

- 5. **Lot 14, Block 1, Sonnet Heights Subdivision – Zoning Change (R5 to R10) (JW)**..... 35
Staff recommendation: schedule a hearing schedule a hearing table deny

- 6. **Lots 2 and 3 of Park Hill Subdivision of Lot 14, Lot A of Auditor’s Lot 15, Park Hill Auditor’s Lots, and part of the SE¼ of the NE¼ of Section 5, T138N-R80W – Zoning Change (CG & P to P) (JW)**..... 39
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.

- 7. **South Meadows Addition (Klee)**
 - a. **Zoning Change (A to R5, R10, RM30 & P)**.....43
Staff recommendation: continue approve continue table deny
 - b. **Final Plat**..... 47
Staff recommendation: continue approve continue table deny

- 8. **Airway Avenue Addition – Final Plat (JT)**..... 51
Staff recommendation: approve approve continue table deny

- 9. **Oakland Subdivision (JW)**
Hay Creek Township
 - a. **Zoning Change (A to RR)**57
Staff recommendation: continue approve continue table deny
 - b. **Final Plat**..... 65
Staff recommendation: continue approve continue table deny

- 10. **Lot 13B, Block 1, North Star Acres – Special Use Permit (accessory buildings) (JW)** 69
Staff recommendation: approve approve continue table deny

- 11. **Lots 1-3, Block 2, Mayfair Managers Addition – Special Use Permit (church) (JW).....** 77
Staff recommendation: approve approve continue table deny

- 12. **Definitions and Downtown Districts/Brewery, Brew Pub and Microbrewery – Zoning Ordinance Text Amendment (JT)** 81
Staff recommendation: approve approve continue table deny

13. **Zoning Administrator/Multiple Sections of Title 14 –**
Zoning Ordinance Text Amendment (CH)..... 87

Staff recommendation: approve

approve continue table deny

OTHER BUSINESS

14. **Other**

ADJOURNMENT

15. **Adjourn.** The next regular meeting date is scheduled for Wednesday, November 20, 2013.

Enclosures: Meeting Minutes of September 25, 2013
 Building Permit Activity Report for September 2013

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

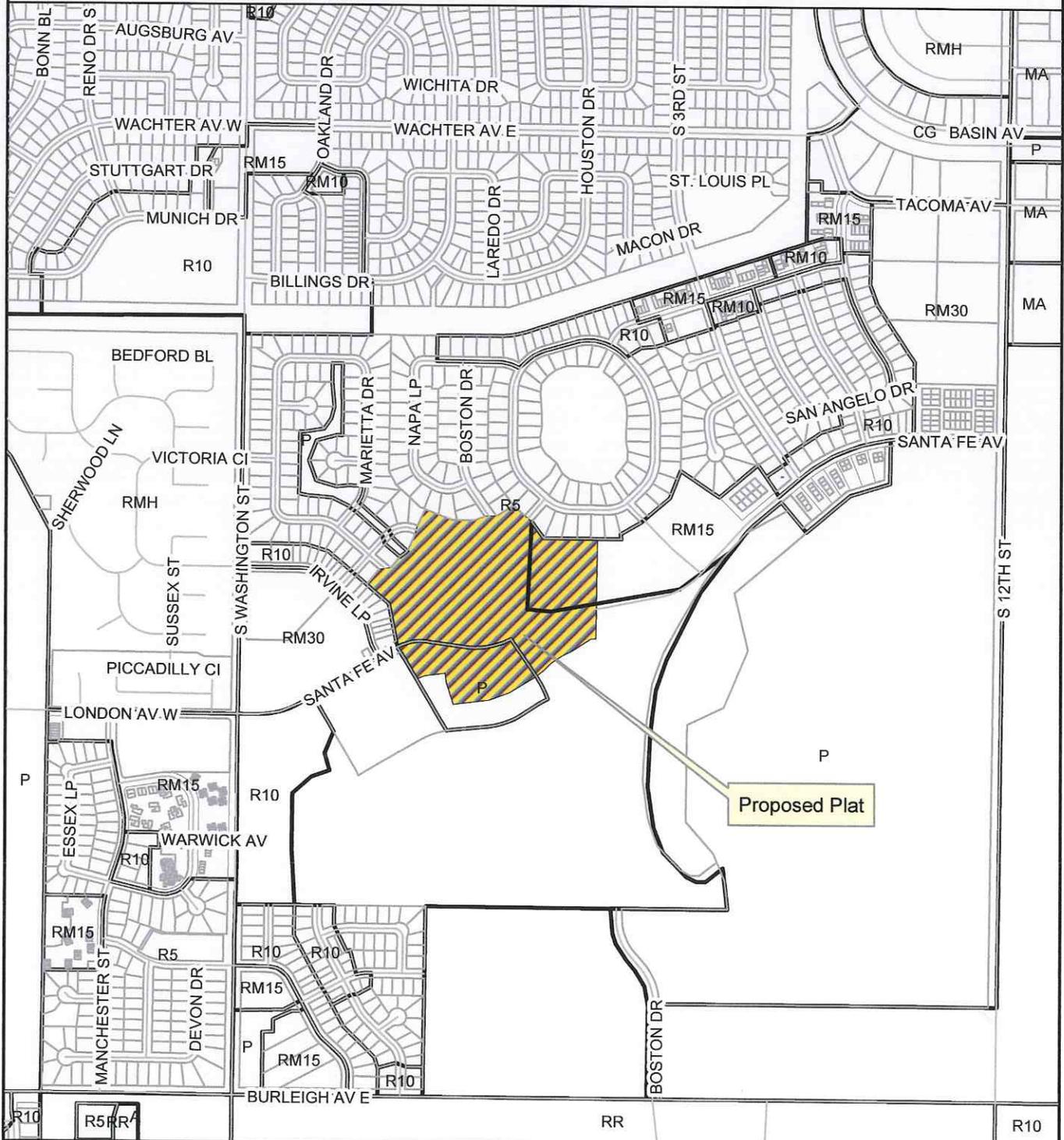
BACKGROUND:		
Title: Southland 2 nd Addition – Zoning Change (R5, RM15 & P to R5 & P)		
Status: Planning Commission – Consideration	Date: October 23, 2013	
Owner(s): Sattler Family LLLP	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat and zone property for single-family residential development.		
Location: East of South Washington Street between the South Bismarck storm water channel and Burleigh Avenue (part of the NW¼ of Section 16, T138N-R80W/Lincoln Township).		
Project Size: 34.30	Number of Lots: 83 lots in 8 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Single-family residential	
Zoning: R5 – Residential RM15 – Residential P – Public	Zoning: R5 – Residential P – Public	
Uses Allowed: R5 – Single-family residential RM15 – Multi-family residential P – Public uses	Uses Allowed: R5 – Single-family residential P – Public uses	
Maximum Density Allowed: R5 – 5 units/acre RM15 – 15 units/acre P – N/A	Maximum Density Allowed: R5 – 5 units/acre P – N/A	
PROPERTY HISTORY:		
Zoned: 01/86	Platted: N/A	Annexed: N/A
FINDINGS:		
<ol style="list-style-type: none"> 1. The Land Use Plan identifies this area as single-family residential (South 12th Street Watershed Storm Water Management and Land Use Plan). 2. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north, east and west and unplatted R5-zoned property to the south. 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. 		
<i>(continued)</i>		

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 scheduling a public hearing on the zoning change from the R5 – Residential, RM15 – Residential and P – Public zoning districts to the R5 – Residential and P – Public zoning districts for Southland 2nd Addition.

