of Lot 3, Block 2 and Lot 4, Block 2, KMK Estates Subdivision).		
<b>Project Size:</b> 9.16 acres	<b>Number of Lots:</b> 25 lots in 2 blocks	
<b>EXISTING CONDITIONS:</b>		
<b>Land Use:</b> Rural residential	<b>PROPOSED CONDITIONS:</b>	
<b>Zoning:</b> RR – Residential	<b>Land Use:</b> Single-family residential	
<b>Uses Allowed:</b> RR – Rural residential	<b>Zoning:</b> RR – Residential	
<b>Maximum Density Allowed:</b> RR – One unit/65,000sf	<b>Uses Allowed:</b> RR – Rural residential	
	<b>Maximum Density Allowed:</b> RR – One unit/65,000sf	
<b>PROPERTY HISTORY:</b>		
<b>Zoned:</b> 04/59	<b>Platted:</b> 11/69	<b>Annexed:</b> ---
<b>ADDITIONAL INFORMATION</b>		
<ol style="list-style-type: none"> <li>1. The City initiated the annexation of those parts of KMK Estates Subdivision and KMK Estates 2<sup>nd</sup> Subdivision not previously annexed in October 2006. In June 2007, an annexation agreement was entered into between the City and all property owners that annexation would be delayed for five years, until June 2012. In June 2011, conversations amongst City staff and impacted property owners resulted in a decision being made that annexation would be delayed until June 2014. All property owners were also informed that they could be annexed earlier upon request.</li> <li>2. The proposed plat was not accompanied by a zoning change or early annexation request. The applicant is proposing the plat for future development. The plat could not be recorded or the lots developed until the existing accessory buildings located within the proposed public right-of-way are removed and the property is annexed and rezoned to R5-Residential.</li> <li>3. The proposed plat was reduced in size since consideration of the preliminary plat. The property north of Colt Avenue that was included in the preliminary plat is now in the process of being platted as Koosman Addition and has been removed from this plat.</li> </ol>		
<i>(continued)</i>		

4. The applicant is requesting the use of a cul-de-sac for this development and has submitted written justification for this request. Section 14-09-05(1)(m) of the Subdivision Regulations (Design Standards) states, "The use of cul-de-sac streets shall be limited in order to promote a well-connected street network that provides for safe, direct and convenient access by vehicles, bicycles, and pedestrians. Cul-de-sac streets may be permitted in instances where there is no reasonable opportunity to provide for future connections to adjoining streets, including natural barriers such as topography or water features, man-made barriers such as railroad tracks, or to discourage through traffic between incompatible land uses. Detailed written justification for the use of cul-de-sac streets in proposed subdivision plats shall be provided as part of the plat application process." Based on these criteria, staff has no objection to the use of a cul-de-sac in this location.

#### **FINDINGS:**

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has not yet been approved by the City Engineer.
3. The proposed subdivision is outside of the area covered by the Fringe Area Road Master Plan. North Washington Street to the east of the proposed plat and Ash Coulee Drive to the north of the proposed plat are both classified as minor arterials on the MPO's Functional Classification Network (2009).
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include a combination of urban single-family residential and rural single-family residential to the north, south, east and west.
5. The proposed subdivision would be annexed prior to development; therefore, it would not place an undue burden on public services and facilities, provided the existing accessory buildings within the proposed Canter Street right-of-way are removed prior to recording the plat.
6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations, provided the property is annexed and rezoned to R5-Residential prior to the plat being recorded and the new lots sold for development.
8. The proposed subdivision is consistent the master plan, other adopted plans, policies and accepted planning practice.

#### **RECOMMENDATION:**

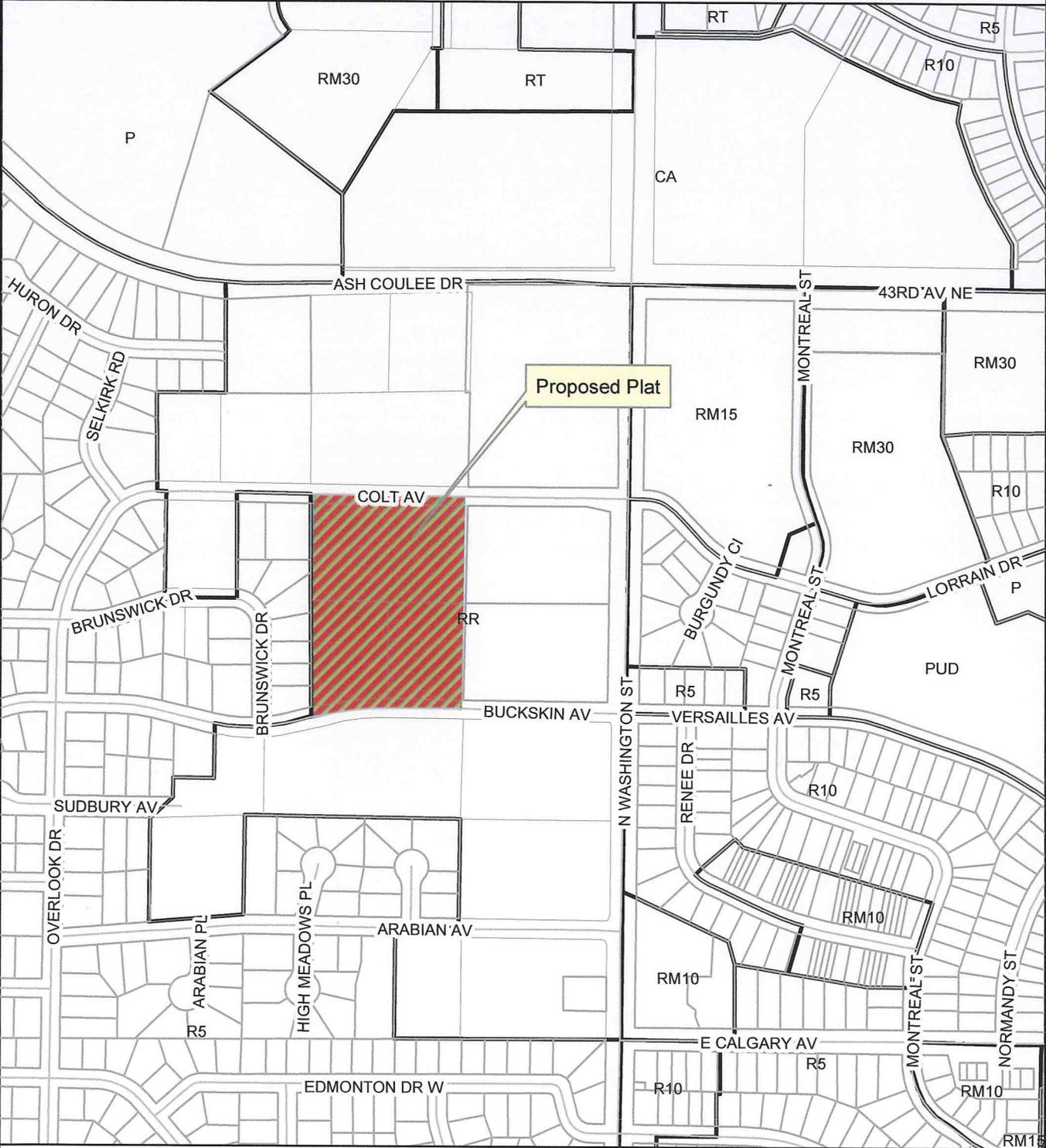
Based on the above findings, staff recommends continuing action on the final plat of High Meadows 12<sup>th</sup> Addition until the storm water management plan has been approved by the City Engineer.

If the City Engineer approves the storm water management plan prior to the public meeting, staff will change its recommendation to:

Based on the above findings, staff recommends approval of the final plat of High Meadows 12<sup>th</sup> Addition, including the granting of a waiver to allow the use of a cul-de-sac, and with the following condition:

1. The mylar for High Meadows 12<sup>th</sup> Addition cannot be recorded until the existing accessory buildings located within the proposed Canter Street public right-of-way and on Lot 12, Block 1 are removed from the property, the property is annexed and the property is rezoned to R5- Residential.

# Proposed Plat High Meadows 12th Addition



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.  
Map was Updated/Created: September 19, 2013 (Klee)

Source: City of Bismarck

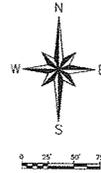


# HIGH MEADOWS 12TH ADDITION

BEING A REPLAT OF LOTS A & B OF LOT 3 BLOCK 2 & LOT 4 BLOCK 2 OF  
KMK ESTATES PART OF THE NE 1/4 OF SECTION 20, T. 139 N., R. 80 W.

**BISMARCK, BURLEIGH COUNTY  
NORTH DAKOTA**

JUL 12 2013



SCALE: 1"=50'

MAY 16, 2013  
DATUM: NAD 83



### NOTES

- BASE OF BEARING: NORTH DAKOTA STATE PLANE, SOUTH ZONE BY CITY ORDINANCE
- EDICHMANN HYDRAUNTRIC COLT AVENUE 1ST EAST OF SELKIRK ROAD (ELEV = 1034.92 (NVD 20))
- COGNOMIC DATUM: NORTH DAKOTA STATE PLANE COORDINATE SYSTEM, NAD 83 SOUTH ZONE, ADJUSTMENT OF 1996. UNITS ARE INTERNATIONAL FEET
- VERTICAL DATUM: NATIONAL GEODETIC VERTICAL DATUM OF 1929
- BEARINGS AND DISTANCES MAY VARY FROM PREVIOUS PLATS DUE TO DIFFERENT METHODS OF MEASUREMENTS.
- MONUMENT TO BE SET
- MONUMENT IN PLACE

AREA		
LOTS	297,641 SF	6.84 ACRES
STREET	101,272 SF	2.32 ACRES
TOTAL	398,913 SF	9.16 ACRES

### DESCRIPTION

BEING A REPLAT OF LOTS A & B OF LOT 3 BLOCK 2 & LOT 4 BLOCK 2 OF KMK ESTATES PART OF THE NE 1/4 OF SECTION 20, T. 139 N., R. 80 W., BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 4 BLOCK 2, THENCE NORTH 00 DEGREES 53 MINUTES 41 SECONDS EAST, A DISTANCE OF 33.00 FEET TO THE CENTER RIGHT-OF-WAY LINE OF COLT AVENUE; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 540.00 FEET; THENCE SOUTH 00 DEGREES 53 MINUTES 41 SECONDS WEST, A DISTANCE OF 33.00 FEET; THENCE SOUTH 00 DEGREES 51 MINUTES 08 SECONDS WEST, ALONG THE EAST BOUNDARY LINE OF SAID LOT 3, A DISTANCE OF 330.00 FEET; TO THE NORTH BOUNDARY LINE OF SAID LOT 3, BLOCK 2; THENCE SOUTH 00 DEGREES 48 MINUTES 42 SECONDS WEST, ALONG THE EAST BOUNDARY LINE OF SAID LOT 3, A DISTANCE OF 330.00 FEET; THENCE TO THE CENTER RIGHT-OF-WAY LINE OF BUCKSKIN AVENUE; THENCE NORTH 89 DEGREES 10 MINUTES 38 SECONDS WEST, ALSO SAID CENTERLINE, A DISTANCE OF 289.63 FEET; THENCE SOUTHWESTERLY AND CURVED TO THE CENTER RIGHT-OF-WAY LINE OF SAID CENTERLINE, AN ARC LENGTH OF 104.04 FEET; THENCE SOUTH 00 DEGREES 53 MINUTES 33 SECONDS WEST, CONTAINING ALONG SAID CENTERLINE, A DISTANCE OF 103.96 FEET TO THE WEST BOUNDARY LINE OF LOTS 3 & 4, BLOCK 2, EXTENDING, THENCE NORTH 00 DEGREES 48 MINUTES 42 SECONDS EAST, ALONG SAID WEST BOUNDARY LINE, EXTENDING, A DISTANCE OF 755.41 FEET, TO THE NORTH LINE OF SAID LOT 4, BLOCK 2 TO THE POINT OF BEGINNING.

THE ABOVE TRACT CONTAINS 9.16 ACRES, MORE OR LESS.

### SURVEYOR'S CERTIFICATE

I, TERRY SALTER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE FOREGOING PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013, BEFORE ME PERSONALLY APPEARED TERRY SALTER, 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.

STATE OF NORTH DAKOTA ) SS  
COUNTY OF BURLEIGH )  
TERRY SALTER  
PROFESSIONAL LAND SURVEYOR  
N.D. REGISTRATION NO. 2655

STATE OF NORTH DAKOTA ) SS  
COUNTY OF BURLEIGH )  
DANIE PAVONE, CITY CLERK  
BURLEIGH COUNTY, NORTH DAKOTA  
MY COMMISSION EXPIRES AUGUST 24, 2016

### APPROVAL OF CITY 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 THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA. APPROVED BY 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. HOKENSTAD - SECRETARY

### APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS ACCEPTED THE DECISION OF ALL CITY COMMISSIONERS SHOWN HEREON. HAS APPROVED THE ORDINANCES AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND HAS HEREBY VOTED IN FAVOR OF THE PLAT WITHIN THE BOUNDARY OF THE ANNEXED PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, HAS TAKEN BY RESOLUTION APPROVED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

ATTEST:  
R. C. WOODEN - CITY ADMINISTRATOR

### APPROVAL OF CITY ENGINEER

I, MELVIN J. SELLINGER, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE HIGH MEADOWS 12TH ADDITION, BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

MELVIN J. SELLINGER  
CITY ENGINEER

### OWNERS' CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT CURTIS C. WENZT AND DIANE M. WENZT, ROBERT N. SCHAFF AND ANDREW SCHAFF AND DANIEL T. HANSEN BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAS CALLED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS HIGH MEADOWS 12TH ADDITION, BISMARCK, NORTH DAKOTA.

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 ANY OR CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY, SANITARY, SEWER, STORM SEWER & STOP OF EASEMENTS.

THEY FURTHERMORE GRANT ACCESS EASEMENTS FOR ALL LAND OWNING PARTIES, THEIR TENANTS, VISITORS AND LICENSEES, SAID EASEMENT TO INCLUDE THE FULL AND FREE RIGHT FOR SAID PARTIES, THEIR TENANTS, VISITORS AND LICENSEES, IN CONJUNCTION WITH ALL OTHERS HAVING LIKE RIGHT AT ALL TIMES HEREINAFTER FOR ALL PURPOSES CONNECTED WITH THE USE OF SAID PARTIES TO PASS AND REPASS ALONG SAID EASEMENT AND TO HOLD SAID EASEMENT TO SAID PARTIES, THEIR HEIRS AND ASSIGNS AND APPROPRIATELY TO THE LAND OF SAID PARTIES. IT ALSO DEDICATES SAID EASEMENT TO AND FOR THE USE OF ANY GOVERNMENTAL SUBDIVISION, ITS OFFICERS AND EMPLOYEES FOR UTILITIES AND ANY OTHER GOVERNMENTAL USE OR SERVICE NECESSARY OR ADVISABLE, PROVIDED THE CITY SHALL NOT BE RESPONSIBLE IN ANY WAY TO FURNISH ANY CITY SERVICES IF SUCH SERVICES, EASEMENTS ARE NOT PROPERTY MAINTAINED OR ARE OBSTRUCTED BY THE OWNERS OF PROPERTY IN THE SUBDIVISION.

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013, BEFORE ME PERSONALLY APPEARED CURTIS C. WENZT AND DIANE M. WENZT, 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.

STATE OF NORTH DAKOTA ) SS  
COUNTY OF BURLEIGH )  
CURTIS C. WENZT  
DIANE M. WENZT  
BISMARCK, ND 58503  
BISMARCK, ND 58503

STATE OF NORTH DAKOTA ) SS  
COUNTY OF BURLEIGH )  
ROBERT N. SCHAFF  
ANDREW SCHAFF  
BISMARCK, ND 58503  
BISMARCK, ND 58503  
OWNER LOTS 5-16 BLOCK 1  
LOTS 1-4 BLOCK 2

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013, BEFORE ME PERSONALLY APPEARED DANIEL T. HANSEN, 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.