Proposed Plat and Zoning Change (R5, RM15 & P to R5 & P) Southland 2nd Addition

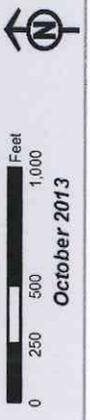
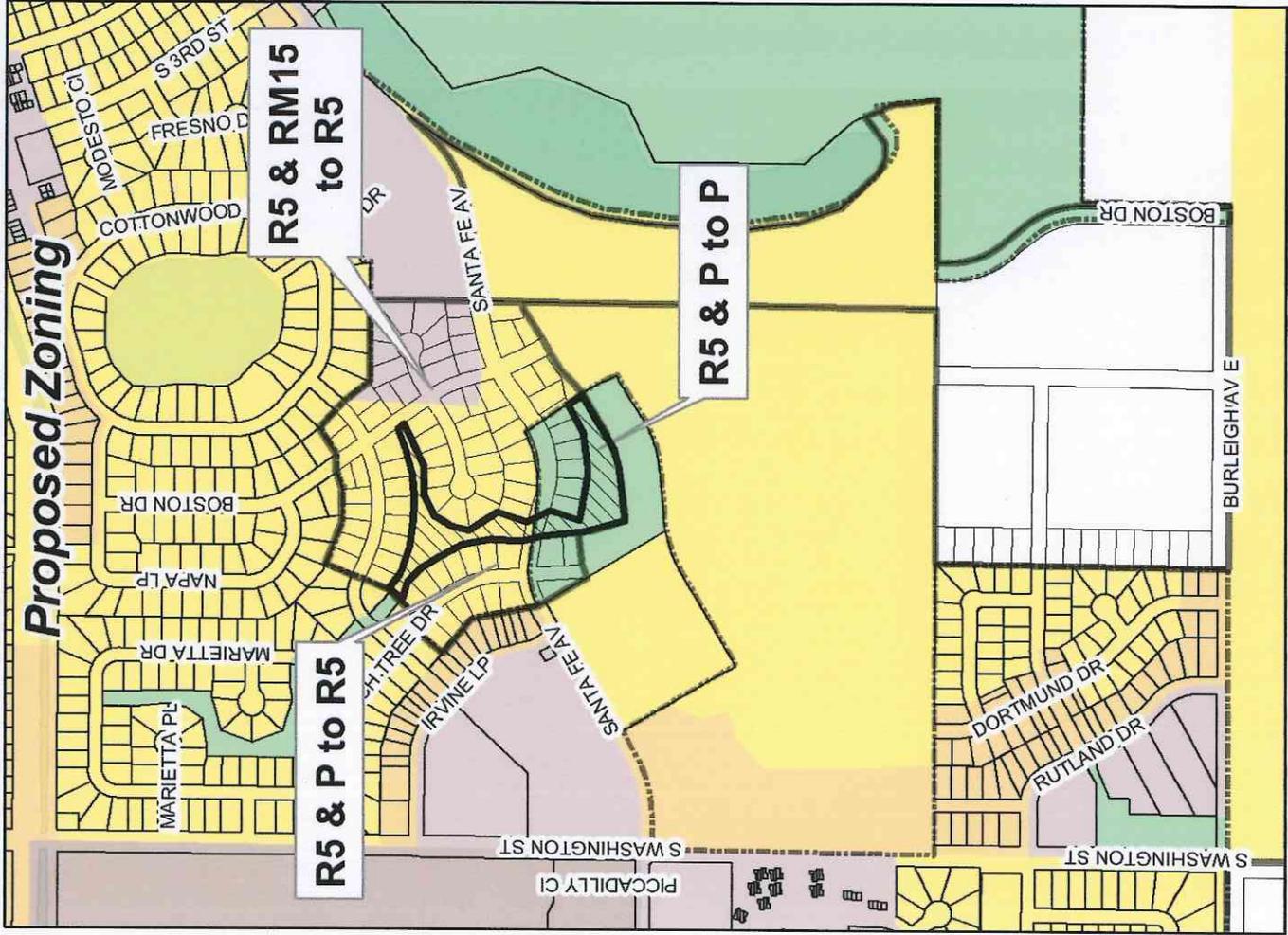
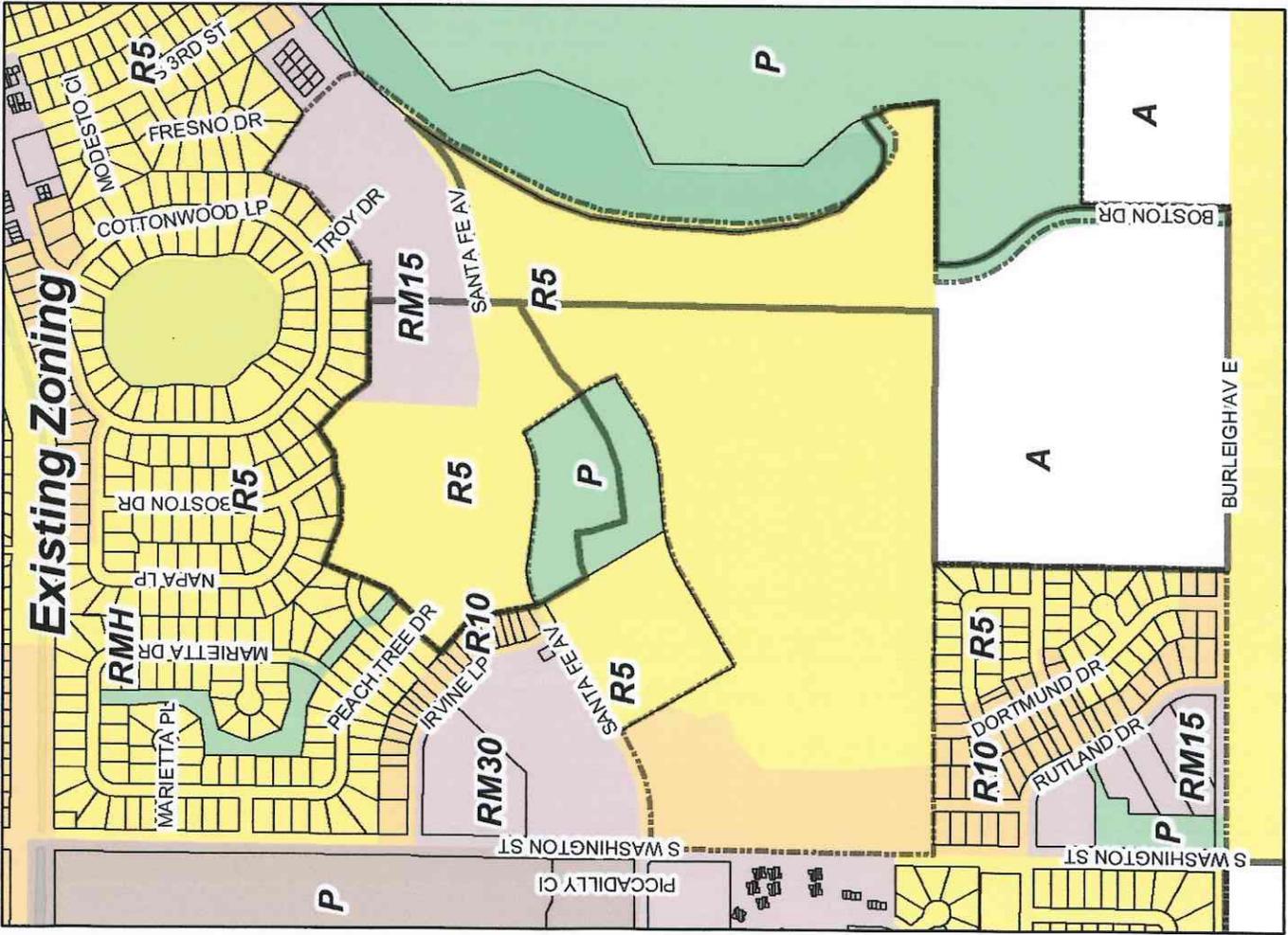


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Map was Updated/Created: October 17, 2013 (Klee)

Source: City of Bismarck



Southland 2nd Addition - Zoning Change



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

October 2013

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

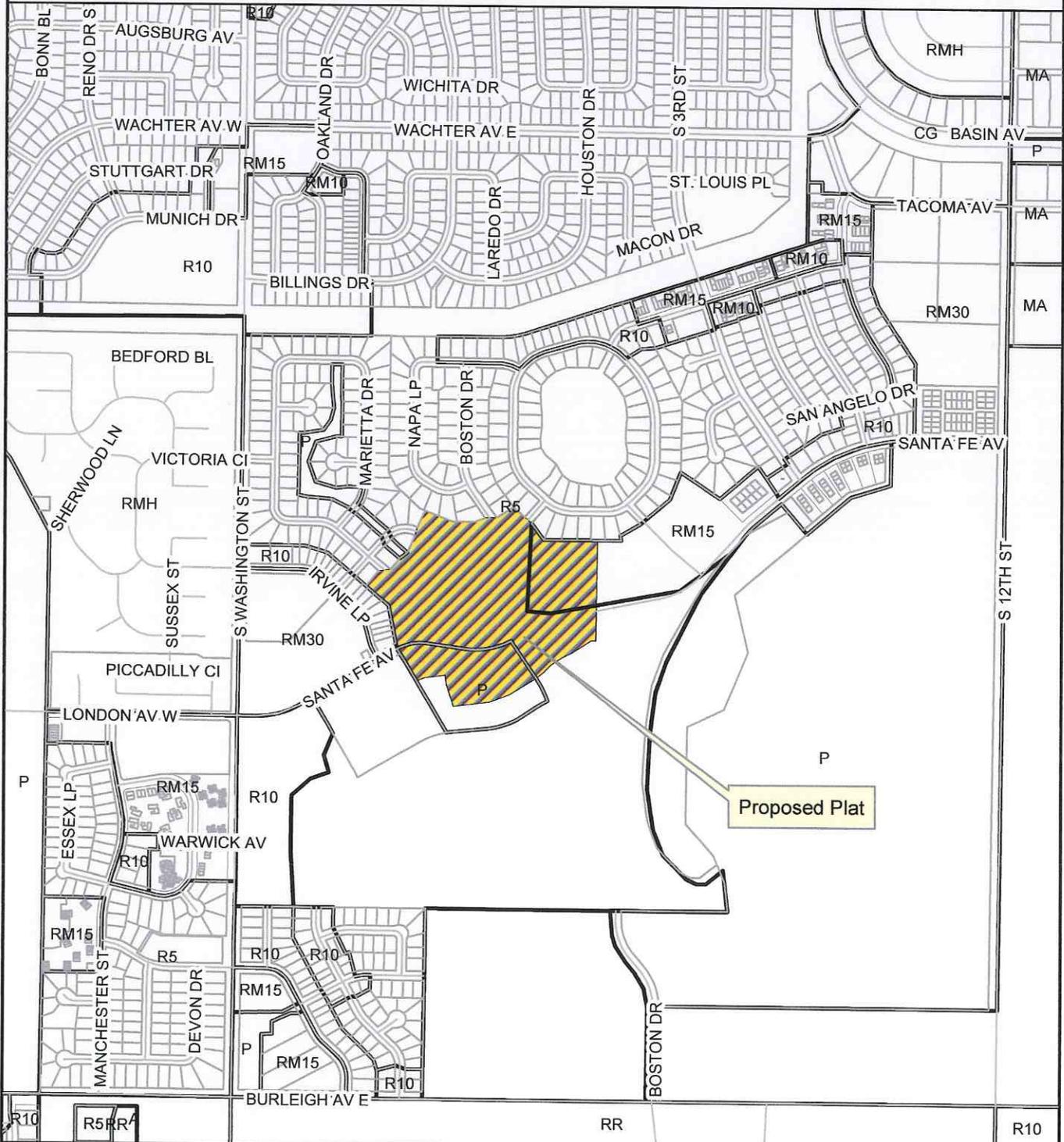
BACKGROUND:		
Title: Southland 2 nd Addition – Preliminary Plat		
Status: Planning Commission – Consideration	Date: October 23, 2013	
Owner(s): Sattler Family LLLP	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat and zone property for single-family residential development.		
Location: East of South Washington Street between the South Bismarck storm water channel and Burleigh Avenue (part of the NW¼ of Section 16, T138N-R80W/Lincoln Township).		
Project Size: 34.30	Number of Lots: 83 lots in 8 blocks	
EXISTING CONDITIONS:		
Land Use: Undeveloped	PROPOSED CONDITIONS:	
Zoning: R5 – Residential RM15 – Residential P – Public	Land Use: Single-family residential	
	Zoning: R5 – Residential P – Public	
Uses Allowed: R5 – Single-family residential RM15 – Multi-family residential P – Public uses	Uses Allowed: R5 – Single-family residential P – Public uses	
Maximum Density Allowed: R5 – 5 units/acre RM15 – 15 units/acre P – N/A	Maximum Density Allowed: R5 – 5 units/acre P – N/A	
PROPERTY HISTORY:		
Zoned: 01/86	Platted: N/A	Annexed: N/A
FINDINGS:		
<ol style="list-style-type: none"> 1. All technical requirements for consideration of a preliminary plat have been met. 2. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for this area, which identifies Santa Fe Drive as the east-west collector for this section and Boston Drive south of Santa Fe Drive as the north-south collector for this section. 3. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north, east and west and unplatted R5-zoned property to the south. 4. The entire subdivision would be annexed prior to development; therefore, it would not place an undue burden on public services and facilities. 5. The proposed subdivision would not adversely affect property in the vicinity. 		
<i>(continued)</i>		

6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

RECOMMENDATION:

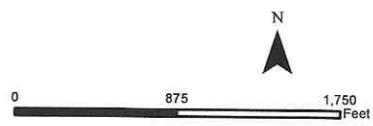
Based on the above findings, staff recommends tentative approval of the preliminary plat for Southland 2nd Addition.

Proposed Plat and Zoning Change (R5, RM15 & P to R5 & P) Southland 2nd Addition



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Map was Updated/Created: October 17, 2013 (Klee)

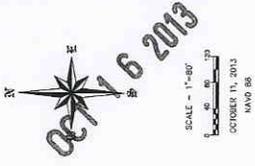
Source: City of Bismarck



SOUTHLAND SECOND ADDITION

PART OF THE NORTHWEST 1/4
OF SECTION 16, T. 138 N., R. 80 W.

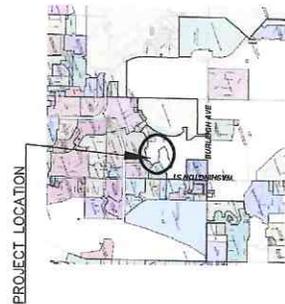
BISMARCK, NORTH DAKOTA



34.30 ACRES
EXISTING ZONING: R5, RM15, P
PROPOSED ZONING: R5, P
83 LOTS

ROBB SATTLER
SATTLER FAMILY, LLLP
PO BOX 7218
BISMARCK, ND 58507
701-255-7621

FIRM MAP NUMBER 30015CD095C
100 YEAR FLOOD PLAIN ELEVATION: 1624 (NAYD 86)



LOCATION MAP



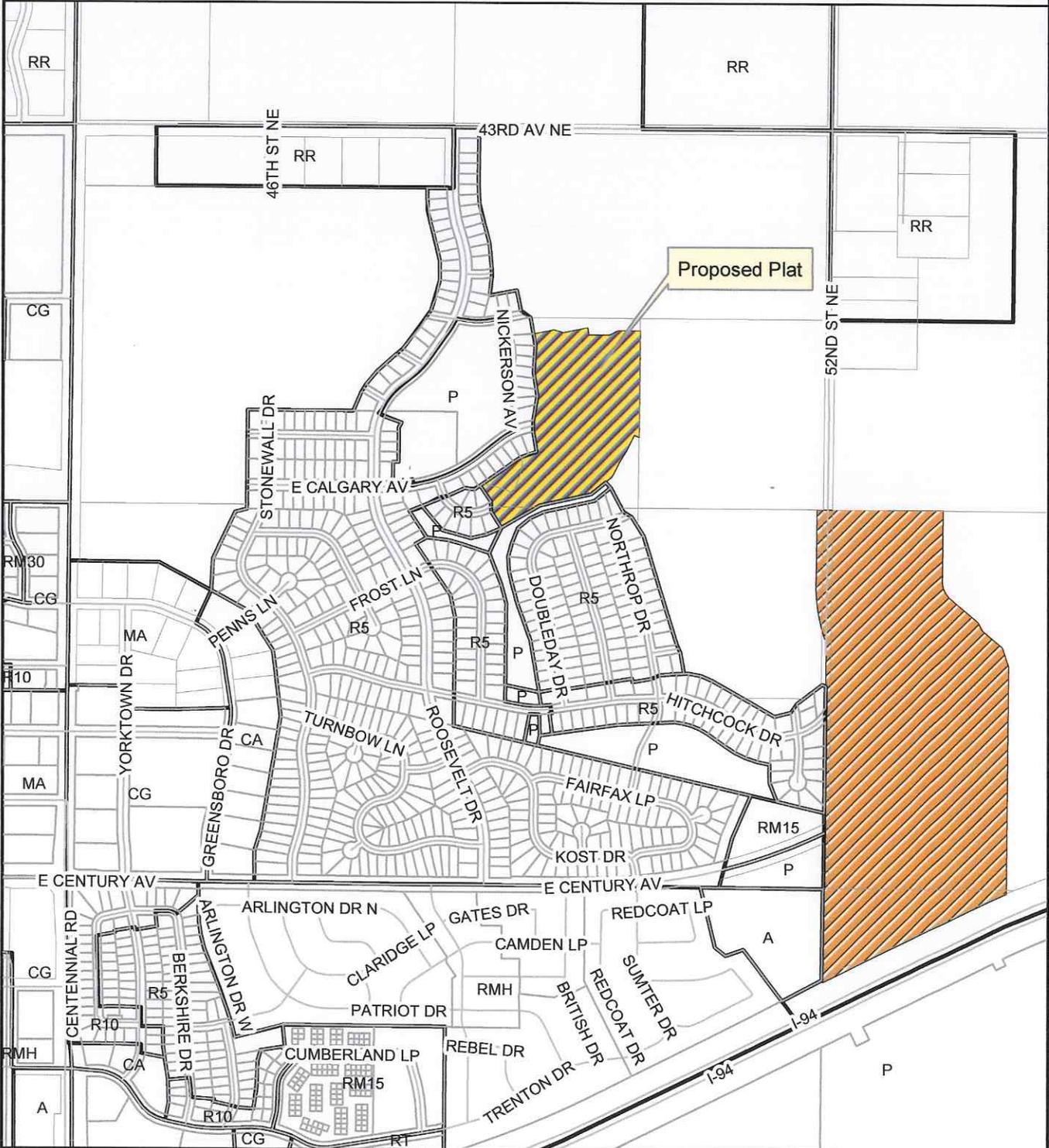
**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: Sattler's Sunrise 10 th Addition – Zoning Change (A to R5)		
Status: Planning Commission – Consideration	Date: October 23, 2013	
Owner(s): Sattler Family LLLP	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat and zone property for single-family residential development.		
Location: East of Centennial Road between East Century Avenue and 43 rd Avenue NE (part of the NE¼, part of the SE¼ and Tract B of Section 24, T139N-R80W/Hay Creek Township).		
Project Size: 20.86	Number of Lots: 60 lots in 5 blocks	
EXISTING CONDITIONS:		
Land Use: Undeveloped	PROPOSED CONDITIONS:	
Zoning: A - Agricultural	Land Use: Single-family residential	
	Zoning: R5 – Residential	
Uses Allowed: A – Agricultural uses	Uses Allowed: R5 – Single-family residential	
Maximum Density Allowed: A – 1 unit/40 acres	Maximum Density Allowed: R5 – 5 units/acre	
PROPERTY HISTORY:		
Zoned: N/A	Platted: N/A	Annexed: N/A
FINDINGS:		
<ol style="list-style-type: none"> 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 single-family residential and an elementary school to the west, single-family residential to the south, and undeveloped A-zoned property to the north and east. 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, provided the plat is extended to the eastern edge of the applicant's property in order to provide services to the adjacent property owner. 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 scheduling a public hearing, with the understanding that a public hearing on the zoning change will not be scheduled until the issues with the final plat are resolved.

Proposed Plat and Zoning Change (A to R5) Sattlers Sunrise 10th Addition

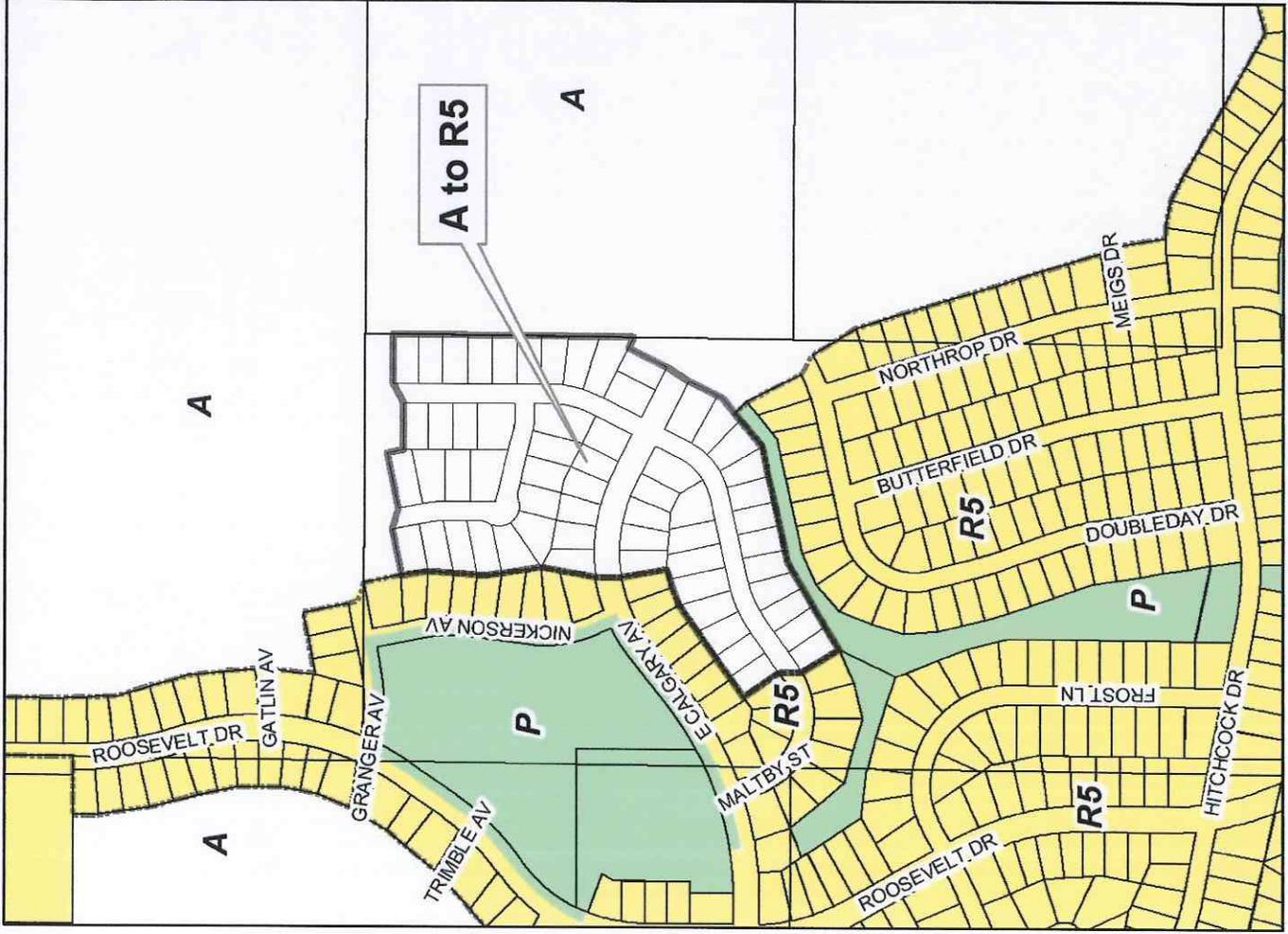
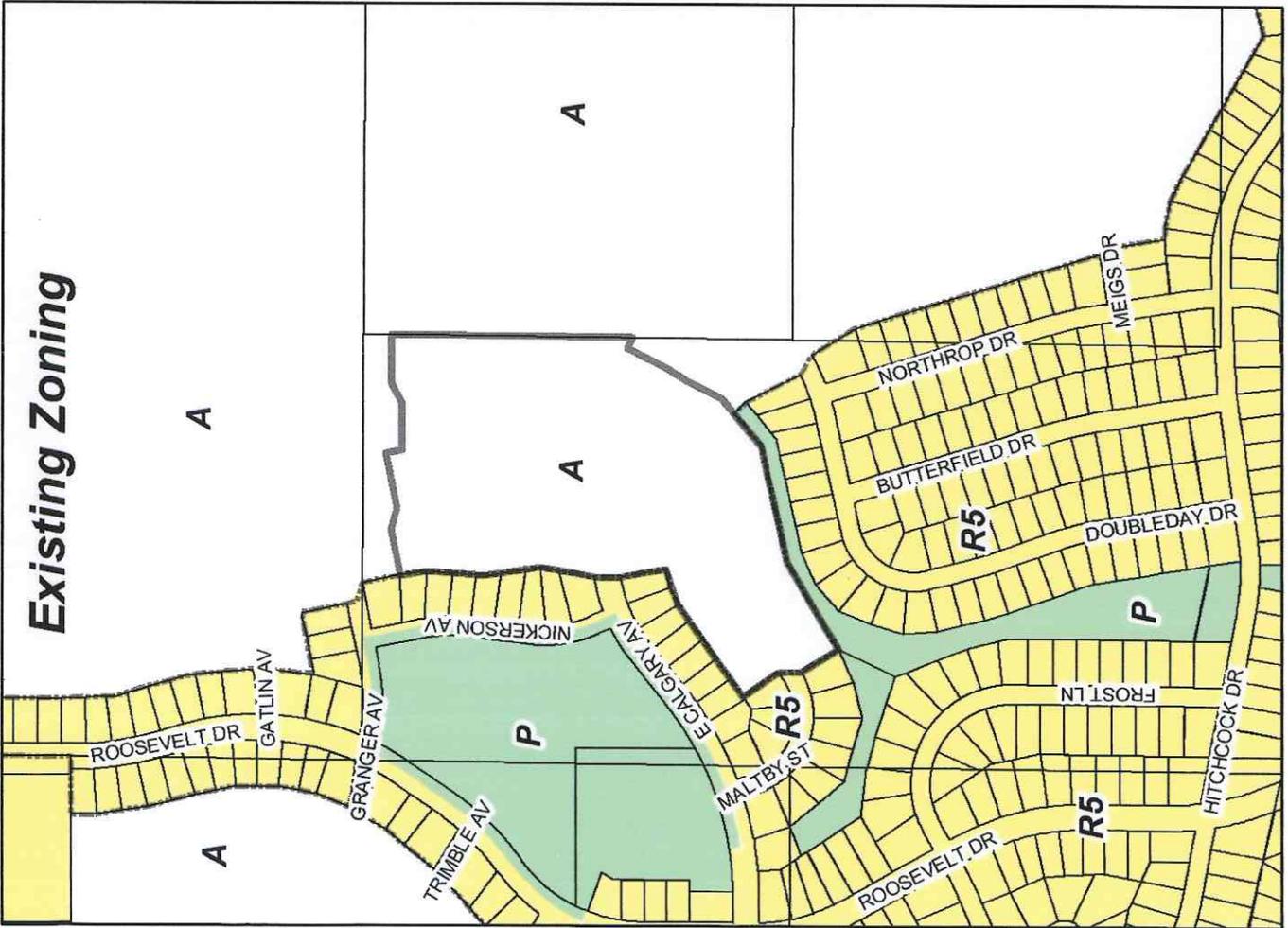