STATE OF NORTH DAKOTA ) SS  
COUNTY OF BURLEIGH )  
DANIEL T. HANSEN  
250 BUCKSKIN AVENUE  
BISMARCK, ND 58503  
BISMARCK, ND 58503  
OWNER LOTS 17-14 BLOCK 1  
LOTS 5-9 BLOCK 2



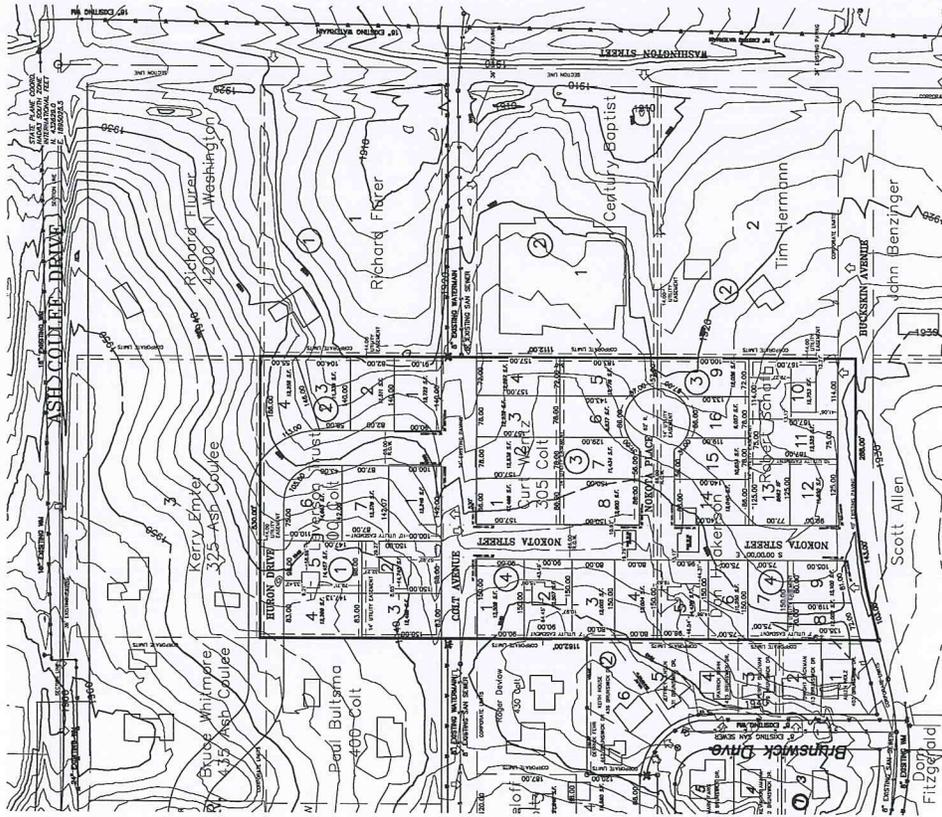
RECEIVED  
MAR 15 2013

# HIGH MEADOWS 12TH ADDITION

BEING A REPLAT OF LOT 2 BLOCK 1, LOTS A & B OF LOT 3, BLOCK 2, & LOT 4 BLOCK 2 OF KMK ESTATES

PART OF THE SW 1/4 OF THE S 1/2 OF THE NW 1/4  
SECTION 20, T. 139, R. 80 W.

BISMARCK, NORTH DAKOTA



13.72 ACRES  
EXISTING ZONING: RR  
PROPOSED ZONING: R5  
36 LOTS

OWNERS:

LAVERSON TRUST  
300 COLT AVENUE  
BISMARCK ND 58503 223-9687

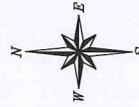
CURT WENTZ  
305 COLT AVENUE  
BISMARCK ND 58503 255-0544

DAN HAARENSON  
300 BUCKSKIN AVENUE  
BISMARCK ND 58503 255-7581

ROBERT SCHARF  
250 BUCKSKIN AVENUE  
BISMARCK ND 58503 258-9894



PROJECT AREA



MARCH 13, 2013  
SCALE - 1"=100'  
0 40' 80' 120'

NG029



**S. SWENSON, HAGEN & COMPANY P.C.**  
Professional Surveyors  
1000 14th Street, Suite 100  
Bismarck, ND 58503  
Phone: (701) 228-2000  
Fax: (701) 228-1000  
www.sshagen.com

**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

<b>BACKGROUND:</b>		
<b>Title:</b> South Meadows Addition – Zoning Change (A to R5, R10, RM30 & P)		
<b>Status:</b> Planning Commission – Public Hearing	<b>Date:</b> September 25, 2013	
<b>Owner(s):</b> Santa Fe, LLP – owner Chad & Stacy Wachter – owner Capital Electric Cooperative - owner Wachter Development – applicant	<b>Engineer:</b> Swenson, Hagen & Co.	
<b>Reason for Request:</b> Plat and zone property for mixed density residential development.		
<b>Location:</b> South of Burleigh Avenue and west of South Washington Street (part of the E½ of the NE¼ of Section 20, T138N-R80W/Lincoln Township).		
<b>Project Size:</b> 75.89 acres	<b>Number of Lots:</b> 147 lots in 6 blocks	
<b>EXISTING CONDITIONS:</b>		
<b>Land Use:</b> Undeveloped	<b>PROPOSED CONDITIONS:</b>	
<b>Zoning:</b> A – Agricultural	<b>Land Use:</b> Mixed density residential	
	<b>Zoning:</b> R5 – Residential R10 – Residential RM30 – Residential P – Public	
<b>Uses Allowed:</b> A – Agriculture	<b>Uses Allowed:</b> R5 – Single-family residential R10 – One- and two-family residential RM30 – Multi-family residential P- Public uses, including parks and storm water facilities	
<b>Maximum Density Allowed:</b> A – One unit/40 acres	<b>Maximum Density Allowed:</b> R5 – 5 units/acre R10 – 10 units/acre RM30 – 30 units/acre P – N/A	
<b>PROPERTY HISTORY:</b>		
<b>Zoned:</b> N/A	<b>Platted:</b> N/A	<b>Annexed:</b> N/A
<b>ADDITIONAL INFORMATION:</b>		
1. The storm water management plan for the final plat has not yet been approved by the City Engineer.		
<b>FINDINGS:</b>		
1. The Land Use Plan identifies this area as urban residential (Bismarck-Mandan Regional Future Land Use Plan).		
2. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include developing single- and two-family residential to the west, single-family residential to the north, undeveloped agricultural land to the east, and rural residential to the south.		
<i>(continued)</i>		

3. The entire subdivision would be annexed prior to development; therefore, the proposed zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

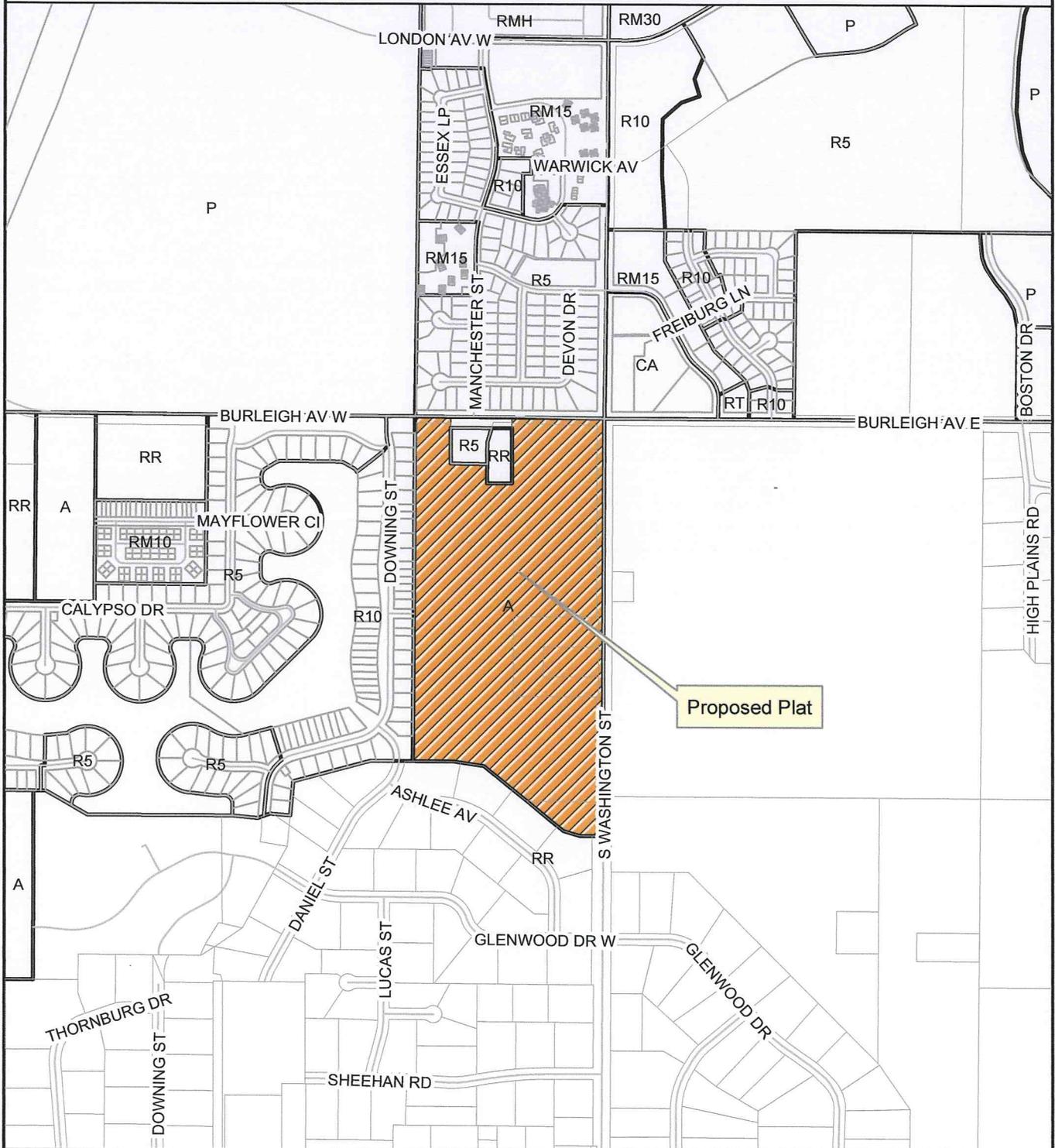
**RECOMMENDATION:**

Because the storm water management plan for the final plat has not yet been approved by the City Engineer, staff recommends continuing action on the zoning change for South Meadows Addition.

If the storm water management plan is approved by the City Engineer prior to the meeting, staff will change its recommendation to:

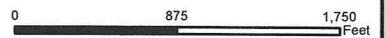
Based on the above findings, staff recommends approval of the zoning change from the A-Agricultural zoning district to the R5-Residential zoning district on Lots 24-41, Block 3, Lots 1-26, Block 4, and Lots 1-16, Block 5; to the R10-Residential zoning district on Lots 1-16, Block 1, Lots 3-22, Block 2 and Lots 1-22, Block 3; to the RM30-Residential zoning district on Lot 1, Block 1; and to the P-Public zoning district on Lot 2, Block 2, Lot 23, Block 3 and Lots 25 & 26, Block 6, South Meadows Addition.

# Proposed Plat and Zoning Change (A to R5, R10, RM30 & P) South Meadows Addition

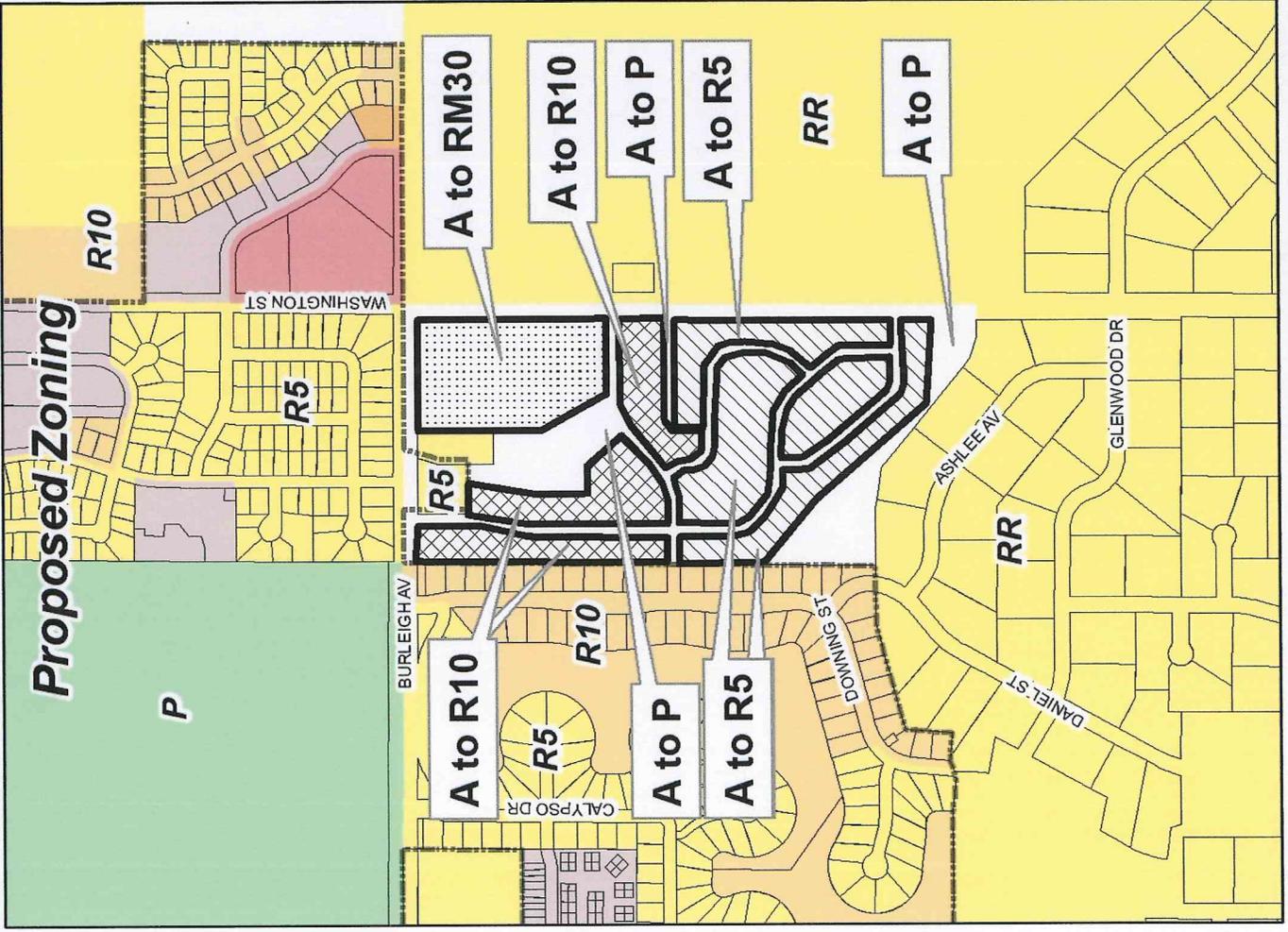
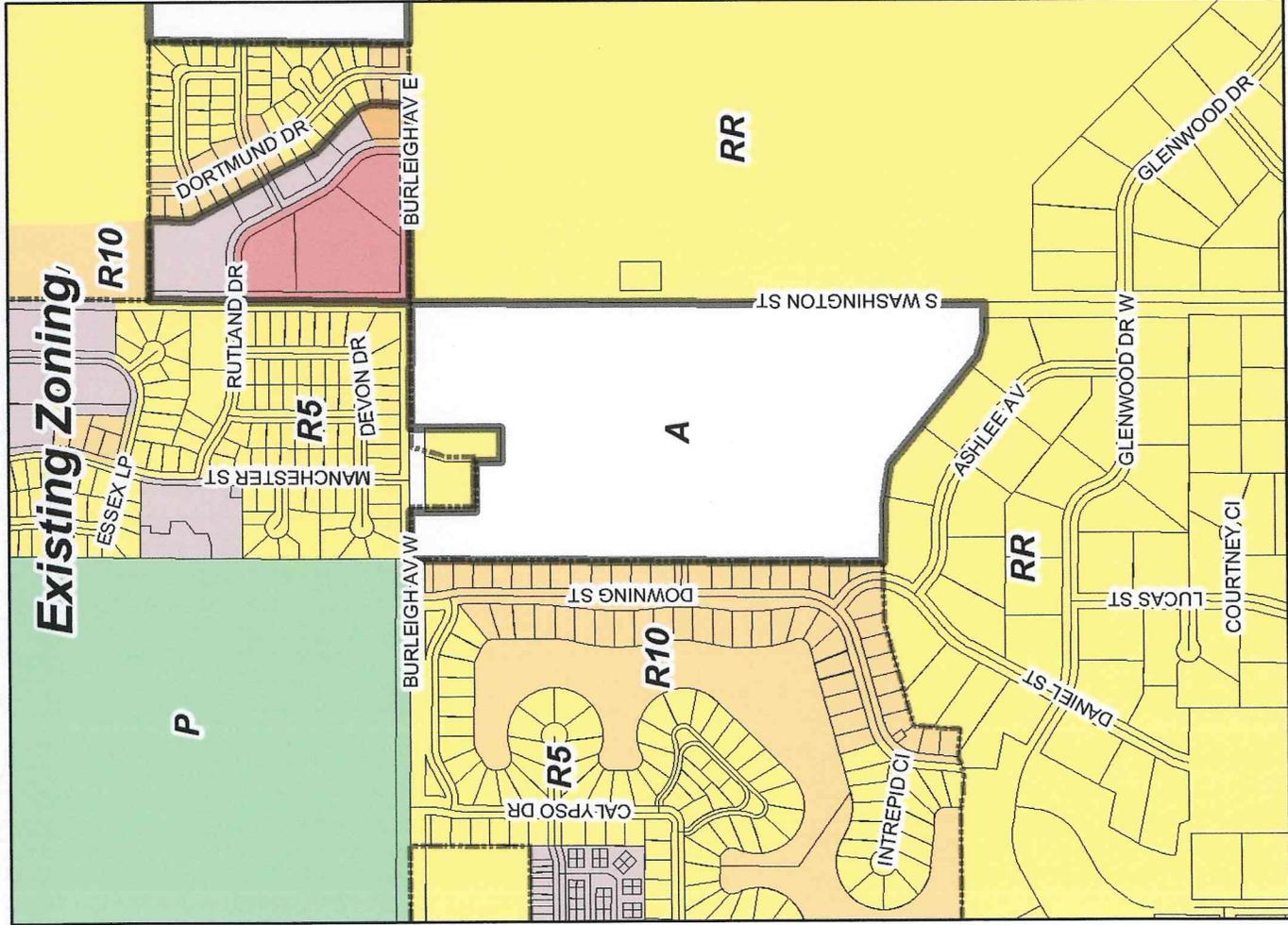


DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.  
Map was Updated/Created: September 12, 2013 (Klee)

Source: City of Bismarck



# South Meadows Addition - Zoning Change



**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

<b>BACKGROUND:</b>		
<b>Title:</b> South Meadows Addition – Final Plat		
<b>Status:</b> Planning Commission – Consideration	<b>Date:</b> September 25, 2013	
<b>Owner(s):</b> Santa Fe, LLP – owner Chad & Stacy Wachter – owner Capital Electric Cooperative - owner Wachter Development – applicant	<b>Engineer:</b> Swenson, Hagen & Co.	
<b>Reason for Request:</b> Plat and zone property for mixed density residential development.		
<b>Location:</b> South of Burleigh Avenue and west of South Washington Street (part of the E½ of the NE¼ of Section 20, T138N-R80W/Lincoln Township).		
<b>Project Size:</b> 75.89 acres	<b>Number of Lots:</b> 147 lots in 6 blocks	
<b>EXISTING CONDITIONS:</b>	<b>PROPOSED CONDITIONS:</b>	
<b>Land Use:</b> Undeveloped	<b>Land Use:</b> Mixed density residential	
<b>Zoning:</b> A – Agricultural	<b>Zoning:</b> R5 – Residential R10 – Residential RM30 – Residential P – Public	
<b>Uses Allowed:</b> A – Agriculture	<b>Uses Allowed:</b> R5 – Single-family residential R10 – One- and two-family residential RM30 – Multi-family residential P – Public uses, including parks and storm water facilities	
<b>Maximum Density Allowed:</b> A – One unit/40 acres	<b>Maximum Density Allowed:</b> R5 – 5 units/acre R10 – 10 units/acre RM30 – 30 units/acre P – N/A	
<b>PROPERTY HISTORY:</b>		
<b>Zoned:</b> N/A	<b>Platted:</b> N/A	<b>Annexed:</b> N/A
<b>ADDITIONAL INFORMATION:</b>		
<p>1. The plat will include two storm water management facilities. There is an existing wetland on Lot 26, Block 6 that will continue to be used as an infiltration/retention pond. There is also a new infiltration/retention pond proposed for Lot 2, Block 2. Because of the proximity of the proposed plat to the Bismarck Airport, a Wildlife Hazard Evaluation was prepared in accordance with the provisions of FAA Advisory Circular 150/5200-33B, “Hazardous Wildlife Attractants On or Near Airports.” The FAA has reviewed the Wildlife Hazard Evaluation and based on the evaluation of the retention ponds, found that they are in compliance with FAA Advisory Circular 150/5200-33B, “Hazardous Wildlife Attractants On or Near Airports.”</p>		

**FINDINGS:**

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has not yet been approved by the City Engineer.
3. The FAA has determined that the development is in compliance with FAA Advisory Circular 150/5200-33B, "Hazardous Wildlife Attractants On or Near Airports."
4. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for this area, which identifies Downing Street to the west of this plat as the north-south collector for this section and Glenwood Drive to the south of this plat as the east-west collector for this section.
5. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include developing single- and two-family residential to the west, single-family residential to the north, undeveloped agricultural land to the east, and rural residential to the south.
6. The entire subdivision would be annexed prior to development; therefore, it would not place an undue burden on public services and facilities.
7. The proposed subdivision would not adversely affect property in the vicinity.
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

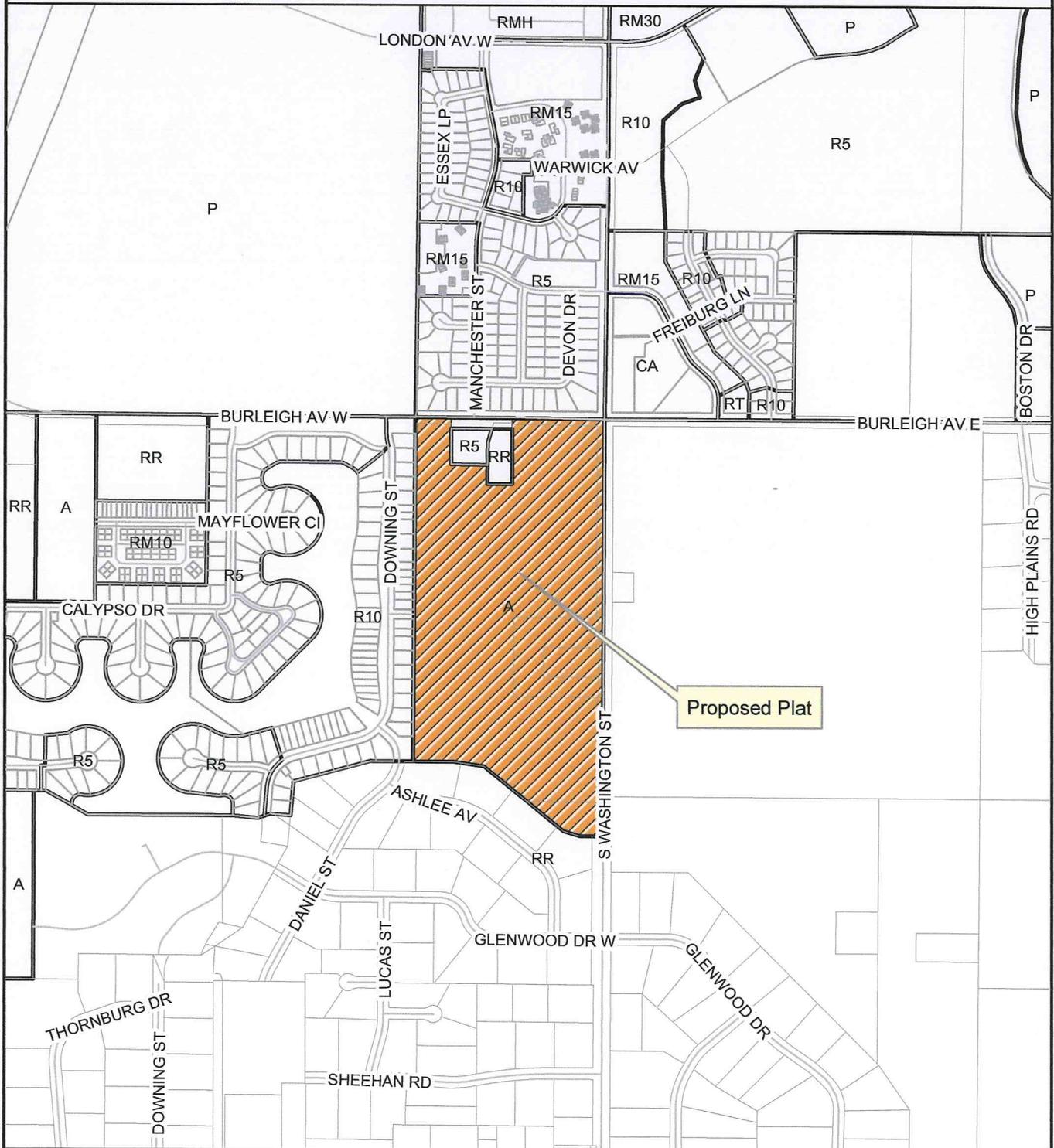
**RECOMMENDATION:**

Based on the above findings, staff recommends continuing action on the final plat of South Meadows Addition until the storm water management plan has been approved by the City Engineer.

If the City Engineer approves the storm water management plan prior to the public meeting, staff will change its recommendation to:

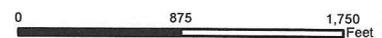
Based on the above findings, staff recommends approval of the final plat of South Meadows Addition.

# Proposed Plat and Zoning Change (A to R5, R10, RM30 & P) South Meadows Addition



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.  
Map was Updated/Created: September 12, 2013 (klee)

Source: City of Bismarck





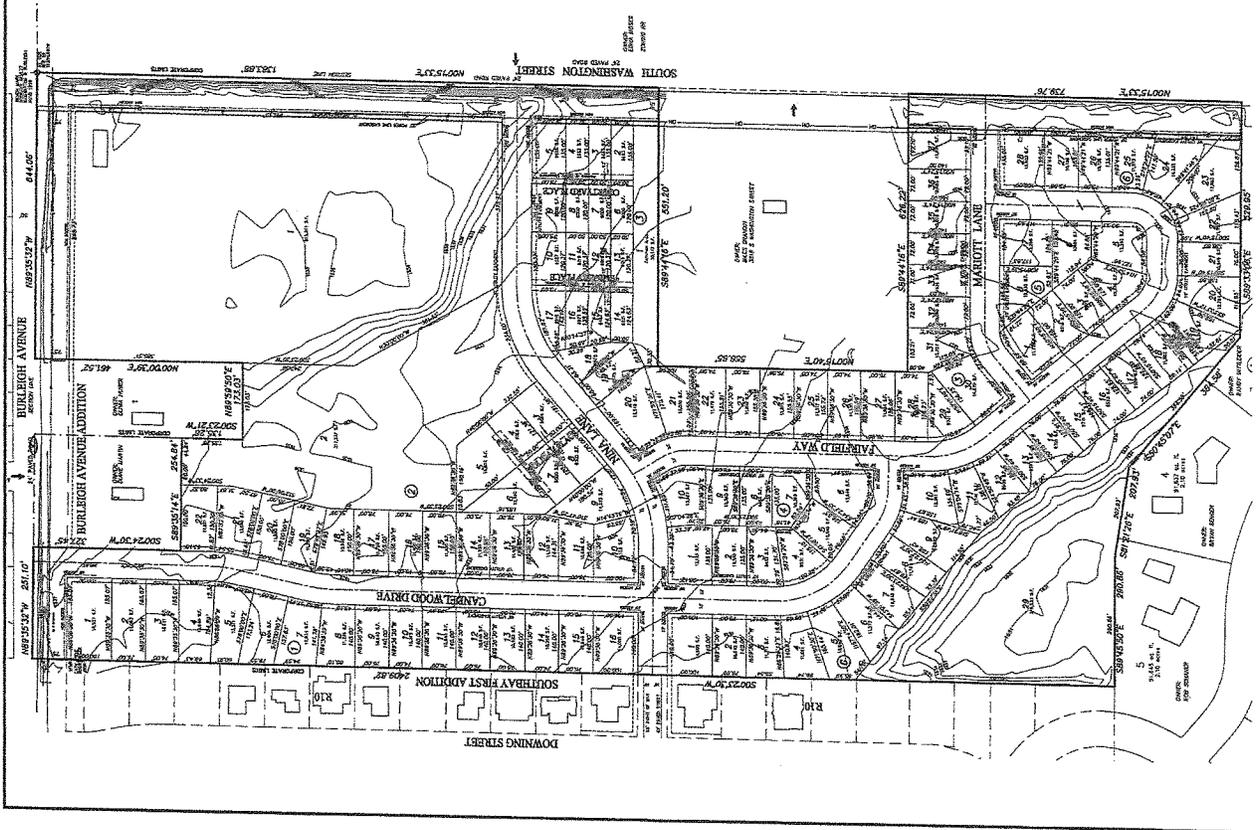
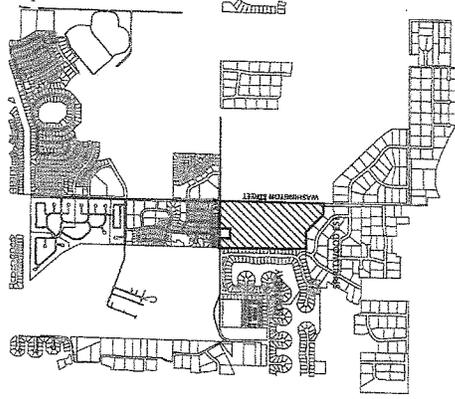
Preliminary Plat  
**SOUTH MEADOWS**  
 PART OF THE NE 1/4 OF SECTION 20, T. 138 N., R. 80 W.  
**BISMARCK NORTH DAKOTA**

WACHTER DEVELOPMENT  
 P. O. BOX 520  
 BISMARCK, ND 58502  
 223-2200  
 TOTAL ACREAGE - 65.8 ACRES  
 113 LOTS  
 PROPOSED ZONING - R5, RT0, RM  
 FLOOD PLAIN ELEVATION 1636.0



SCALE 1"=100'  
 JANUARY 16, 2003  
 CATAL. 8000 1013  
 BENCHMARK  
 TOP OF PINE BLANK SIGN  
 1646.2 (2000 1149)

LOCATION MAP



**BISMARCK-BURLEIGH COUNTY PLANNING & DEVELOPMENT DEPARTMENT  
STAFF REPORT**

<b>BACKGROUND:</b>	
<b>Title:</b> Wagner's Subdivision – Zoning Change (A to RR5)	
<b>Status:</b> Planning Commission – Public Hearing	<b>Date:</b> September 25, 2013
<b>Owner(s):</b> Leroy & Nancy Feist C/O Jamie & Kristy Feist (Lot 1) Ken and Jane Wagner (Lot 2)	<b>Engineer:</b> KLJ
<b>Reason for Request:</b> Plat and rezone previously developed property.	
<b>Location:</b> Along the south side of Apple Creek Road, north of the BNSF Railroad, ¼ mile east of 66 <sup>th</sup> Street SE (An unplatted portion of the NW ¼ of Section 8, T138N-R79W/Apple Creek Township).	
<b>Project Size:</b> 41.6 acres	<b>Number of Lots:</b> 2 lots in 1 block
<b>EXISTING CONDITIONS:</b>	
<b>Land Use:</b> Rural residential	<b>PROPOSED CONDITIONS:</b> <b>Land Use:</b> Rural residential
<b>Zoning:</b> A-Agriculture	<b>Zoning:</b> RR5-Residential
<b>Uses Allowed:</b> Agriculture	<b>Uses Allowed:</b> Large lot single-family residential and limited agriculture
<b>Maximum Density Allowed:</b> One unit per 40 acres	<b>Maximum Density Allowed:</b> One unit per 5 acres
<b>PROPERTY HISTORY:</b>	
<b>Zoned:</b> ---	<b>Platted:</b> ---
<b>ADDITIONAL INFORMATION:</b>	
1. The storm water management plan for the final plat has not yet been approved by the City Engineer. Written concurrence from the Burleigh County Engineer is also required.	
<b>FINDINGS:</b>	
1. The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as Urban Residential and Parks/Open Space/Greenways, for portions of the property located within the Special Flood Hazard Area (100 year floodplain) (Bismarck-Mandan Regional Future Land Use Plan).	
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include partially developed rural residential to the west and partially developed agricultural to the north, east and south.	
3. The subdivision proposed for this property would be served by South Central Regional Water District and would have direct access to Apple Creek Road; therefore the proposed zoning change would not place an undue burden on public services.	
<i>(continued)</i>	

4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

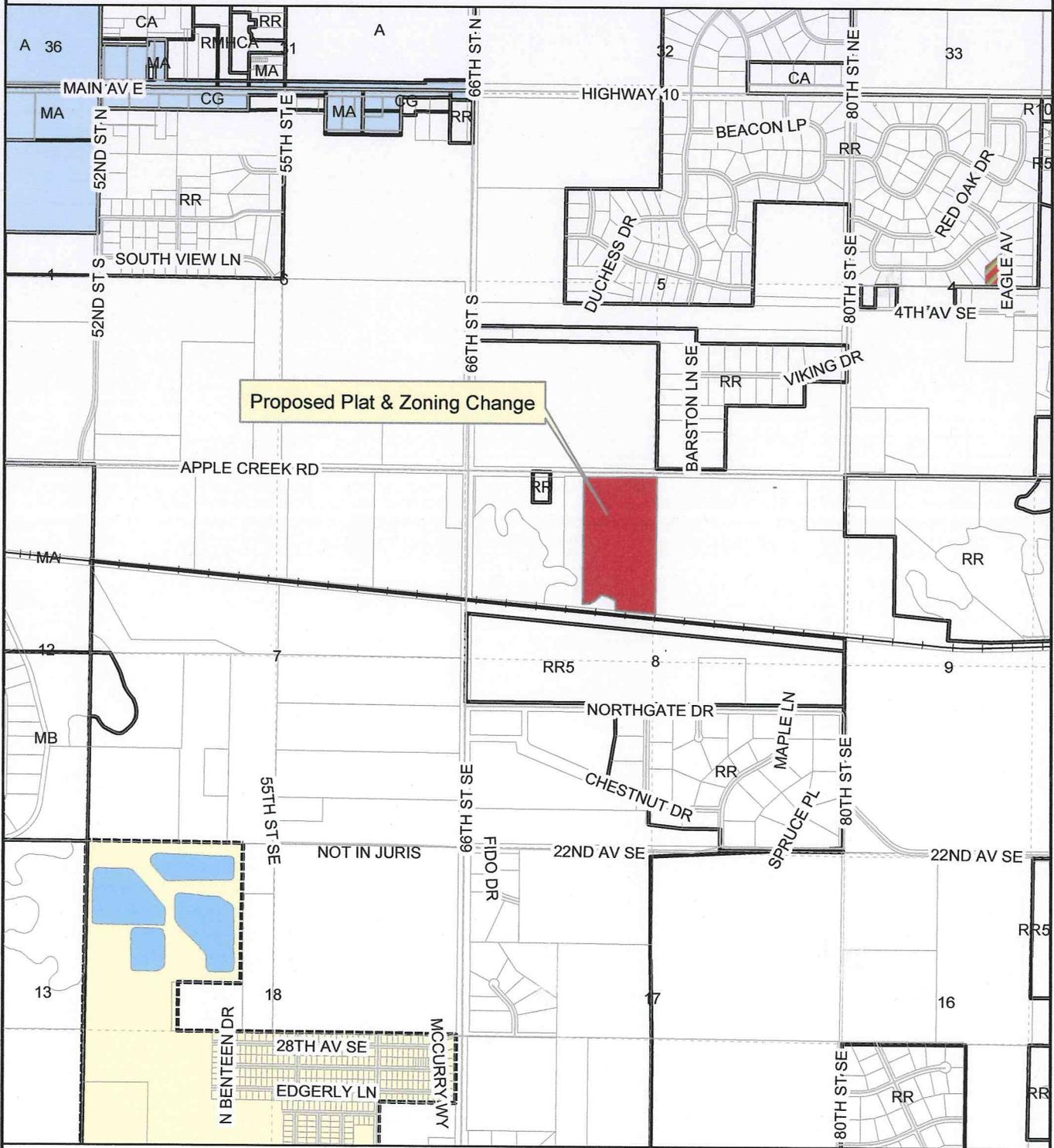
**RECOMMENDATION:**

Because the storm water management plan for the final plat has not yet been approved by the City Engineer, staff recommends continuing action on the zoning change for Wagner's Subdivision.