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Map was Updated/Created: September 24, 2013 (Klee)

Source: City of Bismarck



Sattler's Sunrise 10th Addition - Zoning Change



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

October 2013

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

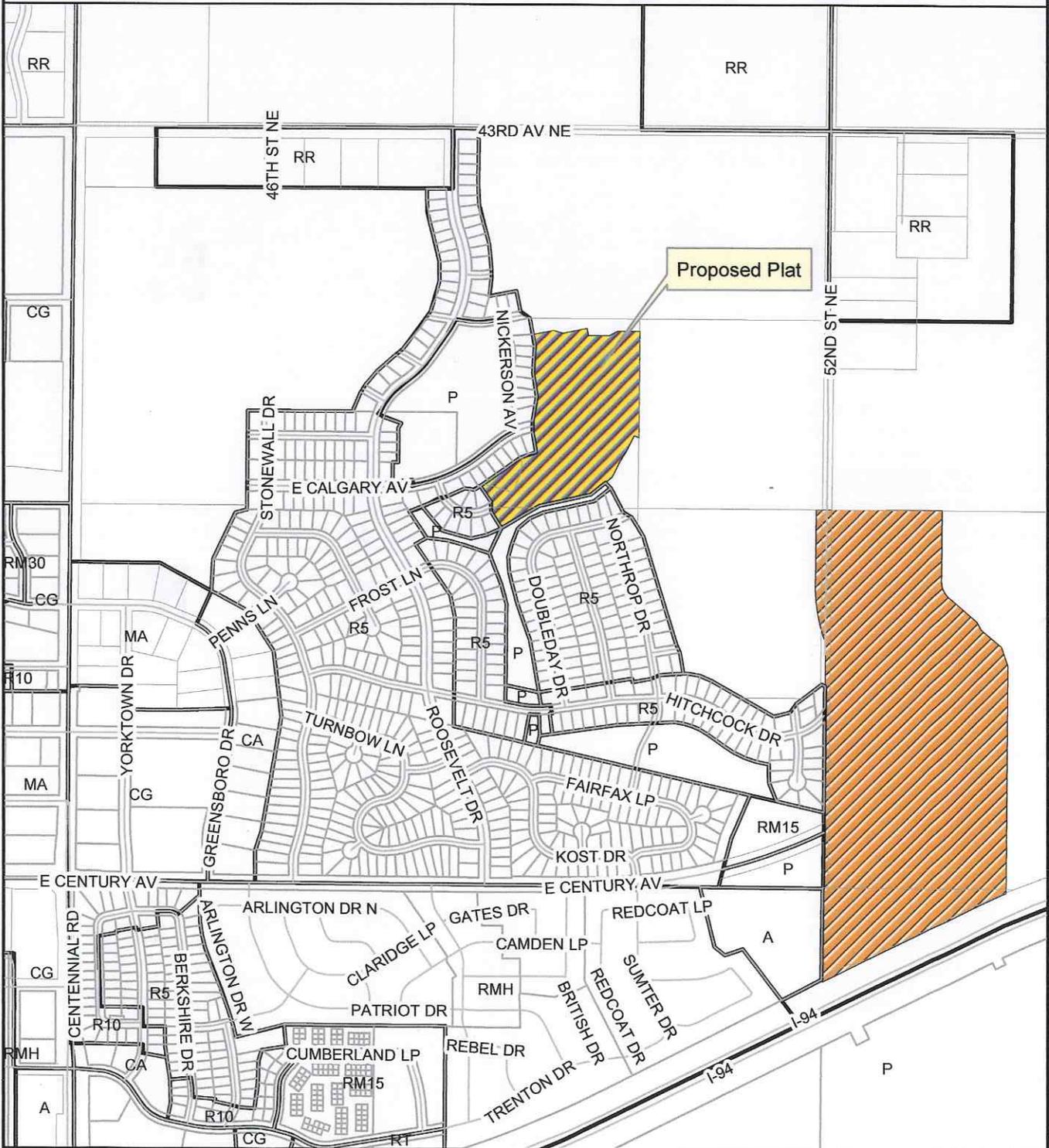
BACKGROUND:		
Title: Sattler's Sunrise 10 th Addition – Preliminary Plat		
Status: Planning Commission – Consideration	Date: October 23, 2013	
Owner(s): Sattler Family LLLP	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat and zone property for single-family residential development.		
Location: East of Centennial Road between East Century Avenue and 43 rd Avenue NE (part of the NE¼, part of the SE¼ and Tract B of Section 24, T139N-R80W/Hay Creek Township).		
Project Size: 20.86	Number of Lots: 60 lots in 5 blocks	
EXISTING CONDITIONS:		
Land Use: Undeveloped	PROPOSED CONDITIONS:	
Zoning: A - Agricultural	Land Use: Single-family residential	
	Zoning: R5 – Residential	
Uses Allowed: A – Agricultural uses	Uses Allowed: R5 – Single-family residential	
Maximum Density Allowed: A – 1 unit/40 acres	Maximum Density Allowed: R5 – 5 units/acre	
PROPERTY HISTORY:		
Zoned: N/A	Platted: N/A	Annexed: N/A
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> When Sattler's Sunrise 9th Addition was platted in 2012, there were discussions between the developer's consulting engineer and the adjacent property owner regarding the alignment of Calgary Avenue. In particular, the adjacent property owner was concerned that the alignment of Calgary Avenue as it met his property would adversely impact his development plans. Staff was under the impression that this issue had been resolved prior to the recording of the plat for Sattler's Sunrise 9th Addition, but it appears that we were mistaken. The proposed plat does not extend to the edge of the applicant's property along the entire eastern edge, stopping one or two lots short along Calgary Avenue, which will result in the adjacent property owner not being able to obtain municipal services for his property. The City does not support actions such as these which would impede the orderly development of the community. 		
FINDINGS:		
<ol style="list-style-type: none"> All technical requirements for consideration of a preliminary plat have been met. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for this area, which identifies Calgary Avenue as the east-west collector for this section. The alignment of Calgary Avenue was moved approximately 500 feet to the north with the Sattler's Sunrise 9th Addition plat, although it is moving back to the south closer to the original proposed alignment with this plat. 		
<i>(continued)</i>		

3. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single-family residential and an elementary school to the west, single-family residential to the south, and undeveloped A-zoned property to the north and east.
4. The entire subdivision would be annexed prior to development. It would not place an undue burden on public services and facilities, provided the plat is extended to the eastern edge of the applicant's property in order to provide services to the adjacent property owner.
5. The proposed subdivision would not adversely affect property in the vicinity, provided the plat is extended to the eastern edge of the applicant's property in order to provide services to the adjacent property owner and the alignment of Calgary Avenue is agreed upon between the two property owners and the City.
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

RECOMMENDATION:

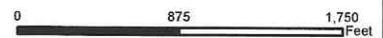
Based on the above findings, staff recommends tentative approval of the preliminary plat for Sattler's Sunrise 10th Addition, with the understanding that a public hearing on the final plat will not be scheduled unless the plat is extended to the eastern boundary of the applicant's property and an agreement is reached with the adjacent land owner and the City on the alignment of Calgary Avenue.

Proposed Plat and Zoning Change (A to R5) Sattlers Sunrise 10th Addition



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Map was Updated/Created: September 24, 2013 (klee)

Source: City of Bismarck



OCT 16 2013

SATTLER'S SUNRISE 10TH ADDITION

PART OF THE NORTHEAST 1/4, PART OF THE SOUTHEAST 1/4, AND TRACT B
OF SECTION 24, T. 139 N., R. 80 W.

BISMARCK, NORTH DAKOTA

PROJECT LOCATION



LOCATION MAP

20.86 ACRES
EXISTING ZONING: A
PROPOSED ZONING: R5
60 LOTS

OWNERS:
ROBB SATTLER
SATTLER FAMILY, LLLP
PO BOX 7218
BISMARCK, ND 58507
701-255-7628

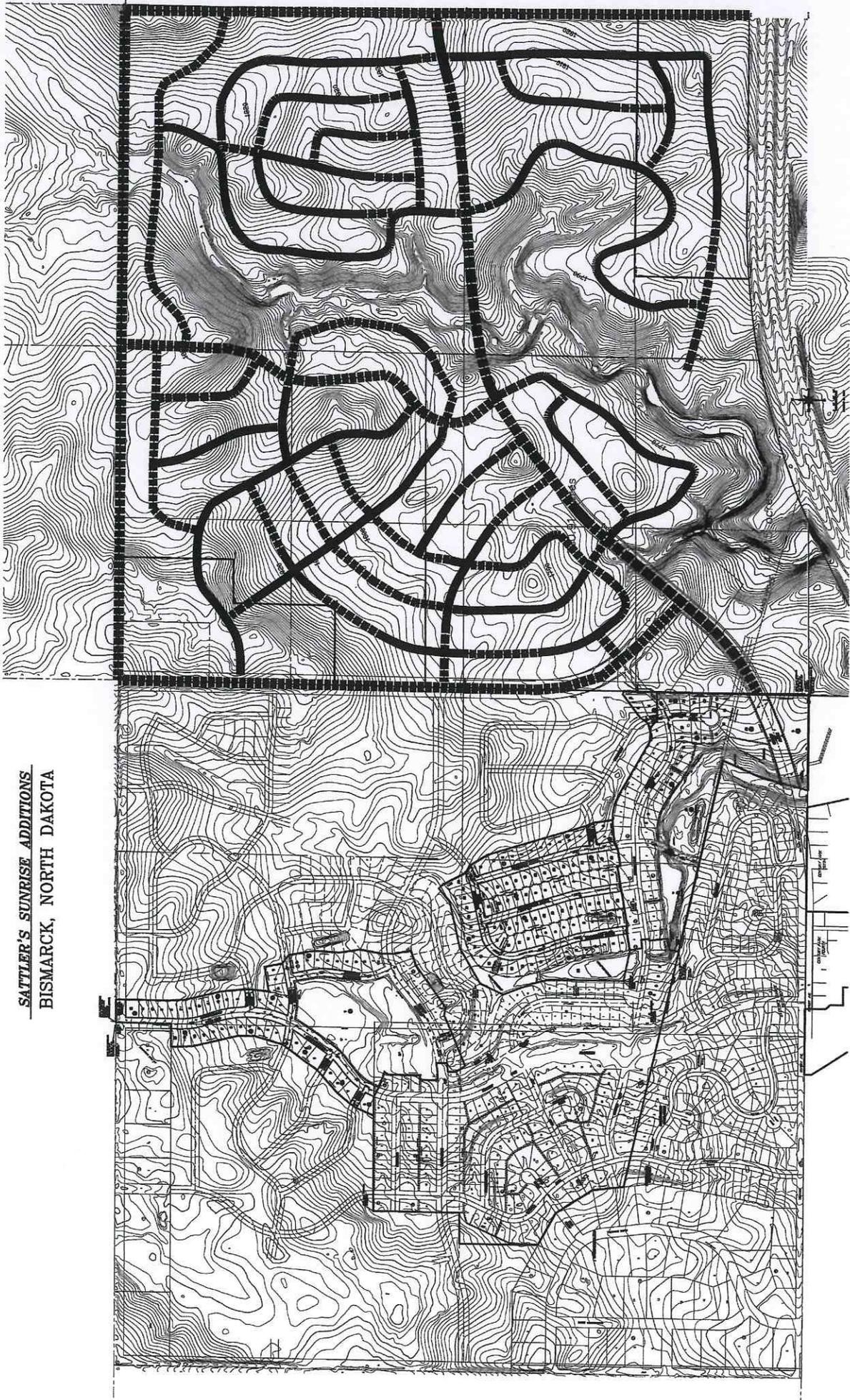
BISMARCK PUBIC SCHOOL DIST
820 N WASHING ST
BISMARCK, ND 58501
701-323-4000



SCALE - 1"=60'
0 30 60 120
OCTOBER 7, 2013
NAND BB

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SATTLER'S SUNRISE ADDITIONS
BISMARCK, NORTH DAKOTA



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

BACKGROUND:		
Title: Auditor's Lot A of the SE ¼ of the NE ¼ of Section 33, T139N-R80W (City Lands) and Lots 1 & 2, Block 1, Replat of Calkins Addition – Zoning Change (RM30 to PUD)		
Status: Planning Commission – Consideration	Date: October 23, 2013	
Owner(s): Ruth Meier's Hospitality House – applicant Baptist Home, Inc. - owner	Engineer: N/A	
Reason for Request: Rezone property to allow for the adaptive reuse of a former nursing home and senior living facility for use as a mixed-use facility with low-income multi-family residential housing, a soup kitchen, a food pantry, services for residents and administrative offices for Ruth Meier's Hospitality House.		
Location: Along the east side of State Street at the intersection with and north of East Boulevard Avenue .		
Project Size: 4.04 acres, more or less	Number of Lots: One parcel	
EXISTING CONDITIONS:		
Land Use: Nursing Home/Senior Living Facility	PROPOSED CONDITIONS:	
Zoning: RM30 – Residential	Land Use: Ruth Meier's Hospitality House	
Uses Allowed: Multi-family residential	Zoning: PUD – Planned Unit Development	
Maximum Density Allowed: 30 units per acre	Uses Allowed: Uses specified in PUD	
PROPERTY HISTORY:		
Zoned: Pre-1980	Platted: 07/51 (part)	Annexed: Pre-1980
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> Section 14-04-18 of the Bismarck Code of Ordinances (Zoning) indicates that the intent of the City's Planned Unit Development district is "to encourage flexibility in development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the adequate and economical provision of streets and utilities; and to preserve the natural and scenic features of open space." A copy of this section is attached. The proposed PUD would allow the development of the adaptive reuse of the property for a mix of uses, including multi-family residential, a soup kitchen, a food pantry, services for residents (including but not limited to clinic services, counseling and day care) and administrative offices for the operator of the facility (Ruth Meier's Hospitality House). A copy of the written statement is attached. Concerns have been raised by adjacent property owners about the compatibility of the proposed use with the surrounding residential uses. 		
FINDINGS:		
<ol style="list-style-type: none"> The property is located within the developed portion of the community and is outside of the area covered by the Land Use Plan. The zoning of this property and adjacent properties has been in place for many years. 		
<i>(continued)</i>		

2. The proposed zoning change is not completely compatible with adjacent land uses. Adjacent land uses include the Capitol grounds to the west and northwest across State Street, single-family residential to the north and northeast, a mix of multi-family residential and single-family residential to the east and mixed-density residential to the south across East Boulevard Avenue.

The exterior of the building is not proposed to change; therefore, the proposed use will not have an adverse visual impact on existing uses in the area.

3. The layout of the site is not proposed to change with the conversion of the use; therefore, the proposed PUD does preserve the natural features of the property inasmuch as possible. If additional parking is required during building plan review, any new off-street parking areas would be landscaped in accordance with the provisions of Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).
4. The internal access road and parking circulation system is adequately designed for the type of traffic generated.
5. The character and nature of the proposal contains a planned and coordinated mix of land uses.
6. The property is already annexed and is served by municipal utilities; therefore, the proposed zoning change will not place an undue burden on public services.
7. The proposed zoning change is not completely consistent with all adopted plans, policies and accepted planning practice. In particular, the proposed use of the property for some non-residential uses is unusual in a residential neighborhood; however, the property currently includes many similar uses as a nursing home. The proposed use will allow the adaptive reuse of a building that would have few other suitable uses.

RECOMMENDATION:

Based on the above findings, staff recommends scheduling a public hearing on the zoning change from RM30-Residential zoning district to the PUD-Planned Unit Development for Auditor's Lot A of the SE ¼ of the NE ¼ of Section 33, T139N-R80W and Lots 1 & 2, Block 1, Replat of Calkins Addition, as outlined in the attached draft PUD ordinance.

ORDINANCE NO.

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

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

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

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

The following described property shall be excluded from the RM30 – Residential zoning district and included within the PUD – Planned Unit Development zoning district.

Auditor’s Lot A of the SE¼ of the NE¼ of Section 33, T139N-R80W (City Lands) and Lots 1 and 2, Block 1, Replat of Calkins Addition.

This PUD is subject to the following development standards:

1. *Uses Permitted.* The use of the property shall be limited to those uses outlined in the application for a Planned Unit Development:
 - a. Up to 79,000 square feet for efficiency, one-bedroom and two bedroom apartments on the second and third floors of the main building that will provide longer-term housing for low and moderate income residents;
 - b. Up to 10,000 square feet for a 30-day residential program on the second and third floors of the building that will provide shorter term housing for low and moderate income residents;
 - c. A multi-purpose room on the main floor that would be used as an area for child care for residents;

- d. Up to 7,000 square feet on the main floor for administration offices for Ruth Meier's Hospitality House (limited to offices for the management of the rental units and administrative offices for the Ruth Meier's organization);
- e. Up to 2,500 square feet on the main floor for JoAnne's Clinic, which will provide limited medical services to both residents and non-residents;
- f. Up to 6,000 square feet on the main floor for a Food Pantry, which will provide groceries to both residents and non-residents;
- g. Up to 5,000 square feet on the main floor for a Baby Boutique that will provide baby items to both residents and non-residents;
- h. Up to 500 square feet for a salon for both residents and non-residents (existing salon area);
- i. Up to 7,000 square feet for community service activities, including religious services, education seminars and space for small gatherings;
- j. Up to 4,000 square feet for nutritional services (soup kitchen), limited to a noon meal for both residents and non-residents;
- k. The apartments on the north side of the main building will continue to be used as apartments.

2. *Operational Standards.* The following operational standard shall be followed:

- a. The use of any portion of the property for single point of entry activities shall be prohibited.
- b. The use of any portion of the property for an emergency homeless shelter shall be prohibited.
- c. Food will be prepared at this facility for residents of the emergency shelter, but will be transported to the emergency shelter to be served to those residents.

3. *Development Standards.*

- a. *Accessory Buildings.* Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City

Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure.

b. **Parking and Loading.** Any additional parking and loading areas shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), if needed, and shall be landscaped in accordance with the provisions of Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).

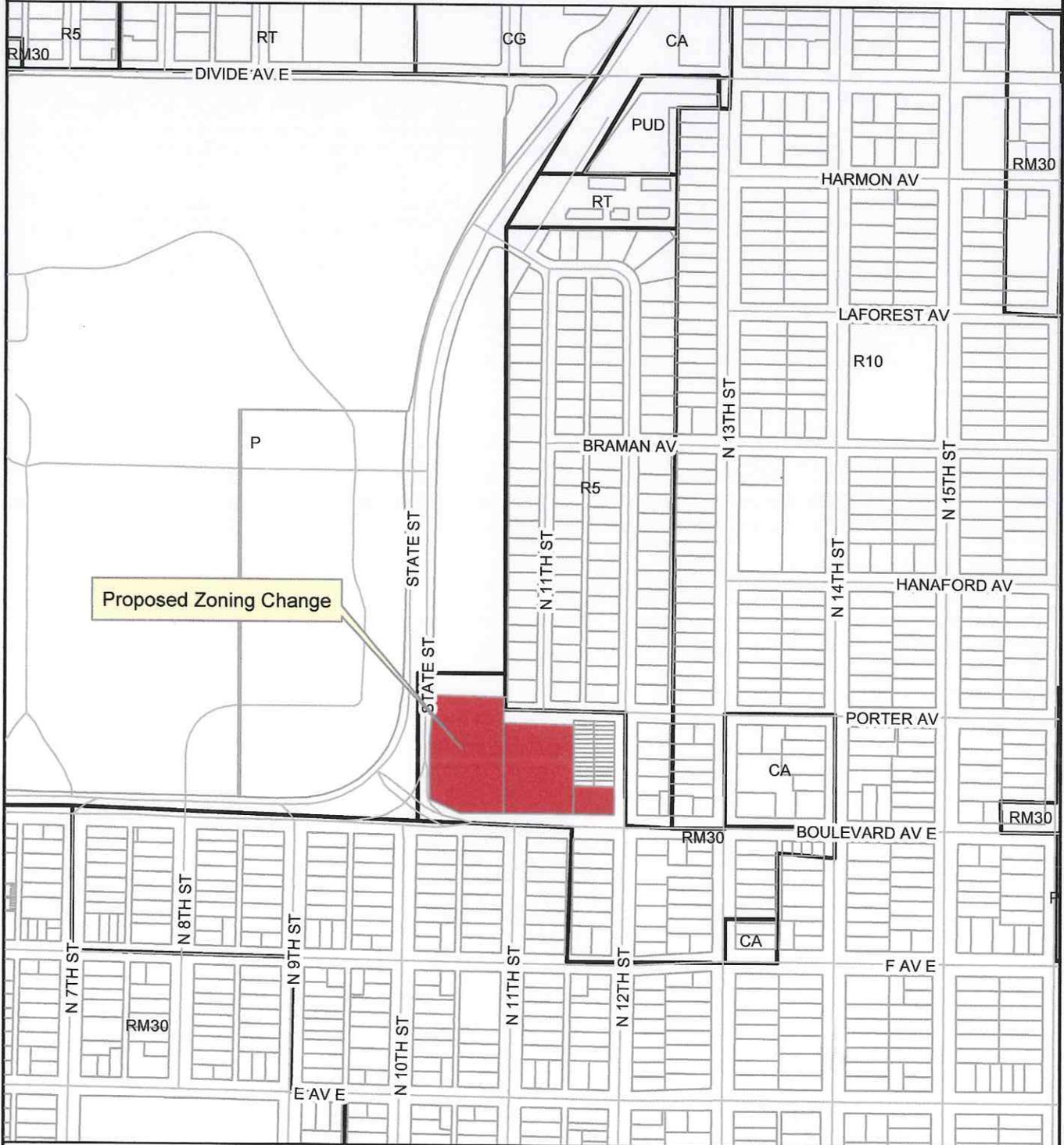
c. **Signage.** Any signage for the facility shall be installed in accordance with the provisions of Chapter 4-04 of the City Code of Ordinances (Signs and Display Structures). Off-premise advertising signs (billboards) are specifically prohibited within this development.