If the storm water management plan is approved by the City Engineer and written concurrence from the Burleigh County Engineer is received prior to the meeting, staff will change its recommendation to:

Based on the above findings, staff recommends approval of the zoning change for Wagner's Subdivision from the A-Agriculture zoning district to the RR5 – Rural Residential zoning district.

# Proposed Plat & Zoning Change (A to RR5) Wagners Subdivision

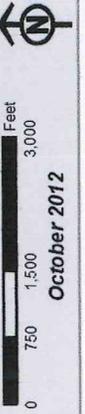
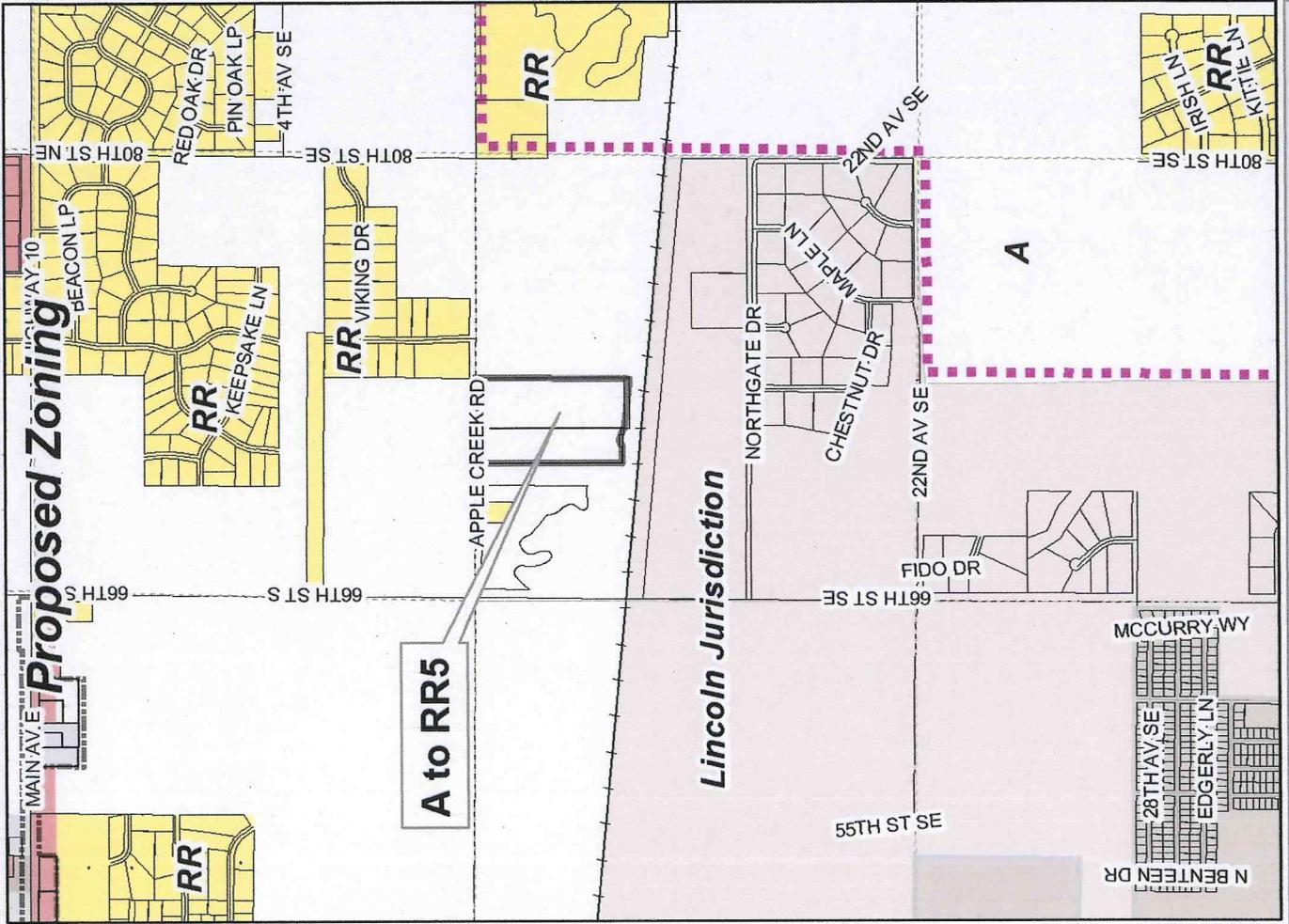
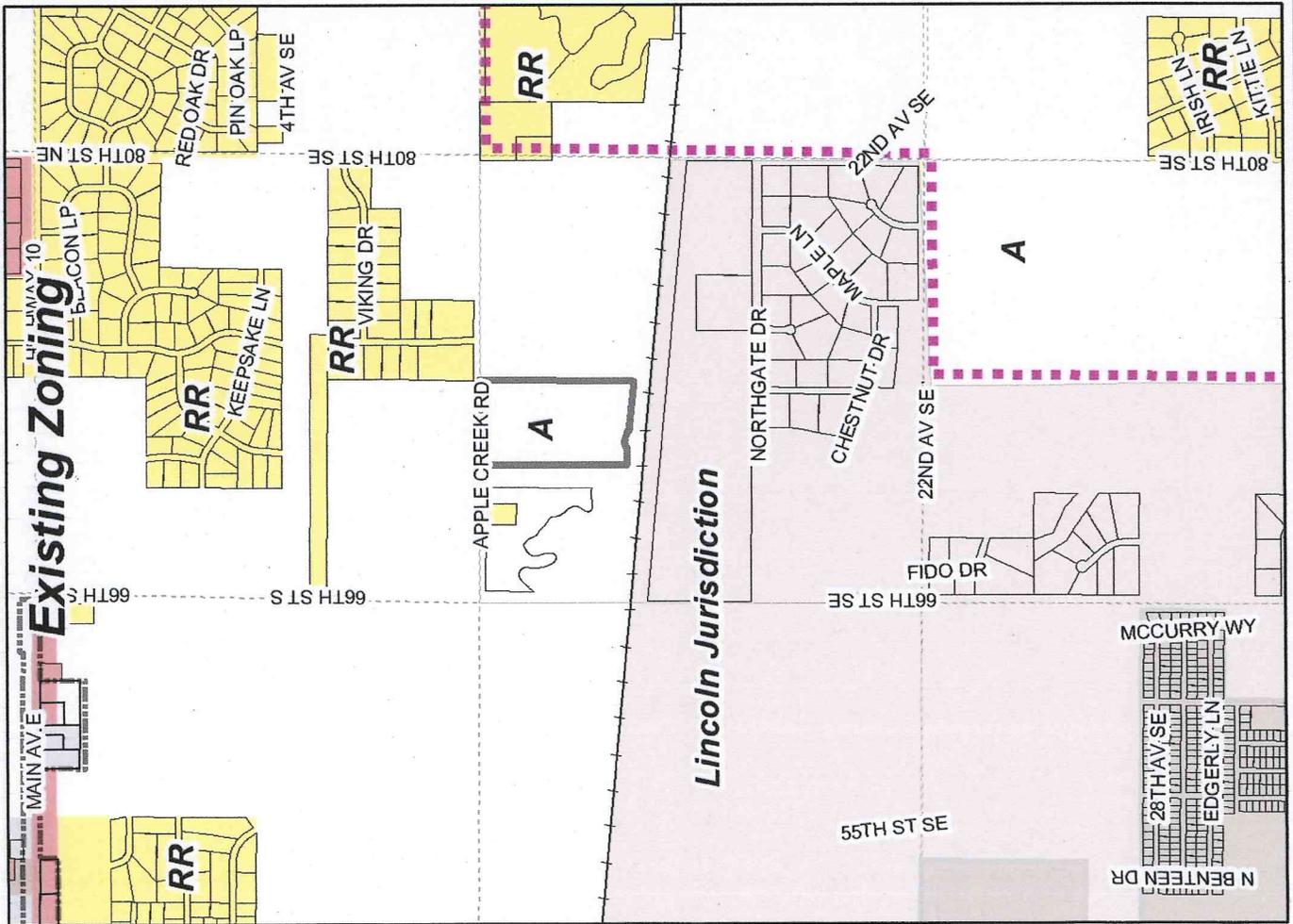


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Map was Updated/Created: October 3, 2012 (Klee)

Source: City of Bismarck



# Wagner Subdivision - 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 2012

**BISMARCK-BURLEIGH COUNTY PLANNING & DEVELOPMENT DEPARTMENT  
STAFF REPORT**

<b>BACKGROUND:</b>	
<b>Title:</b> Wagner's Subdivision – Final Plat	
<b>Status:</b> Planning Commission – Public Hearing	<b>Date:</b> September 25, 2013
<b>Owner(s):</b> Leroy & Nancy Feist C/O Jamie & Kristy Feist (Lot 1) Ken and Jane Wagner (Lot 2)	<b>Engineer:</b> KLJ
<b>Reason for Request:</b> Plat and rezone previously developed property.	
<b>Location:</b> Along the south side of Apple Creek Road, north of the BNSF Railroad, ¼ mile east of 66 <sup>th</sup> Street SE (An unplatted portion of the NW ¼ of Section 8, T138N-R79W/Apple Creek Township).	
<b>Project Size:</b> 41.6 acres	<b>Number of Lots:</b> 2 lots in 1 block
<b>EXISTING CONDITIONS:</b>	
<b>Land Use:</b> Rural residential	<b>PROPOSED CONDITIONS:</b>
<b>Zoning:</b> A-Agriculture	<b>Land Use:</b> Rural residential
<b>Uses Allowed:</b> Agriculture	<b>Zoning:</b> RR5-Residential
<b>Maximum Density Allowed:</b> One unit per 40 acres	<b>Uses Allowed:</b> Large lot single-family residential and limited agriculture
<b>Maximum Density Allowed:</b> One unit per 40 acres	<b>Maximum Density Allowed:</b> One unit per 5 acres
<b>PROPERTY HISTORY:</b>	
<b>Zoned:</b> ---	<b>Platted:</b> ---
<b>FINDINGS:</b>	
<ol style="list-style-type: none"> <li>All technical requirements for approval of a final plat have been met.</li> <li>The stormwater management plan has not yet been approved by the City Engineer. Written concurrence from the Burleigh County Engineer is also required.</li> <li>The Apple Creek Township Board of Supervisors has recommended approval of the proposed plat.</li> <li>The proposed subdivision generally conforms to the Fringe Area Road Master Plan, which identifies Apple Creek Road as an east-west arterial.</li> <li>The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include partially developed rural residential to the west, and partially developed agricultural to the north, east and south.</li> <li>The proposed subdivision would be served by South Central Regional Water District and would have direct access to Apple Creek Road; therefore, the proposed subdivision would not place an undue burden on public services.</li> </ol>	
<i>(continued)</i>	

7. The proposed subdivision would not adversely affect property in the vicinity.
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

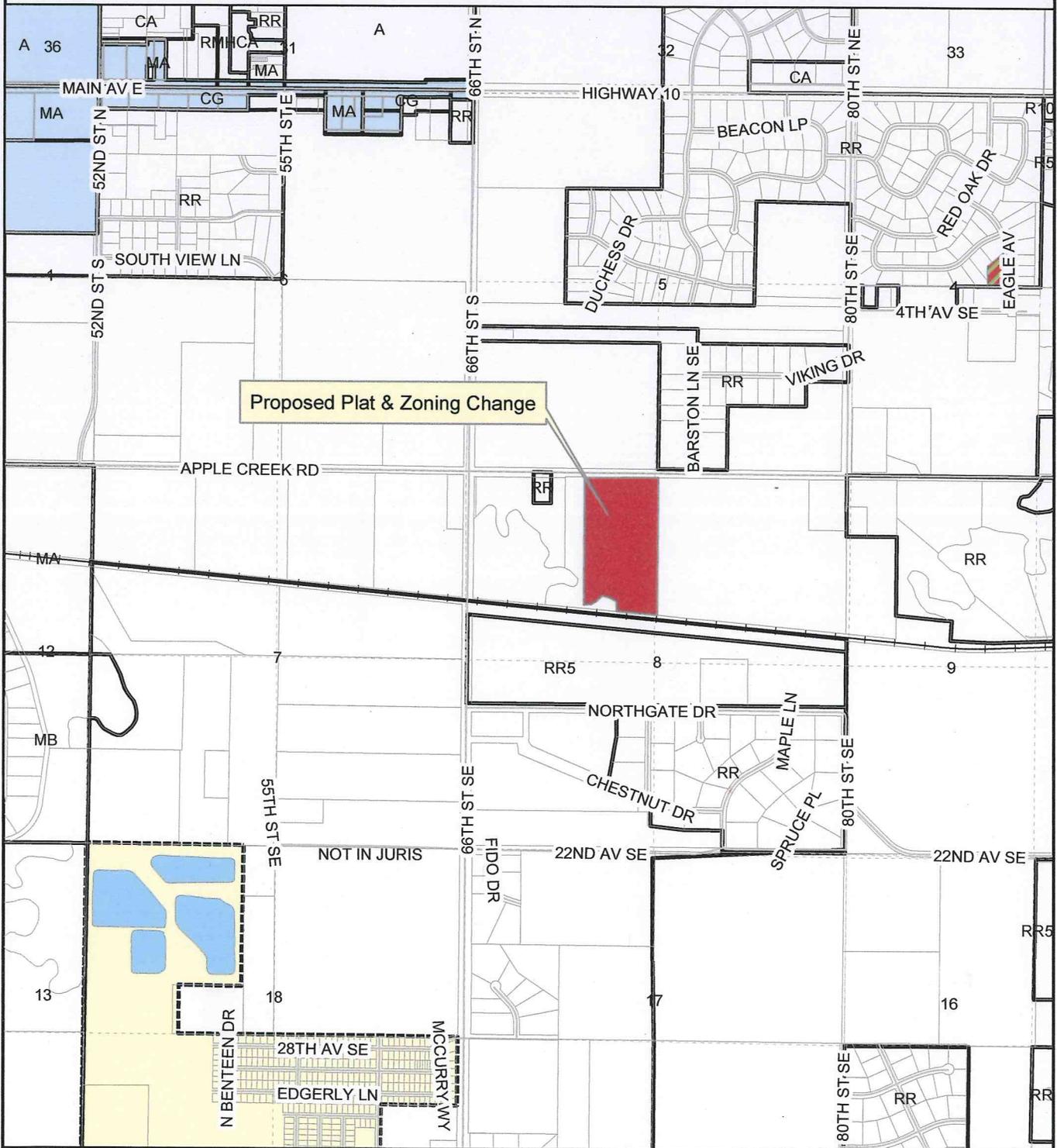
**RECOMMENDATION:**

Based on the above findings, staff recommends continuing action on the final plat of Wagner's Subdivision until the storm water management plan has been approved by the City Engineer with written concurrence from the Burleigh County Engineer.

If the City Engineer approves the storm water management plan and written concurrence from the Burleigh County Engineer is received prior to the meeting, staff will change its recommendation to:

Based on the above findings, staff recommends approval of the final plat for Wagner's Subdivision.