4. **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 approval by the Bismarck Planning & Zoning Commission.

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

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

Proposed Zoning Change (RM30 to PUD)
Auditor's Lot A of the SE1/4 of the NE1/4 of Section 33, T139N-R80W
and Lots 1 & 2, Block 1, Replat of Calkins Addition



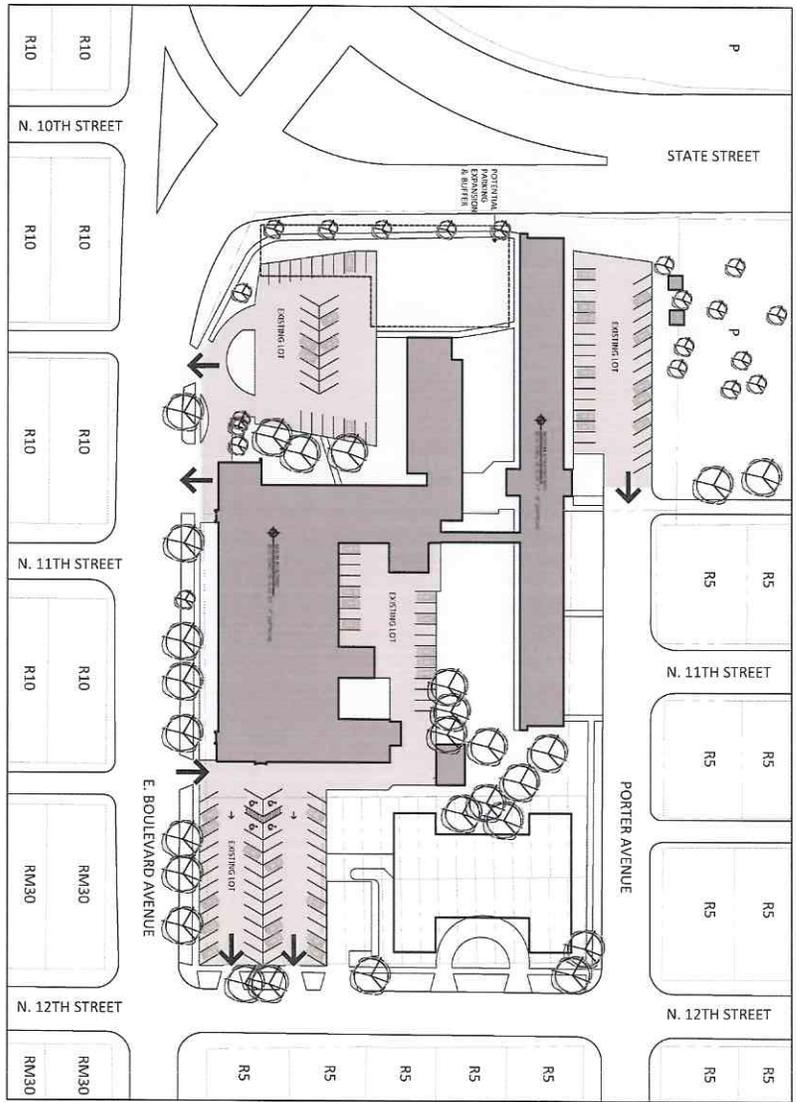
DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
 Map was Updated/Created: September 27, 2013 (klee)

Source: City of Bismarck



Auditor's Lot A of the SE¹/₄ of the NE¹/₄ of Section 33, T139N-R80W and Lots 1 & 2, Block 1, Replat of Calkins Addition





1 Site Plan

EXISTING PARKING COUNT
 SPACES 130
 ADA SPACES 4

EXISTING STRUCTURE
 EXISTING PARKING
 MAJOR POINT OF ENTRY TO PUBLIC RIGHT OF WAY

SITE NOTES
 4.04 TOTAL ACRES
 THERE ARE NO ADDITIONAL STRUCTURE. ALL EXISTING
 FINAL PARKING COUNT TO BE CORROBORATED W/ FINAL BUILDING PLAN AND ZONING OFFICIAL

RUTH MEIERS' HOSPITALITY HOUSE

SEP 18 2013

PUD Zoning Application

Baptist Home Renovation

9/18/2013

- 1) Site Plan Description
- 2) Written Statement
- 3) Existing Building Photos
- 4) Site Plan 1" = 100'
- 5) Site Plan 8 ½" x 11"

City of Bismarck - PUD Zoning Application

Site Plan Description

- **Due to the nature of this project, which is only interior renovations, the following aspects of the site plan will not be provided unless requested**
 - Topographic Survey
 - Existing and proposed land uses (these are addressed in the written statement)
 - Density and type of dwelling (these are addressed in the written statement)
 - Areas conveyed to common park areas
 - Interior buffer areas between uses
 - Utility Service Plan
 - Landscape Plan

Please see the attached Site Plan

City of Bismarck - PUD Zoning Application

Written Statement**Present Ownership & Legal Description of All Land Included:**

The land is currently owned by Baptist Apartments, Inc, but is under final negotiations with Ruth Meiers' Hospitality House for purchase. A transfer of ownership is intended for the end of September.

Legal Description:

Lot Descriptions are currently being reviewed by the City

Lot Descriptions:	W:	All of Block 36 exc L1-2 + N 15' of L3 + all lots 30, 31 & 32 less parcel taken for Nighway Row.
	C:	PT NE1/4 COM 85.52'N OF THE NE COR BLK 96 MCK & COFF, E240', N310.48' W240' S ON E LINE CAP PARK ADD TO B EG #13383
	E:	L1 +2, B1 Replat of Calkins Addition

Explanation of Objectives:

Ruth Meiers' Hospitality House is applying for a PUD for the property on 1100 E Boulevard Ave, Bismarck, ND 58501 because the property size and location is ideal for continuing our mission in Bismarck, unifying and strengthen community services available those who need them and placing clients on a track to self-sufficiency. A PUD is required in order to utilize this property to fully serve the community. The current zoning of RM-30 accommodates the majority of the planned spaces. The proposed PUD will allow for the various occupancies that the Ruth Meier's Hospitality House anticipates needing, and is currently planning for. These added functions would include administrative offices and community services (i.e. a small clinic, food pantry, nutrition services). The PUD application includes retail, service and business user groups to allow for these additional functions.

This PUD application does not include the addition of any buildings to the property. Currently, the only anticipated adjustment to exterior would be the potential need to expand parking, which will be determined and confirmed with City Community Development prior to permitting. There are no exterior changes, however maintenance upgrades may take place (i.e. window and roof replacements).

Through Community Meetings and outreach, Ruth Meiers' has been working to overcome the misconception that a homeless shelter is planned for this project. The homeless shelter, or emergency shelter, will remain in its current location and will not be located in the Baptist Home. Locating the emergency shelter within this PUD is not in the short or long term plans of the Ruth Meier's Hospitality House. The currently shelter location is ideally located close to Day-Labor employment opportunities.

The Apartments and Residential Program will house individuals who hold jobs and have passed thorough background investigations. No one will be allowed to rent or reside here that has any history of sexual offense or felonies. No Drugs or Alcohol is allowed in the facility.

The Food Pantry is a community service that provides families and individuals with 50 pounds of groceries once per month. This service often serves families that have permanent living arrangements, but need some assistance with groceries due to increased costs of living or other expenses.

The Clinic is currently planned to be open two afternoons a week to provide general medical services, such as immunizations, to anyone in the community that doesn't have health insurance. As a part of the PUD the Clinic would be open to the public, not just existing clients.

The Administration Area, would house many of the Ruth Meiers' Hospitality House staff, including the office for managing the rental offices, the Director's Office and other staff. This will not hold all of the offices for the organization, but would be a majority of them.

Community Services space will allow for the community to attend religious services, educational seminars and utilize space to host small gatherings.

The North Apartments will remain as is. Ruth Meiers' is working with all of the residents to be sure that they can stay in their current apartment through the transition of ownership.

Community Meetings:

Through Community Meetings, Ruth Meier's Hospitality House recognized the following community concerns and is addressing the concerns with the indicated strategies:

- Homeless individuals will come into the neighborhood and stay because the name Ruth Meier's is associated with an emergency shelter.
 - The Emergency Shelter, which what is typically understood to be a homeless shelter, will not be changing locations. Therefore, the police, the bus station and other social services will be directing homeless individuals to the same location.
 - Due to the community's concerns with the name Ruth Meier's attracting homeless to the neighborhood, the Ruth Meier's Hospitality House Board of Directors is exploring naming the facility something that would clearly denote the building is not a homeless shelter (i.e. "The Boulevard Apartments by Ruth Meiers")

- Having a "Soup Kitchen" was unfavorable to some individuals, because they expect homeless people to walk through the neighborhoods from the emergency shelter to get food and will remain in the neighborhood, making it unsafe.
 - The community was concerned with the term "Soup Kitchen". Therefore, the kitchen and dining area is being re-named Nutrition Services. Through the PUD this is planned to be opened to the neighbors and community to stop by for lunch, or to cater an educational seminar. Nutrition Services is only open for lunch.