# Proposed Plat & Zoning Change (A to RR5) Wagners Subdivision



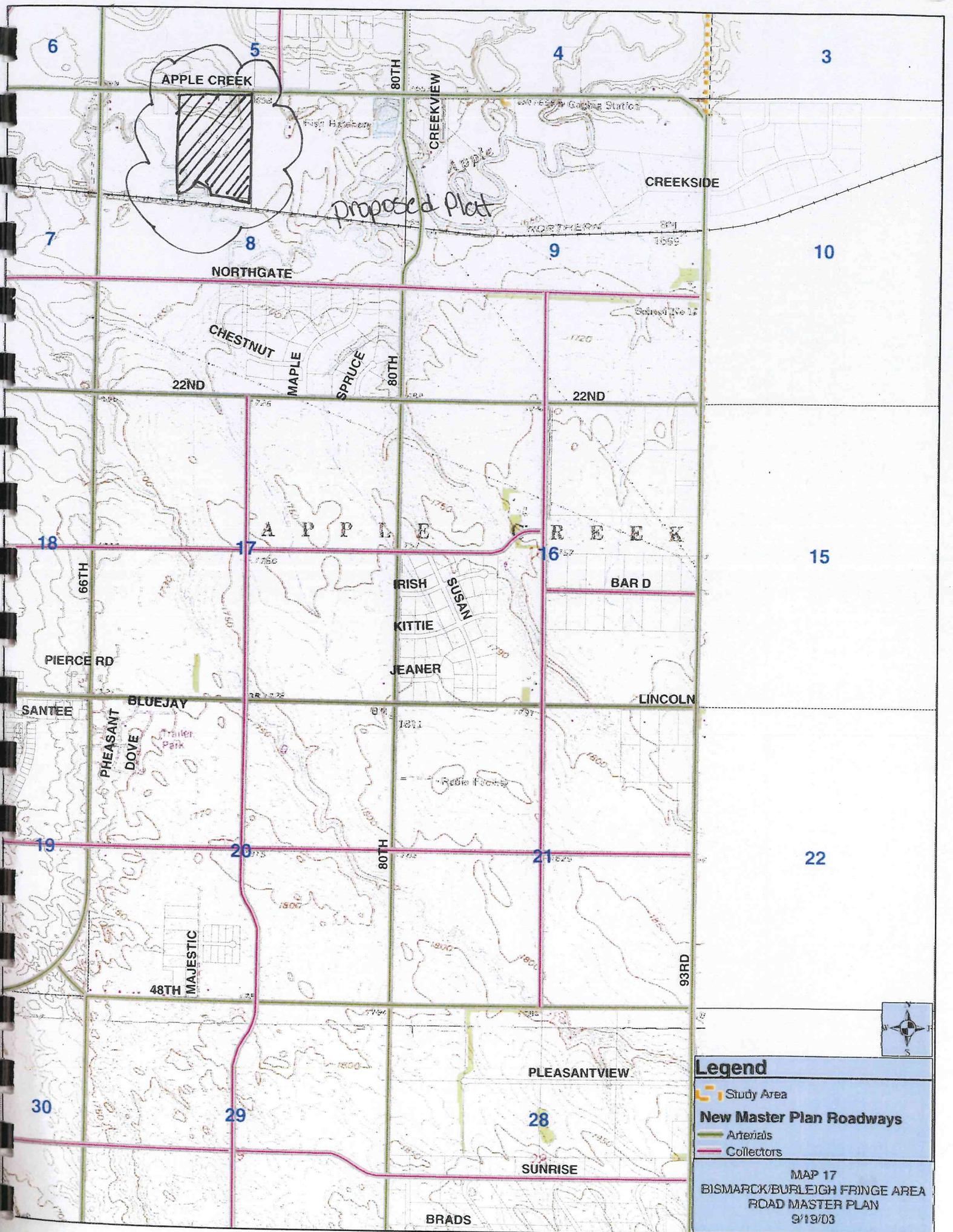
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Map was Updated/Created: October 3, 2012 (klee)

Source: City of Bismarck









APPLE CREEK

Proposed Plot

NORTHGATE

CHESTNUT

MAPLE

SPRUCE

A P P L E C R E E K

IRISH

SUSAN

KITTIE

JEANER

BAR D

LINCOLN

SANTÉE

BLUEJAY

PHEASANT

DOVE

PLEASANTVIEW

SUNRISE

BRADS

48TH MAJESTIC

**Legend**

-  Study Area
- New Master Plan Roadways**
  -  Arterials
  -  Collectors

MAP 17  
BISMARCK/BURLEIGH FRINGE AREA  
ROAD MASTER PLAN  
9/19/03



RECEIVED

NOV - 9 2012

RESOLUTION

WE, THE BOARD OF TOWNSHIP SUPERVISORS OF APPLE CREEK TOWNSHIP,  
BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE  
PROPOSED PLAT AND ZONING CHANGE OF WAGNERS FIRST SUBDIVISION  
AND HEREBY RECOMMEND TO THE BOARD OF CITY COMMISSIONERS  
THAT SAID PLAT BE (APPROVED) (DENIED). (PLEASE ATTACH  
CONDITIONS, IF ANY, TO THE BOARD'S ACTION.)

IF THE TOWNSHIP IS RECOMMENDING DENIAL, PLEASE LIST THE REASONS:

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CHAIRMAN, TOWNSHIP BOARD

  
ATTEST: TOWNSHIP CLERK

**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

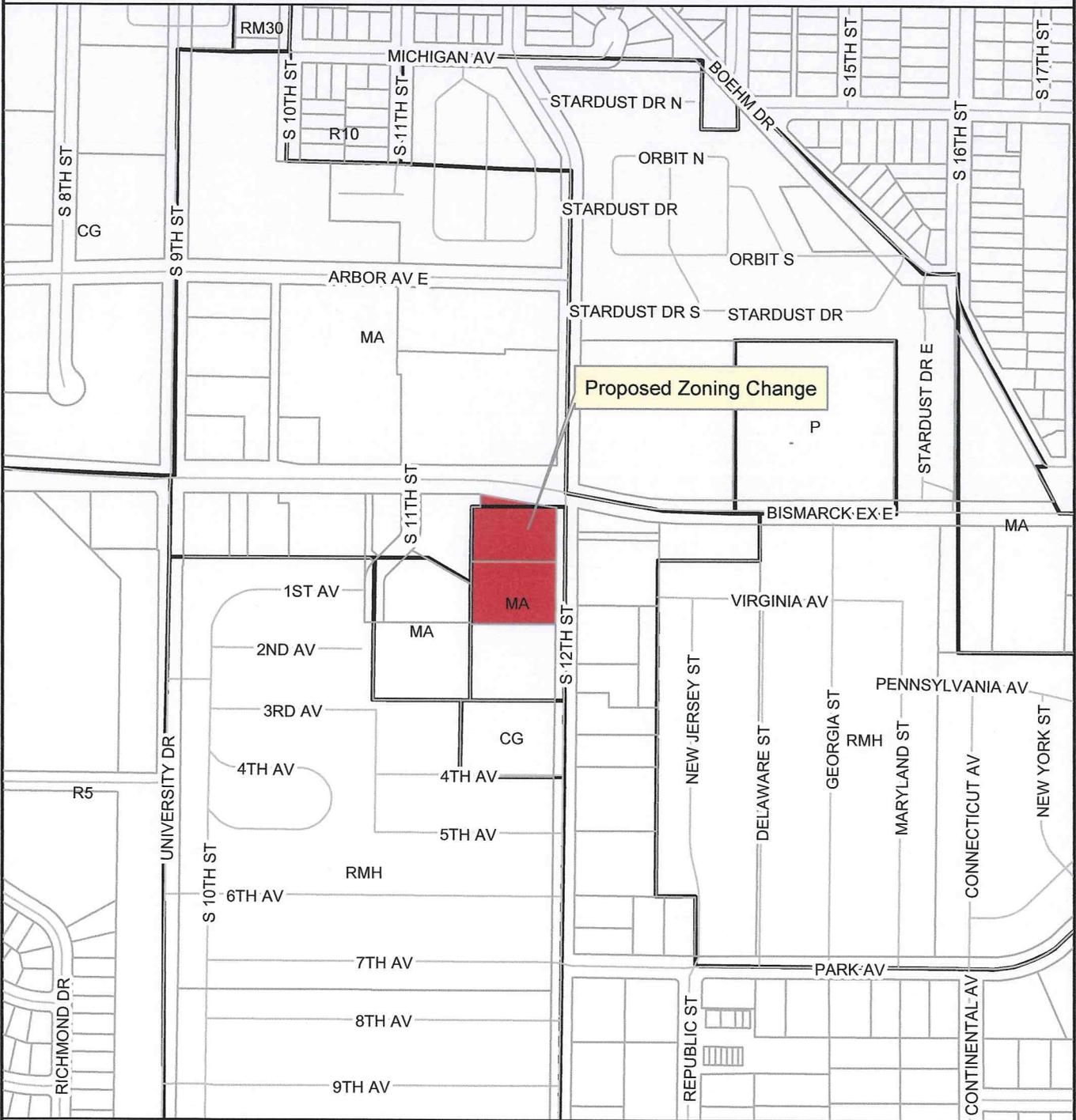
<b>BACKGROUND:</b>		
<b>Title:</b> Lots 1-3, Block 1, Lots 1-3, Block 2, and the vacated Mayfair Avenue adjacent, Mayfair Managers Addition, and Tract S of the SE¼ of Section 4, T138N-R80W – Zoning Change (MA to CG)		
<b>Status:</b> Planning Commission – Public Hearing	<b>Date:</b> September 25, 2013	
<b>Owner(s):</b> 12 <sup>th</sup> Street Investments, LLC	<b>Engineer:</b> N/A	
<b>Reason for Request:</b> Rezone recently rezoned property back to CG – Commercial to allow uses not allowed in the MA – Industrial zoning district (church as a special use).		
<b>Location:</b> Along the west side of South 12 <sup>th</sup> Street and the south side of Bismarck Expressway.		
<b>Project Size:</b> 2.77 acres, more or less	<b>Number of Lots:</b> 2 parcels	
<b>EXISTING CONDITIONS:</b>		
<b>Land Use:</b> Commercial	<b>PROPOSED CONDITIONS:</b>	
<b>Zoning:</b> MA – Industrial	<b>Land Use:</b> Commercial uses	
<b>Uses Allowed:</b> MA – Light industrial uses, including manufacturing and warehousing, and commercial uses	<b>Zoning:</b> CG – Commercial	
<b>Maximum Density Allowed:</b> MA – N/A	<b>Uses Allowed:</b> CG – General commercial uses, including retail and services uses; churches allowed as a special use	
	<b>Maximum Density Allowed:</b> CG – 30 units/acre	
<b>PROPERTY HISTORY:</b>		
<b>Zoned:</b> 05/12	<b>Platted:</b> 12/75	<b>Annexed:</b> Pre-1980
<b>ADDITIONAL INFORMATION:</b>		
<ol style="list-style-type: none"> <li>1. This property was included in a zoning change for several properties in this area in 2012 and was included in order to avoid creating a spot zone.</li> <li>2. Since consideration of the request in August, an adjacent property under the same ownership has been added to the request.</li> </ol>		
<b>FINDINGS:</b>		
<ol style="list-style-type: none"> <li>1. The proposed zoning change is outside the boundaries of the Bismarck Land Use Plan.</li> <li>2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include commercial development to the north and east, light industrial to the south, and undeveloped land and a manufactured home park to the west.</li> <li>3. The area is already annexed; therefore, the zoning change would not place an undue burden on public services and facilities.</li> </ol>		
<i>(continued)</i>		

4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

**RECOMMENDATION:**

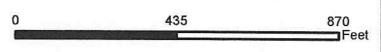
Based on the above findings, staff recommends approval of the zoning change from MA – Industrial zoning district to the CG – Commercial zoning district for Lots 1-3, Block 1, Lots 1-3, Block 2 and the vacated Mayfair Avenue adjacent, Mayfair Managers Addition, and Tract S of the SE¼ of Section 4, T138N-R80W/Lincoln Township.

**Proposed Zoning Change (MA to CG)**  
**Lots 1-3, Block 1, Lots 1-3, Block 2, Vacated Mayfair Avenue Adjacent,**  
**Mayfair Managers Addition and**  
**Tract S of SE 1/4 of Section 4, T138N-R80W**

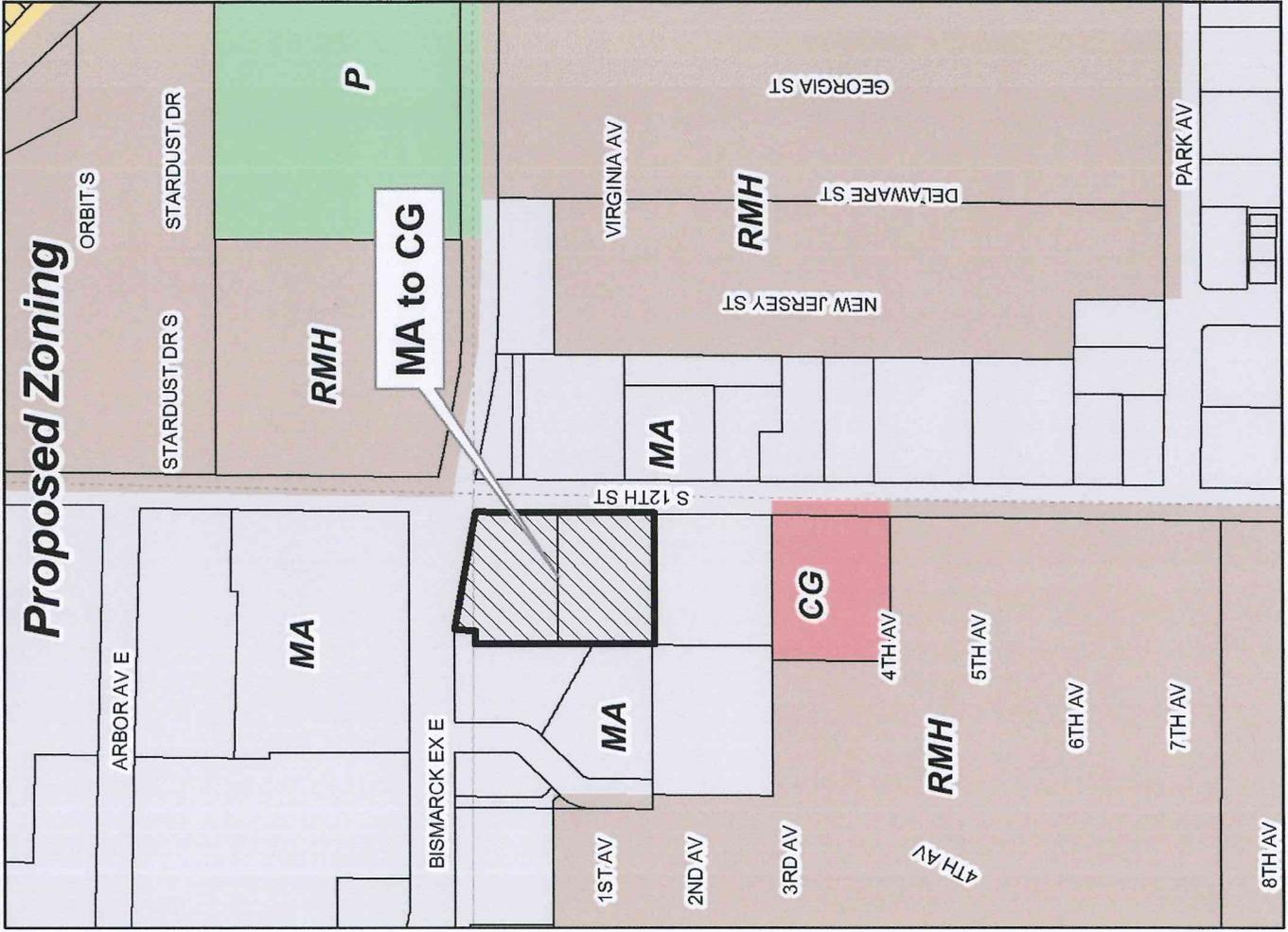
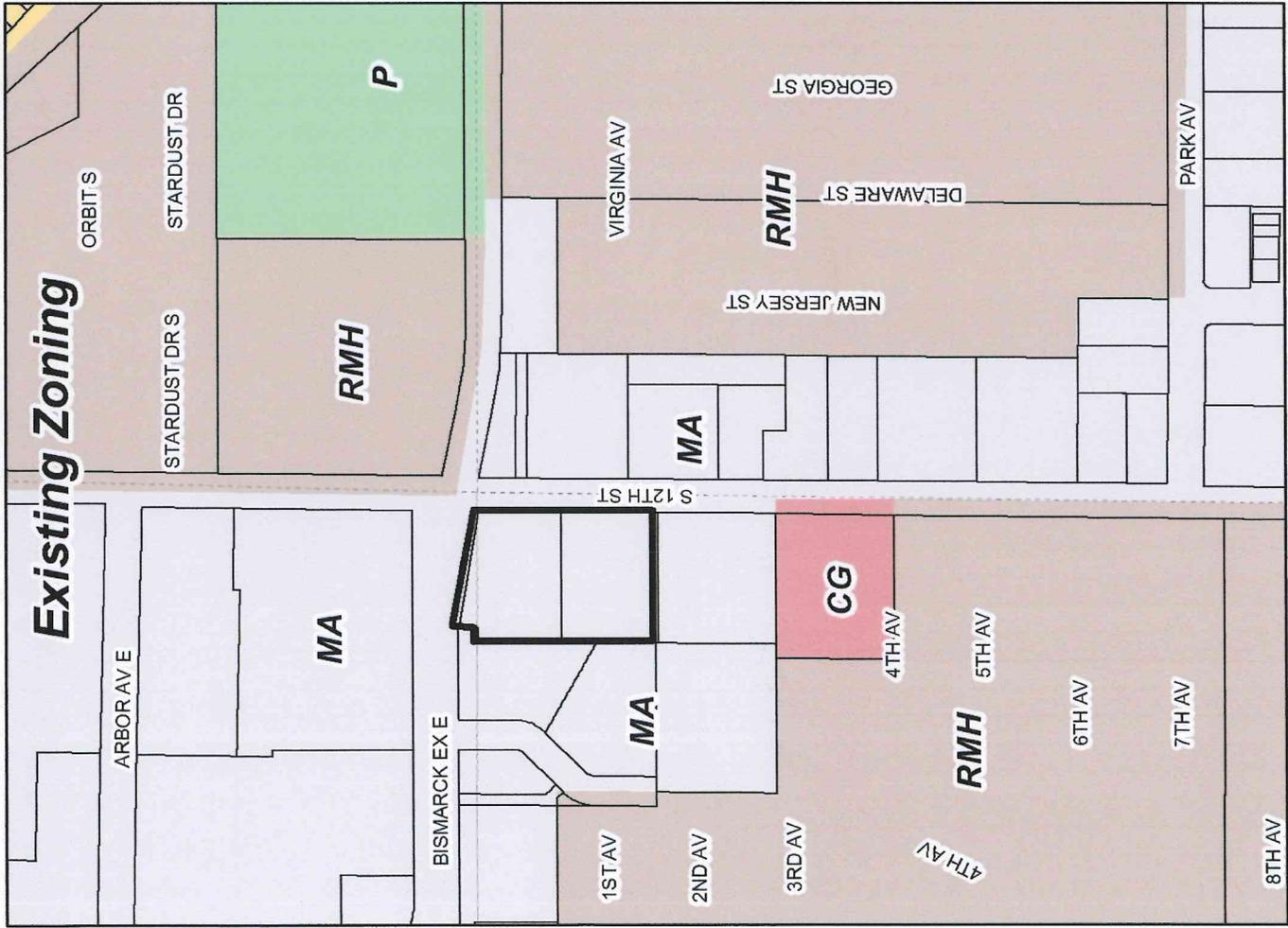