- To alleviate the concern of individuals walking through the neighborhood, the following strategies have been made: the emergency shelter on Broadway will be open during the day starting in October, 2013. This will remove homeless individuals from the streets on a larger scale. Also, food will be cooked at the Baptist Home, but transported down to the Emergency Shelter to serve the clients that aren't in the Residential Program or Apartments.
- Some community members wanted the building to be open to the public so that they could walk into the facility, use the chapel space for parties or small events, grab a cup of coffee and stop in to the director's office to discuss community concerns.
 - This suggestion is fully aligned with the Ruth Meiers' Mission. All of the services that Ruth Meier's provides are open to the public, to serve both those in need and our neighbors.

User Groups:

Below is an outline of the User Groups that would be added through the PUD.

Proposed PUD User Groups:	Current SF	Max SF
● RM-30		
○ Apartments	52,000SF	79,000SF
○ 30-Day Residential Program	7,200SF	10,000SF
○ JoAnne's Clinic	1,500SF	2,500SF
○ Child Care for Tenants / Multipurpose Room		
● Retail Group A		
○ Food Pantry	4,500SF	6,000SF
○ Baby Boutique	200SF	500SF
○ Maintain Existing Salon	450SF	500SF
● Offices-Bank group		
○ Administration	6,000SF	7,000SF
○ Community Services	4,500SF	7,000SF
● Service Group A		
○ Nutrition Services	3,300SF	4,000SF

City of Bismarck - PUD Zoning Application

Existing Building Photos

As outlined in the zoning ordinance, architectural drawings are required to allow evaluation of building height, form, massing, texture, materials of construction, and type, size, and location of door & window openings. Since there will be no changes to the building's exterior appearance, photographs of the existing building are provided.



Image 1: Aerial Image of Project Site & Lots



Image 2: Main Entrance – photo is looking Northwest



Image 3: Covered walkway between main building and north apartments – photo is looking south



Image 4: northwest wing of the main building – photo is looking east



Image 5: Photo standing on the southwest corner of the west lot looking north and slightly east.



Image 6: Photo looking at the south side of the north apartments.

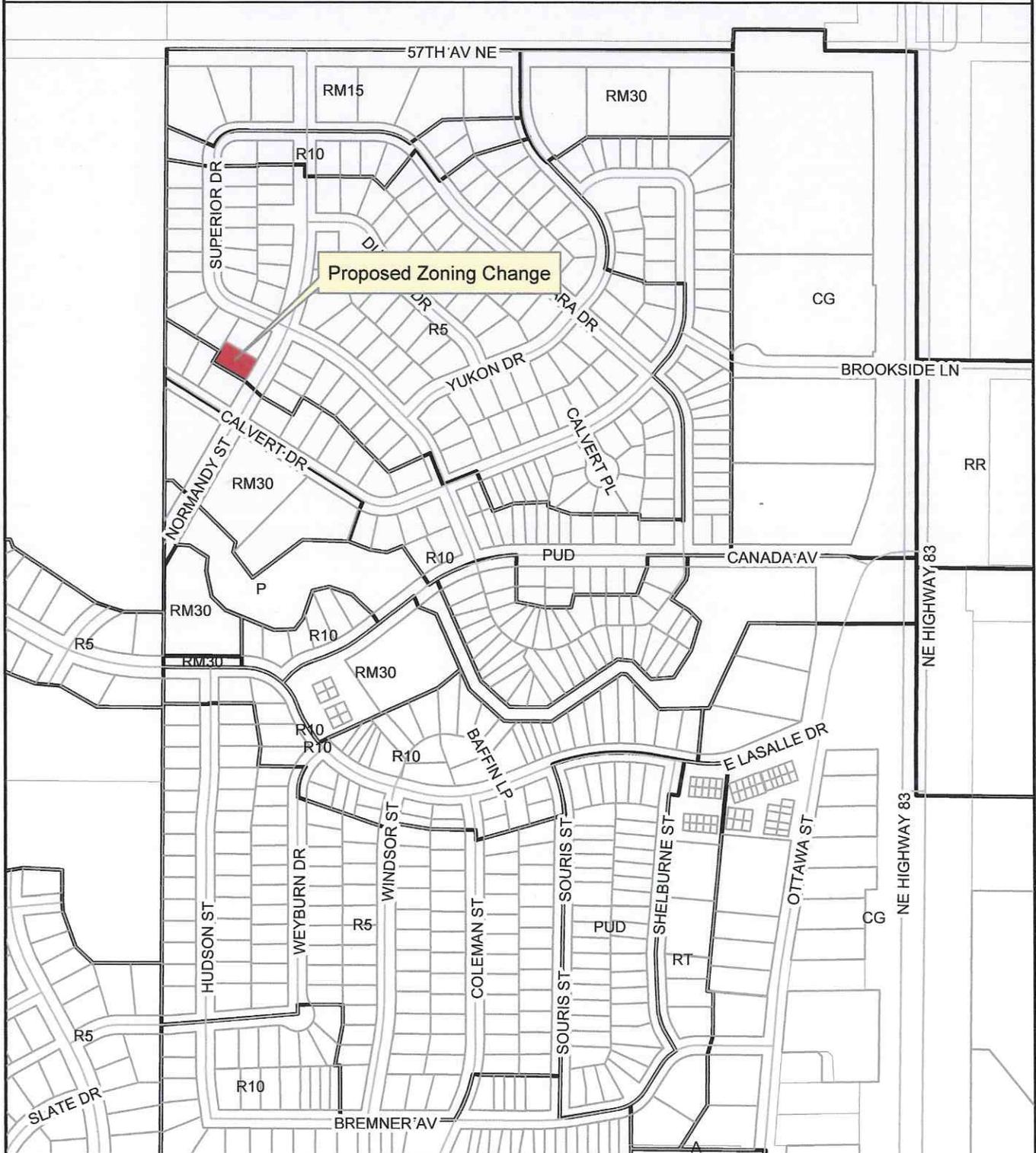


Image 7: Photo looking at the north side of the north apartments.

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

BACKGROUND:		
Title: Lot 14, Block 1, Sonnet Heights Subdivision – Zoning Change (R5 to R10)		
Status: Planning Commission – Consideration	Date: October 23, 2013	
Owner(s): Mario Spasovski	Engineer: None	
Reason for Request: Rezone property to allow for the development of a twinhome.		
Location: In northeast Bismarck along the east side of Normandy Street, between 57 th Avenue NE and Canada Avenue.		
Project Size: 11,644 square feet	Number of Lots: 1 lot in 1 block	
EXISTING CONDITIONS:		PROPOSED CONDITIONS:
Land Use: Undeveloped		Land Use: Two-family residential
Zoning: R5 – Residential		Zoning: R10 – Residential
Uses Allowed: R5 – Single-family residential		Uses Allowed: Single and two-family residential
Maximum Density Allowed: 5 units/acre		Maximum Density Allowed: 10 units/acre
PROPERTY HISTORY:		
Zoned: 12/1980	Platted: 12/1980	Annexed: 03/2007
FINDINGS:		
<ol style="list-style-type: none"> 1. The proposed zoning change is consistent with the Land Use Plan, which identifies this area as urban residential (land use portion of US Highway 83 Corridor Transportation Study). 2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developing single-family residential to the north, east and west, and developing two-family residential to the south and southeast. 3. The property is already annexed; therefore, the proposed zoning change would not place an undue burden on public services. 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 scheduling a public hearing on the zoning change from the R5-Residential zoning district to the R10-Residential zoning district on Lot 14, Block 1, Sonnet Heights Subdivision.		

Proposed Zoning Change (R5 to R10) Lot 14, Block 1, Sonnet Heights Subdivision



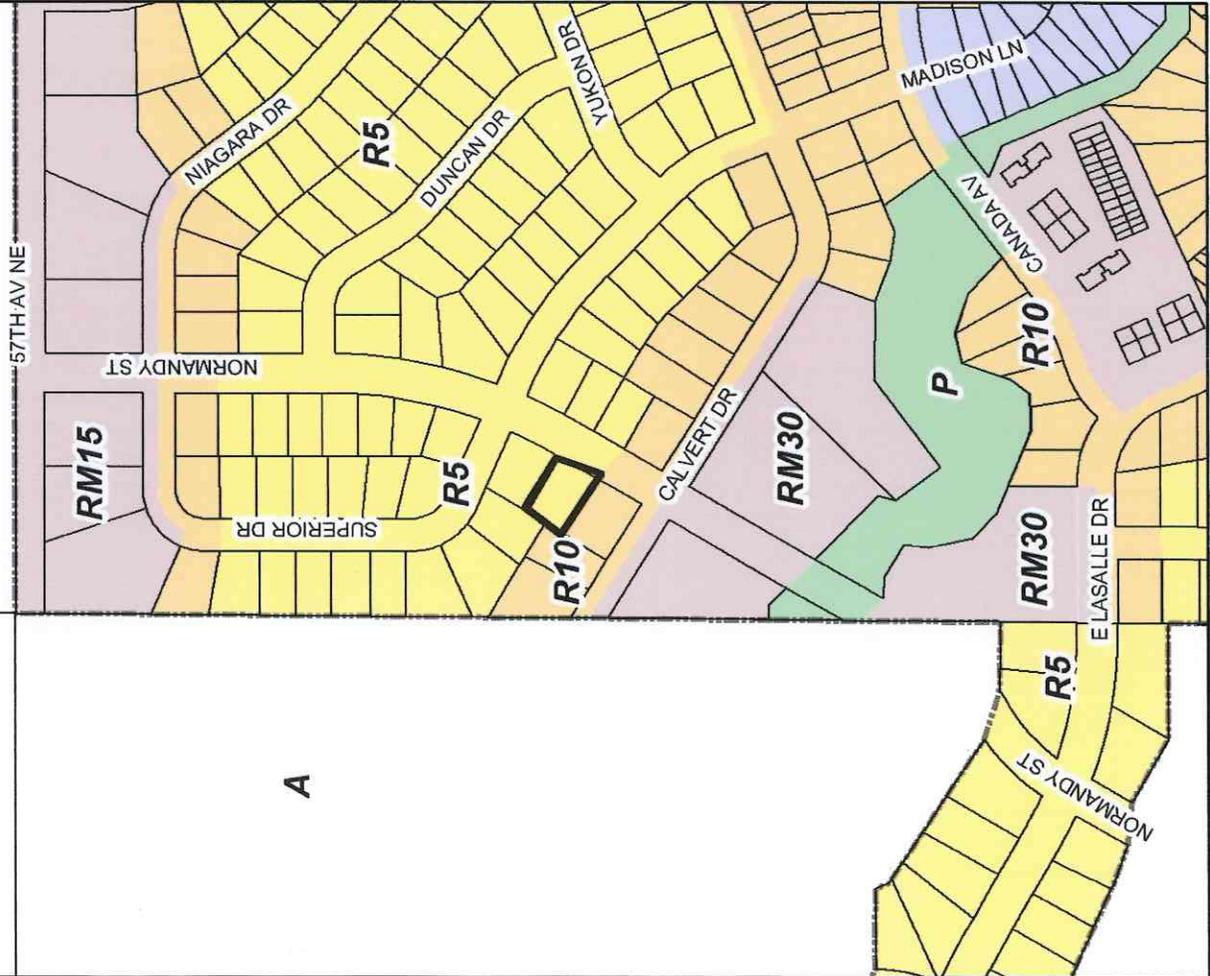
DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: September 27, 2013 (klee)