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 Map was Updated/Created: September 12, 2013 (Klee)

Source: City of Bismarck



**Lots 1-3, Block 1, Lots 1-3, Block 2 and the Vacated Mayfair Avenue, Mayfair Addition and the Adjacent Tract S - Zoning Change**



August 2013

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



**BISMARCK-BURLEIGH COUNTY PLANNING & DEVELOPMENT DEPARTMENT  
STAFF REPORT**

<b>BACKGROUND:</b>		
<b>Title:</b> Lots 1 and 3-18, Block 1, Missouri Valley Complex – Major PUD Amendment		
<b>Status:</b> Planning Commission – Public Hearing (continued)	<b>Date:</b> September 25, 2013	
<b>Owner(s):</b> Burleigh County	<b>Engineer:</b> None	
<b>Reason for Request:</b> Amend PUD to allow auctions as a permitted use on all lots.		
<b>Location:</b> In east Bismarck, along the south side of County Highway 10, the east side of Bismarck Expressway and the north side of Yegen Road and Apple Creek Road.		
<b>Project Size:</b> 162.28 acres	<b>Number of Lots:</b> 18 lots in 1 block	
<b>EXISTING CONDITIONS:</b>		
<b>Land Use:</b> County fairgrounds (various uses)	<b>PROPOSED CONDITIONS:</b>	
<b>Zoning:</b> PUD – Planned Unit Development	<b>Land Use:</b> County fairgrounds (various uses)	
<b>Uses Allowed:</b> Uses specified in PUD	<b>Zoning:</b> PUD – Planned Unit Development	
<b>Maximum Density Allowed:</b> N/A	<b>Uses Allowed:</b> Uses specified by PUD	
<b>PROPERTY HISTORY:</b>		
<b>Zoned:</b> 06/06 (PUD amended in 06/06 & 09/09)	<b>Platted:</b> 06/06	<b>Annexed:</b> 11/80
<b>ADDITIONAL INFORMATION:</b>		
<ol style="list-style-type: none"> <li>1. The Missouri Valley Complex Planned Unit Development was approved by the City of Bismarck in June 2004 and the final plat was recorded in July 2006. The PUD ordinance indicates that the PUD shall only be amended in accordance with the provisions of Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments) and that major changes require a majority vote of the Bismarck Planning &amp; Zoning Commission.</li> <li>2. The PUD was amended in July 2006 to correct lot numbers and to expand the area that could be used for off-road vehicles. The PUD was amended again in 2009 to allow utilities on all lots.</li> <li>3. All allowable land uses in a PUD are specified in the PUD ordinance. If a specific type of land use is not specified, it is not allowed. To allow auctions within the PUD, new language is proposed as an addition to the permitted uses for this PUD.</li> <li>4. The property owner has requested the amendment to allow auctions as a permitted use on all lots within the subdivision. Because the PUD identifies specific allowable uses for specific lots, it seems reasonable to allow auctions only on those lots where similar uses are allowed, rather than on all lots. Similar uses are allowed on the multi-use activity lots, which are Lots 14, 15, 16, 17 &amp; 18, Block 1.</li> </ol>		
<i>(continued)</i>		

5. The word “auction” is generally defined as the sale of property to the highest bidder. While some auctions would be an appropriate use in the Missouri Valley Complex, other auctions would not be appropriate uses. For the purposes of this amendment, it seems reasonable to limit the types of auctions to benefit auctions, estate auctions and similar types of auctions, but to specifically exclude commercial livestock sales and auctions (regardless of whether the livestock being sold commercially is breeding/production stock or other livestock), because that use is clearly defined in the zoning ordinance as a heavy industrial use that would only be allowed in the MB – Industrial zoning district (stockyards, feeding pens or livestock sales facility).
6. The concept of having commercial livestock auctions at the Missouri Valley Complex was first discussed in mid-2012. Two letters regarding this topic to Doug Schonert, who was the chairman of the Burleigh County Board of Commissioners at the time, are attached. These letters clearly indicate that staff would not support a PUD amendment to allow commercial livestock auctions at the Missouri Valley Complex.

#### **FINDINGS:**

1. The PUD as amended would not create incompatibilities with the existing adjacent land uses, as it adds a use that is similar in scope to other permitted uses, provided that the auction uses are limited to the multi-use activity lots (Lots 14, 15, 16, 17 & 18, Block 1) and commercial livestock sales and auctions are excluded. Adjacent land uses include undeveloped State-owned land to the north and southeast, a State prison and other State-owned land to the west, industrial uses to the south and southwest, an industrial uses and undeveloped RR and A-zoned land to the east.
2. The property is already being developed; therefore, the PUD as amended will not place an undue burden on public services.
3. The proposed PUD amendment is consistent with adopted plans, policies and accepted planning practice, provided that the auction uses are limited to the multi-use activity lots (Lots 14, 15, 16, 17 & 18, Block 1) and commercial livestock sales and auctions are excluded.

#### **RECOMMENDATION:**

Based on the above findings, staff recommends approval of the major PUD amendment for Missouri Valley Complex to allow auctions limited to benefit auctions, estate auctions, occasional livestock auctions tied to 4H or other not-for-profit educational livestock shows, and similar types of auctions, but specifically excluding commercial livestock sales and auctions (regardless of whether the livestock being sold commercially is breeding/production stock or other livestock), and with this activity limited to Lots 14, 15, 16, 17 & 18, Block 1 as outlined in the attached draft PUD amendment document.

**MISSOURI VALLEY COMPLEX PLANNED UNIT DEVELOPMENT  
ORDINANCE NO. 5373 (Adopted November 23, 2004 – effective July 10, 2006)  
MAJOR PUD AMENDMENT (Adopted July 26, 2006)  
MAJOR PUD AMENDMENT (Adopted September 23, 2009)  
MAJOR PUD AMENDMENT (Adopted \_\_\_\_\_)**

WHEREAS, Ordinance No. 5373 was adopted by the Board of City Commissioners on November 23, 2004; and

WHEREAS, the PUD shall only be amended in accordance with the provisions of Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments); and

WHEREAS, the PUD was amended on July 26, 2006 to correct lot numbers and to expand the area that could be used for off-road vehicles, and again on September 23, 1009 to allow utilities on all lots; and

WHEREAS, Burleigh County has requested a third amendment to the Planned Unit Development for Lots 1 and 3-19, Block 1, Missouri Valley Complex.

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

Lot 1 and Lots 3-19, Block 1, Missouri Valley Complex

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

*1. Uses Permitted.* Uses permitted include:

Lots 5, 7 & 8 – Perimeter Landscaping and Parking

To be used for landscaping and parking. The east end of Lot 8 and the south end of Lot 5 may include structures to define these locations as entrance points to the Missouri Valley Complex.

Lot 6 – Lift Station

Lot 6 is the site of an existing sanitary sewer lift station and is reserved for continuation of that use.

Lots 11, 12, 14 & 18 – Off-Road Motor Sports

For motorcycle events such as motocross and for other similar motor sports activities including but not limited to ATVs and snowmobiles or bicycle uses.

#### Lot 19 – Roads

The interior road system is designated as a lot rather than as dedicated streets or access easements. The objective is for the county to retain ownership of the roads and provide maintenance.

#### Lots 1, 3, 4, 9, 10, 11 & 13 – Nature & Recreation

The primary land use objectives for these lots are to preserve and enhance the creek and wetland areas for outdoor recreation, wildlife habitat and flood water storage. Some typical uses would include multi-use trails, environmental education, archery, community gardens, bird watching, a dog agility course, Frisbee golf, non-motorized watercraft, picnic areas and other suitable uses of a similar character. Structures within these lots may include picnic tables, picnic shelters, toilets and similar structures. Lots 4 and 9 could include structures to define these locations as entrance points to the Missouri Valley Complex.

#### Lots 14, 15, 16, 17 & 18 – Multi-Use Activities

An indoor arena for year-round functions such as agricultural and community education; festivals; stock shows; dances; community meetings; auctions limited to benefit auctions, estate auctions, occasional livestock auctions tied to 4H or other not-for-profit educational livestock shows, and similar types of auctions, but specifically excluding commercial livestock sales and auctions (regardless of whether the livestock being sold commercially is breeding/production stock or other livestock); collector meets and other suitable activities.

A grandstand for outdoor entertainment, concerts, trade shows, fairs, collector and swap meets, car shows and other suitable activities.

Active use areas include parking for events such as exhibits, carnival rides, vendor booths, etc.

Buckstop Junction on Lot 16: There is a long-term lease agreement in this area with the Missouri Valley Historical Society. Area is reserved based on the Historical Society plan for expansion of additional streets, building sites and other “town” features. A new parking area is planned to the northwest of the “town”.

A crop maze, historic period agriculture demonstrations or research related agricultural plots may occupy areas within these lots.

The NDSU / Burleigh County Extension / 4H activities and offices are on Lot 17. Part of the 4H program includes a shooting sports component. An indoor shooting range may be constructed on a portion of Lot 17.

The area is also slated for an indoor arena and parking. Part of this area, including Lot 18, may be developed as an outdoor arena for livestock or rodeo activities or other suitable uses such as tractor pulls.

Accessory uses including restroom facilities, registration booths, various concessions such as food and beverage services, beer gardens, and other services and uses normally associated with major events that bring large gatherings of people are allowed throughout the “Multi-Use Activities” area.

Any proposed changes that are inconsistent with these permitted use standards will require an amendment to this PUD.

#### Lots 11, 12, 14 & 18

Camping is allowed on Lots 11, 12, 14 & 18 when associated with an event such as a rodeo or motocross rally.

#### All lots – Utility Systems

For the benefit of the public, utility systems for gas, water, communication, electrical and sewer are allowed on any lot when the following factors are present:

- 1) The structure or use is necessary for the safe or efficient operation of the utility.
- 2) The utility which the structure or use serves is one available to the general public.
- 3) The design and location of the premises and structures are in compliance with the development standards for this PUD and other applicable codes.
- 4) The use complies with setback regulations specified for this PUD.
- 5) Wherever the lot on which the use is located adjoins a lot in a residential district, there is planted and maintained a landscaped screened planting strip no less than five feet in width adjacent to all lot boundaries so adjoining a lot in a residential district.
- 6) Proper fencing with lot entrances shall be erected at least six (6) feet high and maintained around all installations and structures in which there is any safety hazard whatsoever for children, provided that all structures shall be so located that such safety fence shall be so placed as not to encroach on any front yard.
- 7) The following uses are declared to be typical utilities:
  - a. Electric transformer or substations.
  - b. Electric transmission lines.
  - c. Sewage lift stations.
  - d. Water pumping stations.
  - e. Cell phone, microwave, radio, or communication towers.
  - f. Gas regulator stations, excluding stations emitting noise of more than fifty (50) decibels at any property line adjacent to any residentially zoned area.

## 2. *Development Standards.*

The primary objective for this PUD area is to promote development consistent with the goals and objectives of the Missouri Valley Fairgrounds Site Strategic Development Plan of October 2001. A parallel objective is to allow flexibility in developing the site by placing a greater emphasis on development concepts and a lesser emphasis on a list of detailed specific uses, locations, arrangements, and numbers of buildings and structures.

Proposed developments in this area are not exempt from construction requirements of building, plumbing, electrical, and fire codes.

Building setback requirements in this PUD are as follows:

Front yard. Each lot shall have a front yard of not less than 25 feet.

Side yard. Each lot shall have side yards of not less than 15 feet.

Rear yard. Each lot shall have a rear yard of not less than 50 feet.

East Boundary. For Lots 4, 9, 10, 11, 12 & 13 of Block 1, a building setback of 75 feet shall apply to the east boundary line of those lots.

Lot 19 contains the interior road system. Building setbacks will be measured from the boundary of this lot.

Lot coverage shall not exceed 80 per cent.

Except for utilities as allowed herein, no structure shall exceed 50 feet in height.

For structures or trees within any powerline easement area, written permission from the easement owner is required.

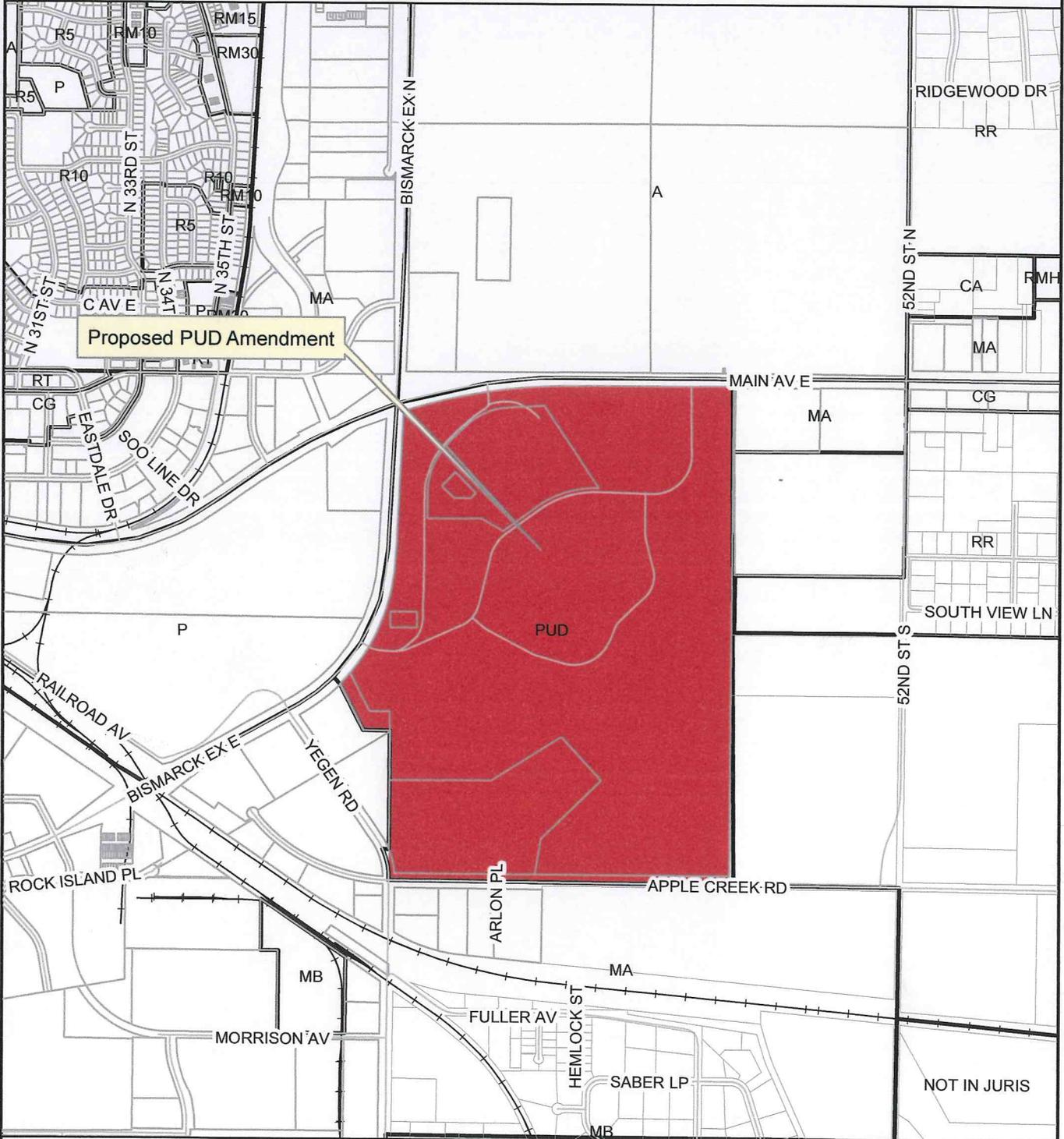
Parking lots will be subject to the requirements of Section 14-03-11 of the Code of Ordinances of the City of Bismarck, North Dakota.

Any proposed changes that are inconsistent with these development standards will require an amendment to this PUD.

## 3. *Changes.*

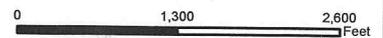
This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and a majority vote of the Bismarck Planning & Zoning Commission.

# Proposed Major PUD Amendment Missouri Valley Complex



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.  
Map was Updated/Created: August 16, 2013 (kie)

Source: City of Bismarck





## Community Development Department

July 16, 2012

Doug Schonert  
Burleigh County Board of Commissioners  
PO Box 5518  
Bismarck, ND 58506-5518

RE: Missouri Valley Complex

Dear Chairman Schonert:

The purpose of this letter is to provide you with information on the Missouri Valley Complex and the proposed multi-use facility being proposed.

The Planned Unit Development (PUD) for the Missouri Valley Complex includes provisions for multi-use activities on Lots 14, 15, 16, 17 and 18. There is specific language relating to an indoor arena and an outdoor arena

“An indoor arena for year-round functions such as agricultural and community education, festivals, stock shows, dances, community meetings, collector meets and other suitable activities.”

“The area is also slated for an indoor arena and parking. Part of this area, including Lot 18, may be developed as an outdoor arena area for livestock or rodeo activities or other suitable uses such as tractor pulls.”

Based on those two sections, a multi-use agricultural facility would be permitted. The City’s concern is with the potential use of the facility for ongoing commercial livestock sales and the extent of those commercial livestock sales as part of the overall usage of the facility.

Title 14 (Zoning), Section 14- 03-07 (14)(3), of the City Code of Ordinance includes, “Stockyards, feeding pens or livestock sale facilities” as a use in Industrial Group B. These provisions also require that such a use cannot be located closer than five hundred (500) feet from any zone in which the use is prohibited. The uses in industrial group B is one involving manufacturing or the storage, sale of products and material, and in which the operations create a greater degree of hazard or more annoyance than the operations of uses in industrial group A. A commercial livestock sale facility would not be allowed under the PUD as it is an industrial use that would require MB – Industrial zoning.

*Bismarck-Burleigh County Community Development Department*  
221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • [www.bismarck.org](http://www.bismarck.org)

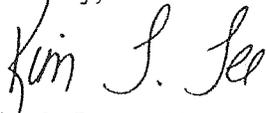


In order to conduct commercial livestock sales within the Missouri Valley Complex, an amendment to the PUD would be required. As a commercial livestock sale facility is defined in the Zoning Ordinance as a heavy industrial use, City staff would not be supportive of such an amendment.

If we have misunderstood the proposed use of the building or the commercial nature of the proposed livestock sales operation, we would be willing to discuss the issue further.

If you have any questions or need any additional information please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Kim L. Lee".

Kim L. Lee, AICP  
Planning Manager

/kll



## Community Development Department

July 24, 2012

Doug Schonert  
Burleigh County Board of Commissioners  
PO Box 5518  
Bismarck, ND 58506-5518

RE: Missouri Valley Complex

Dear Chairman Schonert:

The purpose of this letter is to provide you with additional information on the Missouri Valley Complex and the multi-use facility being proposed.

We met with Mr. Effertz last week to discuss details of the proposed sales events. It is our understanding that the proposed livestock sales use would be for production/breeding stock and show animals, starting with 10 to 12 sales per year, with a potential increase to 30 sales per year. The number of animals to be sold was estimated by Mr. Effertz at 4000 to 5000 per year. The animals would be kept inside the hoop barns, and would only be outside during loading and unloading. A structure would connect the hoop barns with the pavilion, and the pavilion could be used for other activities. It is also our understanding that sales of this type have traditionally been held at Kist Livestock and Farmers Livestock.

As indicated the previous letter, the Planned Unit Development (PUD) for the Missouri Valley Complex would allow a multi-use agricultural facility on the property. Title 14 (Zoning), Section 14-03-07 (14)(3), of the City Code of Ordinance includes, "Stockyards, feeding pens or livestock sale facilities" as a use in Industrial Group B. As the ordinance groups all types of livestock sale facilities together and does not differentiate between the sale of production/breeding stock and the sale of other types of livestock, staff has determined that the proposed use of the facility for the ongoing commercial sale of production/breeding livestock has to be classified as a livestock sale facility. A commercial livestock sale facility would not be allowed under the PUD as it is an industrial use that would require MB – Industrial zoning.

In order to conduct ongoing commercial livestock sales within the Missouri Valley Complex, Burleigh County would need to apply for an amendment to the PUD and have that amendment approved by the City Planning and Zoning Commission. As a commercial livestock sale facility is defined in the Zoning Ordinance as a heavy industrial use, City staff would not be supportive of such an amendment.

*Bismarck-Burleigh County Community Development Department*  
221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • [www.bismarck.org](http://www.bismarck.org)



In conclusion, there are no zoning concerns with a multi-use agricultural facility on the property and we have determined that livestock shows and the occasional sale of livestock in conjunction with such shows within the facility is permitted under the PUD. There are zoning concerns with the proposed use of the facility for ongoing commercial livestock sales, which we have determined is not permitted under the PUD.

If you have any questions or need any additional information please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Kim L. Lee".

Kim L. Lee, AICP  
Planning Manager

/kll

**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

<b>BACKGROUND:</b>		
<b>Title:</b> West 206 feet of Tract 1503 of the NW¼ of Section 3, 138N-R80W/Lincoln Township – Special Use Permit (Drive-Through)		
<b>Status:</b> Planning Commission – Public Hearing	<b>Date:</b> September 25, 2013	
<b>Owner(s):</b> Bismarck Park Avenue Properties, LLP	<b>Engineer:</b> N/A	
<b>Reason for Request:</b> Allow a drive-through window in conjunction with a proposed restaurant.		
<b>Location:</b> Along the south side of East Main Avenue, between South 12 <sup>th</sup> Street and Airport Road.		
<b>Project Size:</b> 28,840 square feet	<b>Number of Lots:</b> One parcel	
<b>EXISTING CONDITIONS:</b>		
<b>Land Use:</b> Undeveloped	<b>PROPOSED CONDITIONS:</b>	
<b>Zoning:</b> MA – Industrial	<b>Land Use:</b> Multi-tenant retail space, including a restaurant with a drive-through window–	
<b>Uses Allowed:</b> Light industrial and commercial uses	<b>Zoning:</b> MA – Industrial	
<b>Maximum Density Allowed:</b> N/A	<b>Uses Allowed:</b> Light industrial and commercial uses	
<b>Maximum Density Allowed:</b> N/A		
<b>PROPERTY HISTORY:</b>		
<b>Zoned:</b> 04/1959	<b>Platted:</b> 02/1915	<b>Annexed:</b> 04/1959
<b>FINDINGS:</b>		
<ol style="list-style-type: none"> <li>1. A drive-through window is allowed as a special use in the MA – Industrial zoning district, provided specific conditions are met. The proposed drive-through window meets all six provisions outlined in Section 14-03-08(4)(g) and meets the required vehicle stacking outlined in Section 14-03-10(2) of the City Code of Ordinances (Zoning). Copies of both sections of the ordinance are attached.</li> <li>2. The proposed special use would not adversely affect the public health, safety and general welfare.</li> <li>3. The proposed special use would not be detrimental to the use or development of adjacent properties.</li> <li>4. The use would be designed, operated and maintained in a manner that is compatible with the appearance of the existing character of the surrounding area.</li> <li>5. Adequate public facilities and services are in place.</li> <li>6. This use would not cause a negative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.</li> <li>7. Adequate measures have been taken to minimize traffic congestion in the public street and provide for appropriate on-site circulation of traffic. In particular, adequate off-street parking would be provided and stacking areas are located away from East Main Avenue.</li> </ol>		

**RECOMMENDATION:**

Based on the above findings, staff recommends approval of a special use permit to allow a drive-through window in conjunction with a proposed restaurant on the West 206 feet of Tract 1503 of the NW ¼ of Section 3, 138N-R80W/Lincoln Township, with the following conditions:

1. The construction and operation of the drive-through window must meet all applicable requirements for such a use in the MA – Industrial zoning district.
2. Development of the site must generally conform to the site plan submitted with the application.

**14-03-08(4)**

- g. Drive-in retail or service establishments. An establishment dispensing goods at retail or providing services through a drive-in facility, including, but not limited to drive-in restaurants, banks or other drive-in facilities exclusive of theatres may be permitted in a CG, CR, MA or HM district (drive-in banks only may also be permitted in a CA district) as a special use provided:
1. The lot area, lot width, front yard, side yards, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located.
  2. Access to and egress from a drive-in establishment shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets.
  3. Adequate off-street parking shall be provided in conformance with section 14-03-10 of this ordinance. In addition, an ingress automobile parking reservoir shall be provided on the premises in conformance with section 14-03-10 of this ordinance.
  4. Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersecting street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on a local street.
  5. All access and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall comply with the standards established by the city engineer.
  6. On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines.

**14-03-10(2)**

2. Off-street vehicle stacking. Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy for a commercial or industrial use shall be approved unless there is included with the plan for such building improvement or use, a site plan showing the required space designated as being reserved for off-street vehicle stacking purposes to be provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided. Each required vehicle stacking space shall be of an area at least ten (10) feet wide and twenty (20) feet in length. Vehicle stacking lanes shall be located completely upon the parcel of land that includes the structure they are intended to serve and shall be so designed as to not impede on- or off-site traffic movements. All vehicle stacking spaces shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock or gravel shall not be considered an acceptable surfacing material. The number of off-street vehicle stacking spaces shall be provided on the basis of the following minimum requirements:

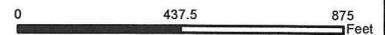
Type of Use	Minimum Number of Stacking Spaces	Measured From
Financial institution- ATM	3 spaces per lane	Kiosk
Financial institution - teller	4 spaces for first lane, 3 spaces for each additional lane	Window or pneumatic tube kiosk
Drive-through restaurant	12 spaces	Pick-up window
Drive-through coffee shop	10 spaces	Pick-up window
Car wash, automatic	6 spaces per bay	Entrance
Car wash, self-service	3 spaces per bay	Entrance
Drive-through car service (oil change and similar)	3 spaces per bay	Entrance
Drive-through pharmacy	3 spaces	Window
Drive-through cleaners	3 spaces	Window
Drive-through photo lab	3 spaces	Window
Self-service fueling station	2 spaces per fueling island	Each end of the fueling island
Gated parking lots and entrances	2 spaces	Gate

**Proposed Special Use (Drive-Through)  
West 206 feet of Tract 1503 of the NW 1/4 of  
Section 3, Lincoln Township (City Lands)**



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.  
Map was Updated/Created: September 12, 2013 (klee)

Source: City of Bismarck





# CITY OF BISMARCK

## Ordinance No. XXXX

*First Reading* \_\_\_\_\_  
*Second Reading* \_\_\_\_\_  
*Final Passage and Adoption* \_\_\_\_\_  
*Publication Date* \_\_\_\_\_

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-09-04 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO REGULATIONS GOVERNING THE SUBDIVISION OF LAND AND PROCEDURE.

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

Section 1. Amendment. Section 14-09-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Regulations Governing the Subdivision of Land and Procedure is hereby amended and re-enacted to read as follows:

14-09-04. Procedure

\* \* \* \* \*

- 3. Minor Subdivision Plat.
  - a. The purpose of this subsection is to provide for an expedited review and approval process for the resubdivision of previously platted property that meets the criteria for a minor subdivision plat. Subdivision plats that do not meet the criteria shall be considered major subdivision plats.
  - b. The subdivider shall apply in writing to the Director of Community Development for approval of a minor subdivision plat by the specified application deadline and on the proper form. All current owners of property within the plat shall sign or ratify the application form.

- c. The number of prints of the minor subdivision final plat as indicated on the current application form shall accompany the application for approval. The minor subdivision final plat shall comply with the provisions of Section 14-09-07(2) of these regulations and shall be accompanied by:
- i. The applicable fee;
  - ii. Either a copy of a current title insurance policy running to the benefit of the City and prepared within the past six months or an current attorney's opinion of ownership prepared within the past six months and including a list of easement holders;
  - iii. An 8½ x 11 reduction of the plat;
  - iv. An acceptable digital copy of the plat for use in the City's geographic information system (GIS); and
  - v. A storm water management plan prepared in accordance with the provisions of Section 14.1-02-01 (Storm Water Management Plan/Application) Title 14.1 of the Zoning Ordinance.
  - vi. A copy of the proposed home owners' association documents if there are any common lots (private roadways, parking areas, green spaces, etc.) or any association maintenance required within the proposed plat.
- d. After receipt of the application for minor subdivision plat approval, the Director of Community Development shall give notice of a public hearing on such proposed subdivision by advertising the time and place of such hearing in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive weeks prior to the date of such hearing. Not less than ten (10) days prior to date of the scheduled public hearing, the City shall attempt

to notify all known adjacent property owners within three hundred (300) feet of the proposed minor subdivision plat. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Burleigh County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The Director of Community Development shall send a notice of the time and place of such public hearing to the subdivider and property owner(s) before the date fixed for the hearing. The public hearing may be held at any regular or special meeting of the Planning and Zoning Commission.

- e. After a public hearing, the Planning and Zoning Commission may act upon the request for minor subdivision plat approval. If the Planning and Zoning Commission approves the minor subdivision plat, such approval will be entered upon the tracing plat prepared for recording and will be signed by the secretary of the Planning and Zoning Commission (Director of Community Development) and the Chair of the Planning and Zoning Commission. If the Planning and Zoning Commission disapproves the subdivision, such action, together with the reasons therefore, will be entered in the official records of the Planning and Zoning Commission and the subdivider shall be so notified.
- f. A minor subdivision plat that is approved by the Planning and Zoning Commission will be recommended for approval to the Board of City Commissioners. ~~Following final approval by the Board of City Commissioners, a plat in recordable form shall be furnished to the Director of community Development within one hundred eighty (180) days following approval. The Director of Community Development may grant extensions of thirty (30) days for good cause shown in writing. Upon review and obtaining required signatures, the Director of Community Development shall file and record the original signed plat with the Burleigh County Recorder. All final plats shall be provided digitally formatted to the City of~~

~~Bismarck's current computer aided drafting and geographic system software and policy, including coordinate system ties as defined within this zoning ordinance.~~

- g. Following final approval of a minor subdivision final plat by the Board of City Commissioners, a plat in recordable form, along with any required plat ratifications, any required storm water management plan certification and the final home owners association documents if required shall be furnished to the Director of Community Development within one hundred eighty (180) days following approval. The Director of Community Development may grant extensions of thirty (30) days for good cause shown in writing.
- h. Upon review and obtaining required signatures, and upon receipt of an acceptable digital file of the approved plat, the Director of Community Development shall file and record the original signed plat and any required ratifications, any required rural water agreement and any required home owners association documents with the Burleigh County Recorder.—All final plats shall be provided digitally formatted to the City of Bismarck's current computer aided drafting and geographic system software and policy, including coordinate system ties as defined within this zoning ordinance.

4. Tentative approval - Major Subdivision Plat:

- a. The subdivider shall apply in writing to the Director of Community Development for tentative approval of a major subdivision plat by the specified application deadline and on the proper form. All current owners of property within the plat shall sign or ratify the application form.
- b. The number of prints of the preliminary plat as indicated in the current application form shall be filed with the Director of Community Development at the time application for tentative approval is made. The plat shall comply with the

provisions of Section 14-09-07(1) of these regulations and shall be accompanied by:

- i. The applicable fee;
- ii. An 8½ x 11 reduction of the plat;
- iii. An acceptable digital copy of the plat for use in the City's geographic information system (GIS);
- iv. A concept development plan showing the proposed location of roadways and a generalized lot layout for all adjacent land within ½ mile of the proposed plat that is owned by the applicant;
- v. A preliminary storm water management plan that includes:
  - a. The name of the applicant;
  - b. The name of the proposed plat;
  - c. The location of the proposed plat, including a description, a location map and the area of the proposed plat;
  - d. The existing site conditions and characteristics, including: topography; watershed information; delineation of streams, wetlands or other public waters and their descriptions; existing storm water facilities and features; soils and soil characteristics; current ground cover conditions; current land use and zoning; and the location of any floodplains or floodways.
  - e. A general written description of the development to occur.
  - f. Proposed final site conditions, including ~~The proposed~~ a preliminary grading plan shown at contours as required to clearly indicate the

- relationship of the proposed changes to existing topography and remaining features;
- g. A preliminary drainage plan of the developed site delineating the direction and at what rate storm water runoff will be conveyed from the site and setting forth the areas of the site where storm water will be collected; and
  - h. Any other information pertinent to the particular project which, in the opinion of the applicant, is necessary for the preliminary review of the project.
- c. For a proposed subdivision plat within or adjacent to the corporate limits, a preliminary utility servicing plan is also required. This preliminary utility servicing plan shall include:
- i. An accurate location map;
  - ii. The proposed layout of lots and streets;
  - iii. Topographic contours with a minimum contour interval of two (2) feet;
  - iv. The location of any existing municipal utilities within or adjacent to the plat; and
  - v. The proposed location of water and sanitary sewer mains within the subdivision, how these mains are proposed to connect to the existing utility systems, and any easements on adjacent property required to accommodate connections.
- d. For proposed subdivision plats outside of the corporate limits, but within the Urban Service Area Boundary, the following profiles for roads/streets are also required:

- i. Three profiles of existing ground elevation; one at centerline and one on each side of the right-of-way, fifty feet beyond the right-of-way lines, and
  - ii. Two centerline profiles of proposed design elevations; one for a rural road section and another for a future urban street section design.
- e. For proposed subdivision plats within two-miles of the corporate limits, the source of water shall be identified. If the subdivision is to be served by South Central Regional Water District a formal request from South Central Regional Water District to service the subdivision shall be submitted in conjunction with the request for tentative approval. Said request shall include a statement indicating that all rural water service lines installed by or on behalf of South Central Regional Water District will be installed to City specifications. The City Engineer shall review the request and make a determination as to whether or not South Central Regional Water District service will be allowed. If South Central Regional Water Service is allowed, a rural water agreement is required.
- f. All areas proposed for development shall be platted to the edge of the property with all undevelopable land included within the plat (subject to discussion and agreement by the landowner and the City).
- i. Land determined by the owner and City to be undevelopable and/or needed for stormwater purposes shall be:
    - a. Included in adjoining platted lot(s) as a stormwater easement that is privately owned, with only major maintenance by City. The amount of property taxes and special assessments for these areas will be determined by the City based on the level of benefit and the value of the land; or

- b. Platted as a separate lot(s) that is owned and maintained by the City, as a regional stormwater conveyance or detention facility; or
- c. Platted as a separate lot(s) that is owned and maintained by the Bismarck Parks and Recreation District (subject to their agreement) as a natural area; or
- d. Platted as a separate lot(s) that is owned and maintained by the Bismarck Parks and Recreation District, (subject to their agreement) and including a City-maintained stormwater easement; or
- e. Any combination of the above options.

Undevelopable land will be maintained as a natural area unless a drainage easement is present and the easement requires major maintenance. Major maintenance shall include maintenance of existing structures, mowing below floodplain elevation, cleaning of sediment and maintenance of access.

- g. The Planning and Zoning Commission shall approve, approve conditionally, table or disapprove such preliminary major subdivision plat. If approved with modification or waiver of certain requirements by the Planning and Zoning Commission, the reasons therefore shall be specified. If approved conditionally, the conditions and reasons therefore shall be specified. In any conditional approval, the Planning and Zoning Commission may require the subdivider to submit a revised preliminary major subdivision plat. If disapproved, the reasons for that action shall be stated, and if possible, the Planning and Zoning Commission shall make recommendations on the basis of which the proposed subdivision may be approved.

- h. The action of the Planning and Zoning Commission shall be entered on the official records of the Planning and Zoning Commission, including any conditions imposed and the reasons for any disapproval of a preliminary major subdivision plat.
  - i. Tentative approval of a preliminary major subdivision plat by the Planning and Zoning Commission is not an acceptance of the major subdivision plat for record, but is rather an expression of approval of a general plat for the final approval and recording upon fulfillment of all requirements of these regulations.
  - j. Tentative approval shall be effective for a maximum period of twelve (12) months, unless upon application by the subdivider, the Director of Community Development grants an extension. If the final major subdivision plat has not been submitted for final approval within this time limit, a preliminary major subdivision plat must again be submitted to the Planning and Zoning Commission for tentative approval.
5. Final approval - Major Subdivision Plats:
- a. The subdivider shall apply in writing to the Director of Community Development for final approval of a major subdivision plat by the specified application deadline and on the proper form. All current owners of property within the plat shall sign or ratify the application form.
  - b. The number of prints of the final major subdivision plat as indicated in the current application form shall accompany the application for final approval. The final plat shall comply with the provisions of Section 14-09-07(2), of these regulations, and shall be accompanied by:
    - i. Either a copy of a ~~current~~ title insurance policy running to the benefit of the City and prepared within the past six months or an ~~current~~ attorney's opinion of ownership

- prepared within the past six months and including a list of easement holders
- ii. An 8½ x 11 reduction of the plat;
  - iii. An acceptable digital copy of the plat, ~~if required~~ for use in the City's geographic information system (GIS); and
  - iv. A storm water management plan prepared in accordance with the provisions of Section 14.1-02-01 (Storm Water Management Plan/ Application) Title 14.1 of the Zoning Ordinance.
  - v. A copy of the proposed home owners association documents if there are any common lots (private roadways, parking areas, green spaces, etc.) or any association maintenance required within the proposed plat.
- c. For proposed subdivision plats located within the City of Bismarck's extraterritorial area, an assurance of completion of the required improvements (in a form acceptable to the Planning Commission Board of County Commissioners) shall be required only if such improvements are will not be constructed and accepted prior to recording of the plat.
- d. For plats proposed within the Urban Service Area Boundary, the following are also required:
- i. Grading plans for both rural section roadways to be constructed to serve the rural lots and future urban roadway sections to be constructed to serve the ghost platted urban lots.
  - ii. Master plans for the future extension of municipal water and sewer facilities to ghost platted urban lots.
  - iii. Watershed Master Plan (as defined in Section 14.1-01-02).

- e. After receipt of the application for final major subdivision plat approval, the Director of Community Development shall give notice of a public hearing on such proposed subdivision by advertising the time and place of such hearing in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive weeks prior to the date of such hearing. Not less than ten (10) days prior to date of the scheduled public hearing, the City shall attempt to notify all known adjacent property owners within three hundred (300) feet of the proposed major subdivision plat. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Burleigh County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The Director of Community Development shall send a notice of the time and place of such public hearing to the subdivider and property owner(s) before the date fixed for the hearing. The public hearing may be held at any regular or special meeting of the Planning and Zoning Commission.
- f. After a public hearing, the Planning and Zoning Commission may act upon the request for final approval. If the Planning and Zoning Commission approves the subdivision, such approval will be entered upon the ~~tracing~~ plat prepared for recording and will be signed by the secretary (Director of community Development) and the Chair of the Planning and Zoning Commission. If the Planning and Zoning Commission disapproves the subdivision, such action, together with the reasons therefor will be entered in the official records of the Planning and Zoning Commission and the subdivider shall be so notified.
- g. Upon final approval of a major subdivision plat involving the creation of new street(s), the widening, decreasing or vacation of existing street(s) or alley(s), or the creation, enlargement or decrease of other lands devoted to public use, the ~~p~~Planning and Zoning ~~e~~Commission

shall at the same time and without further public hearing, approve such change in streets, alleys or public lands as an amendment to the master plan. The ~~p~~Planning and Zoning ~~e~~Commission will transmit notice of such action to the ~~b~~Board of ~~e~~City ~~e~~Commissioners of the City of Bismarck together with appropriate recommendations concerning the acceptance of dedicated streets and alleys, or the vacation thereof, and of the acceptance of other dedicated lands. ~~In the case of streets, alleys and public lands lying outside the City of Bismarck, notice of the action of the planning commission and appropriate recommendations will be transmitted to the board of county commissioners of Burleigh County or other body having jurisdiction in order to procure approval of roadway dedications.~~

- h. Final approval of a major subdivision plat by the ~~p~~Planning and Zoning ~~e~~Commission shall in no way constitute legal acceptance of any dedicated streets, alleys or other public lands.
- i. A final major subdivision plat that is approved by the Planning and Zoning Commission will be recommended for approval to the Board of City Commissioners. ~~Following final approval by the Board of City Commissioners, a plat in recordable form shall be furnished to the Director of Community Development within one hundred eighty (180) days following approval. The director of Community Development may grant extensions of thirty (30) days for good cause shown in writing. Upon review and obtaining required signatures, the Director of Community Development shall file and record the original signed final major subdivision plat with the Burleigh County Recorder. All final plats shall be provided digitally formatted to the City of Bismarck's current computer-aided drafting and geographic system software and policy, including coordinate system ties as defined within this zoning ordinance.~~
- j. In the case of a final major subdivision plat with streets, alleys and public lands lying

outside the City of Bismarck, notice of the action of the planning commission Board of City Commissioners and appropriate recommendations will be transmitted to the Board of County Commissioners of Burleigh County or other body having jurisdiction in order to procure approval of roadway dedications.

k. Following final approval of a final major subdivision plat by the Board of City Commissioners, and acceptance of roadway dedications by the Board of County Commissioners if required, a plat in recordable form, along with any required plat ratifications, any required storm water management plan certification and the final home owners association documents if required shall be furnished to the Director of Community Development within one hundred eighty (180) days following approval. The Director of Community Development may grant extensions of thirty (30) days for good cause shown in writing.

l. Upon review and obtaining required signatures, and upon receipt of an acceptable digital file of the approved plat, the Director of Community Development shall file and record the original signed plat, any required ratifications, any required rural water agreement and any required home owners association documents with the Burleigh County Recorder. All final plats shall be provided digitally formatted to the City of Bismarck's current computer aided drafting and geographic system software and policy, including coordinate system ties as defined within this zoning ordinance.

*Ord. 4393, 08-27-91; Ord. 4483, 02-02-93; Ord. 4733, 11-14-95; Ord. 4804, 11-12-96; Ord. 4822, 02-25-97; Ord. 4946, 10-27-98; Ord. 5097, 02-13-01; Ord. 5138, 11-13-01 Ord. 5146, 12-18-01; 5218, 11-26-02l Ord. 5279, 09-23-03; Ord. 5297, 02-24-04; Ord. 5343, 06-22-04; Ord. 5351, 08-24-04; Ord. 5370, 11-23-04; Ord. 5452, 08-23-05; Ord. 5453, 08-23-05; Ord. 12-12-06; Ord. 5728, 05-26-09)*

\* \* \* \* \*

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of

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

Section 3. Effective Date. This ordinance shall take effect following final passage, adoption and publication after the required comment period under Section 40-47-01.1 of the North Dakota Century Code.

# CITY OF BISMARCK

## Ordinance No. XXXX

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

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-09-03 AND 14-09-04 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO DEFINITIONS, PROCEDURE AND THE REGULATIONS GOVERNING THE SUBDIVISION OF LAND.

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

Section 1. Amendment. Section 14-09-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Definitions and the Regulations Governing the Subdivision of Land is hereby amended and re-enacted to read as follows:

14-09-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

\* \* \* \* \*

Park Concept Development Plan: a conceptual plan of development of park and open space facilities for a particular property. Such plans may be developed for a subdivision plat or as part of a larger property that may be developed in phases and form the basis for subsequent subdivision plats.

Neighborhood Park: a park that typically serves the immediate residential areas within walking distance. Both passive and active park uses may be provided. Neighborhood parks do not typically have amenities that citizens would be drawn to drive to, but may include such features as part of a Park Development Agreement.

Park Development Agreement: a written agreement between the Bismarck Parks and Recreation District and an owner and/or developer of land within the planning and zoning jurisdiction of the City of Bismarck. Such agreements shall be in accordance with the latest adopted City policy and shall include provisions for the transfer of property to the Park District for the purpose of development of park and open space facilities and the obligations of all parties pursuant to the provisions of the agreement.

Section 2. Amendment. Section 14-09-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Procedure and the Regulations Governing the Subdivision of Land is hereby amended and re-enacted to read as follows:

14-09-04. Procedure.

- 1. Preliminary steps:
  - a. Prior to preparing a subdivision plat for submittal, the applicant shall meet with ~~planning and engineering~~ City and Park District staff to discuss the proposed plat, consistency of the plat with City and Park District policies and plans, the overall concept plan for the area, extension of municipal utilities to service the plat, compliance with the fringe area road master plan, the development of park and open spaces within the plat, and storm water management issues.

\* \* \* \* \*

4. Tentative approval - Major Subdivision Plat:

\* \* \* \* \*

- b. The number of prints of the preliminary plat as indicated in the current application form shall be filed with the Director of Community Development at the time application for tentative approval is made. The plat shall comply with the provisions of Section 14-09-07(1) of these regulations and shall be accompanied by:

- i. The applicable fee;
- ii. An 8½ x 11 reduction of the plat;
- iii. A digital copy of the plat;
- iv. A concept development plan showing the proposed location of roadways and a generalized lot layout for all adjacent land within ½ mile of the proposed plat that is owned by the applicant.
- v. A preliminary storm water management plan that includes:
  - a. The proposed preliminary grading plan shown at contours as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features;
  - b. A preliminary drainage plan of the developed site delineating the direction and at what rate storm water runoff will be conveyed from the site and setting forth the areas of the site where storm water will be collected; and
  - c. Any other information pertinent to the particular project which, in the opinion of the applicant, is necessary for the preliminary review of the project.
- vi. A statement of intent to provide neighborhood park and open space, as shown on the plat, unless waived by the Director of Parks and Recreation.

\* \* \* \* \*

5. Final approval - Major Subdivision Plats:

- a. The subdivider shall apply in writing to the Director of Community Development for final

approval of a major subdivision plat by the specified application deadline and on the proper form. All current owners of property within the plat shall sign or ratify the application form.

- b. The number of prints of the final major subdivision plat as indicated in the current application form shall accompany the application for final approval. The final plat shall comply with the provisions of Section 14-09-07(2), of these regulations, and shall be accompanied by:
  - i. Either a copy of a current title insurance policy or a current attorney's opinion of ownership, running to the benefit of the City of Bismarck;
  - ii. An 8½ x 11 reduction of the plat;
  - iii. A digital copy of the plat, if required; and
  - iv. A storm water management plan in accordance with Title 14.1 of the Zoning Ordinance.
  - v. A Park Development Agreement or Park Concept Development Plan in accordance with the latest adopted City policy, unless waived by the Director of Parks and Recreation.

\* \* \* \* \*

- i. A final major subdivision plat that is approved by the Planning and Zoning Commission will be recommended for approval to the Board of City Commissioners. Following final approval of the major subdivision plat and the Park Development Agreement or Park Concept Development Plan (if required) by the Board of City Commissioners, a plat in recordable form shall be furnished to the Director of Community Development within one hundred eighty (180) days following approval. The director of Community Development may grant extensions of thirty (30) days for good cause shown in writing. Upon review and obtaining required signatures, the Director of Community Development shall file and record the original

signed final major subdivision plat with the Burleigh County Recorder. A signed Park Development Agreement (if required) shall be recorded in conjunction with the final major subdivision plat. The recording of Park Concept Development Plans is not required. All final plats shall be provided digitally formatted to the City of Bismarck's current computer-aided drafting and geographic system software and policy, including coordinate system ties as defined within this zoning ordinance.

\* \* \* \* \*

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect on January 1, 2014 following final passage, and adoption and publication after the required comment period under Section 40-47-01.1 of the North Dakota Century Code.

## **CITY OF BISMARCK NEIGHBORHOOD PARKS AND OPEN SPACE POLICY**

**Purpose** The purpose of the neighborhood parks and open space policy is to maintain and enhance the high quality visual aesthetic of the community and to ensure that adequate usable neighborhood parks, open space and recreational facilities are provided for existing and future residents of the City of Bismarck. Because new development within the City, or intended to be in the City, increases population and the demand for public services, it shall be the policy of the City of Bismarck that the owner and/or developer of major urban residential subdivision plats provide for neighborhood parks, playgrounds, open space and natural areas, and trails. The provision of such facilities in newly developed areas maintains the high quality of life enjoyed by the citizens of the community by permitting the City to identify, obtain, continue, maintain and enhance its recreation and open space system.

**Zoning Ordinance Provisions** The following policies shall be in accordance with the relevant provisions contained in Chapter 14-09 of the Code of Ordinances (Zoning Ordinance) – Regulations Governing the Subdivision of Land.

**Application** The provisions of this policy shall apply as a condition on the approval of all major urban subdivision plats with residential zoning districts. If a plat is submitted that is deemed by the Parks and Recreation District to be of insufficient size or number of lots to provide a neighborhood park, the requirement may be waived. If adjacent land is under the same ownership, such facilities may be provided in conjunction with subsequent submittals of subdivision plats. In those cases, a Park Concept Development Plan shall be required for the surrounding property. Such Concept Development Plans shall be approved in the same manner as specified for Park Development Agreements.

**Procedure** The provision of neighborhood parks and open space shall generally be accomplished through the approval of subdivision plats and further described in a Park Development Agreement or Park Concept Development Plan signed by all parties, following approval by the Bismarck Parks and Recreation District. Final approval of such an agreement by the Board of City Commissioners shall be required in conjunction with approval of the subdivision plat. Park Development Agreements shall be recorded in conjunction with the subdivision plat. The recording of Park Concept Development Plans is not required. The requirement for a Park Development Agreement or Park Concept Development Plan may be waived for good reason by the Director of Parks and Recreation. If an agreement to provide park and open space is not reached, the Bismarck Board of City Commissioners shall be the final arbiter.

**Transfer of Property** The transfer of property for the purposes of parks and open space may be accomplished either by dedication or by sale of the land to the Bismarck Parks and Recreation District. The costs of the sale of the land may be financed through the City's special assessment process.

**Establishment of Facilities** It is intended that the installation of neighborhood parks and/or other recreational or open space areas be done by the Parks and Recreation District at the time of installation of other public infrastructure, prior to development on the lots within the subdivision plat. The costs of the installation of neighborhood parks and open space areas may be financed through the City's special assessment process. Any required utility and access easements within the subdivision plat shall be provided by the owner/developer.

**Maintenance** Maintenance of the park, trails, or other open space areas will be provided by the Bismarck Parks and Recreation District.

**Bismarck Planning and Zoning Commission approval** \_\_\_\_\_

**Bismarck Board of City Commissioners approval** \_\_\_\_\_