Source: City of Bismarck

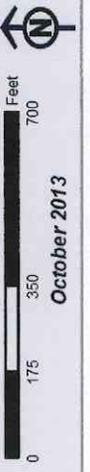
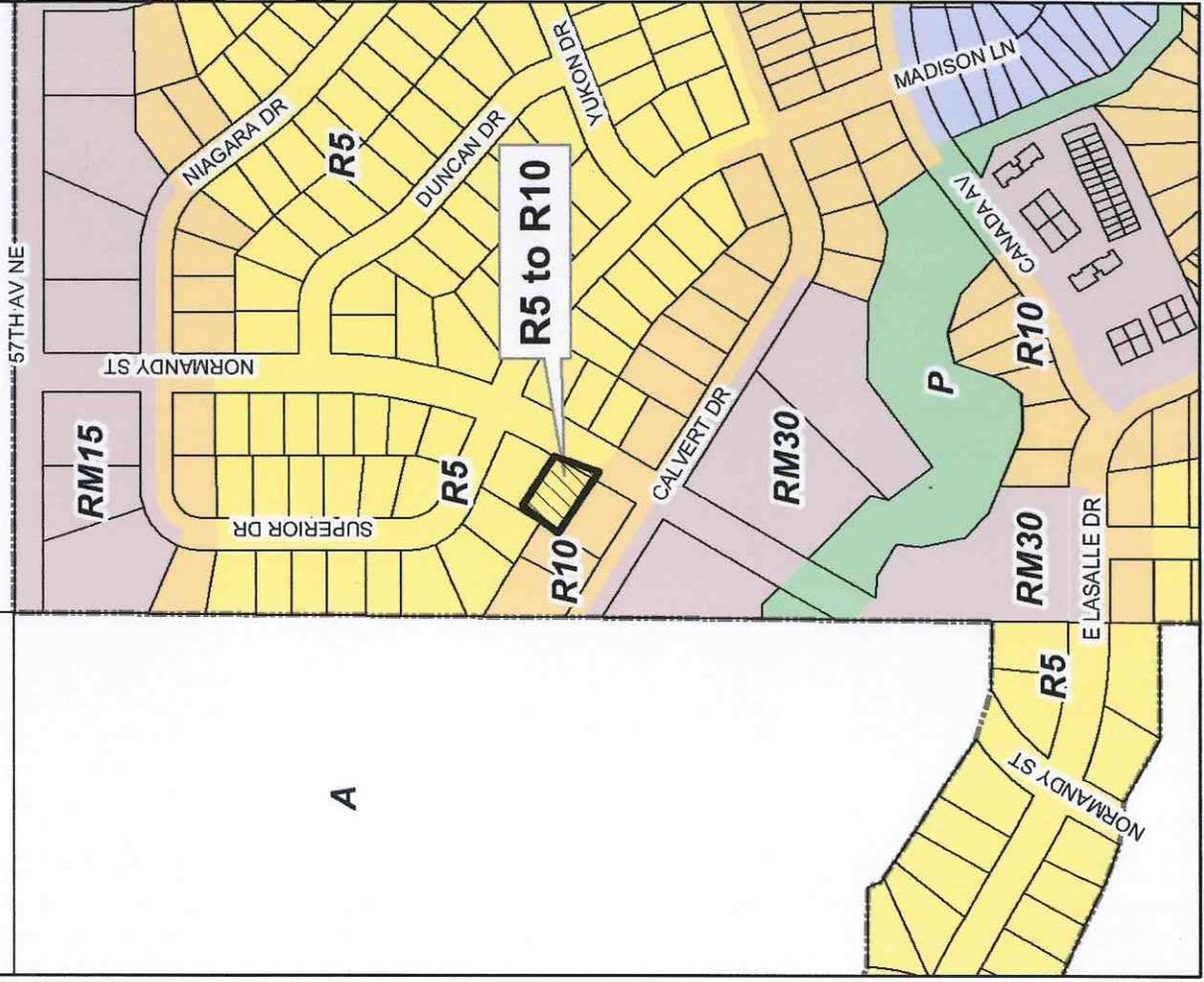


Lot 14, Block 1, Sonnet Heights Subdivision - Zoning Change

Existing Zoning



Proposed Zoning



October 2013

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

BACKGROUND:		
Title: Lots 2 and 3 of Park Hill Subdivision of Lot 14, Lot A of Auditor's Lot 15, Park Hill Auditor's Lots, and part of the SE¼ of the NE¼ of Section 5, T138N-R80W – Zoning Change (P & CG to P)		
Status: Planning Commission – Consideration	Date: October 23, 2013	
Owner(s): Bismarck Parks and Recreation District	Engineer: Ulteig Engineers, Inc.	
Reason for Request: Rezone property to bring all parcels owned by the Park District into the same zoning district and allow for the development of the Municipal Ball Park.		
Location: At the northwest intersection of West Sweet Avenue and South Washington Street, south of Memorial Highway.		
Project Size: 12 acres, more or less	Number of Lots: 3 parcels in 1 block	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Recreational Ball Park	Land Use: Recreational Ball Park	
Zoning: P – Public CG – Commercial	Zoning: P – Public	
Uses Allowed: P – Public uses including parks/ open space Storm water drainage and facilities CG – General Commercial	Uses Allowed: P – Public uses including parks/ open space Storm water drainage and facilities	
Maximum Density Allowed: P – N/A CG – 42 units/acre	Maximum Density Allowed: P – N/A	
PROPERTY HISTORY:		
Zoned: Pre-1959	Platted: Portion 04/1953	Annexed: Pre-1959
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> The proposed zoning change is in conjunction with the construction of a new grandstand at the Municipal Ball Park. During the site plan review process it was determined that a variance was needed to reduce the front yard setback along the south side of the property from 25 feet to 16 feet to allow a portion of the grandstand to be placed in the front yard setback, which was approved by the Board of Adjustment on September 25, 2013. It was also determined during the site plan review process that a lot modification to combine the lots included in the proposed zoning change request was required. The site plan was approved on October 4, 2013, however in order to proceed with the lot modification a zoning change must be approved by the Bismarck Planning & Zoning Commission. Section 14-09-03 of the City Code of Ordinances (Definitions) defines a lot combination as, "A combination of two (2) or more platted lots into a single lot whose boundaries coincide with the lot lines shown on the recorded plat of the subdivision that meets the following criteria: Does not involve lots within more than one zoning jurisdiction." In order for the lots to be combined, the entire parcel must be located within the same zoning district. 		

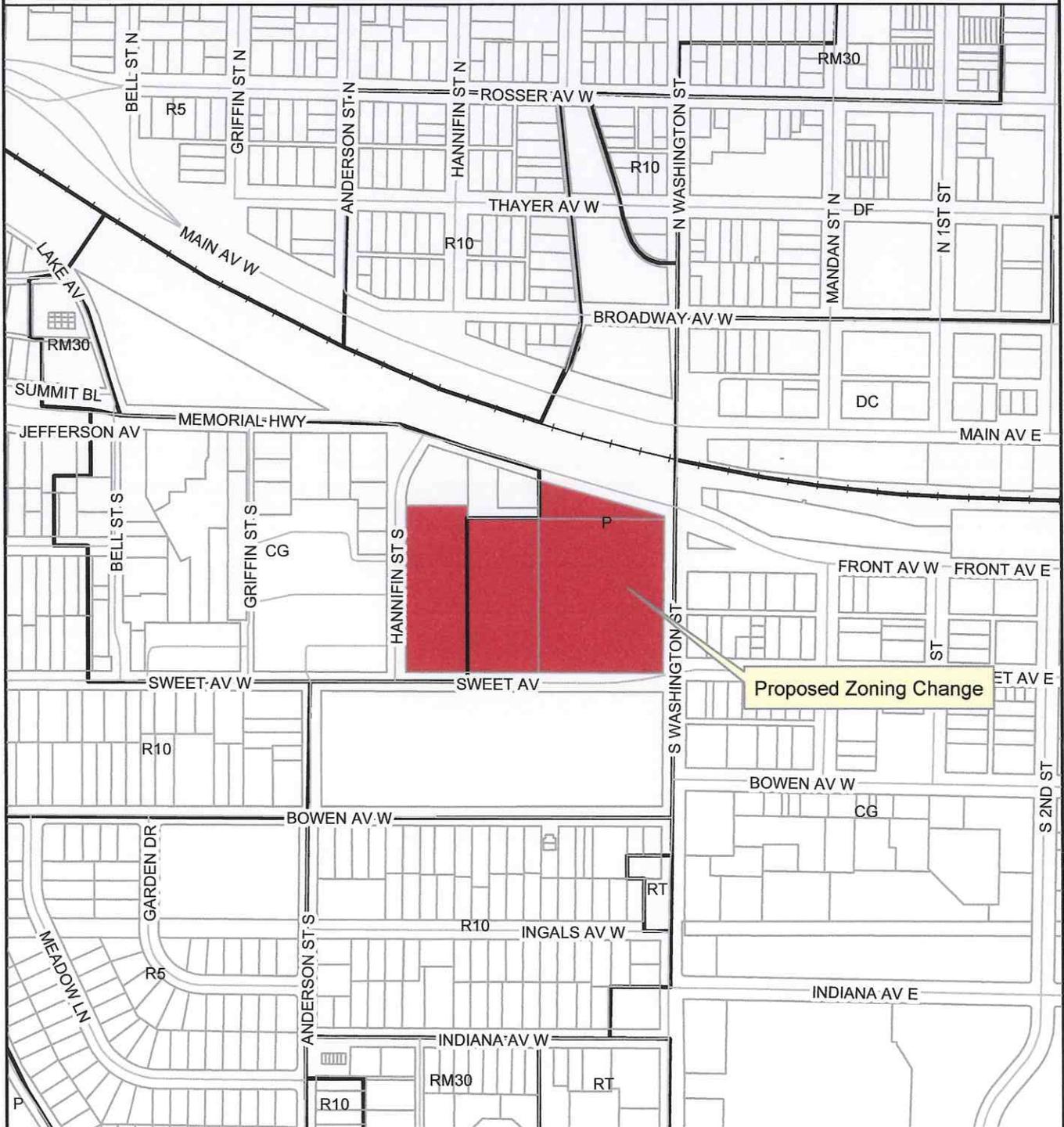
FINDINGS:

1. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include commercial and public uses to the north, public uses to the south, a mobile home park to the west and a combination of commercial uses and residential uses to the east.
2. The property is already annexed; therefore, the proposed zoning change would not place an undue burden on public services.
3. The proposed zoning change would not adversely affect property in the vicinity.
4. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
5. 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 scheduling a public hearing on the zoning change from the P – Public and CG – Commercial zoning districts to the P – Public zoning district on Lots 2 and 3 of Park Hill Subdivision of Lot 14, Lot A of Auditor’s Lot 15, Park Hill Auditor’s Lots, and part of the SE¼ of the NE¼ of Section 5, T138N-R80W

Proposed Zoning Change (P & CG to P)
Lot A of Auditor's Lots 15 & 16, Park Hills Auditors Lots,
Lots 2 & 3 of Park Hill Subdivision of Lot 14 and
Lots 33-47, Park Hills Auditors Lots

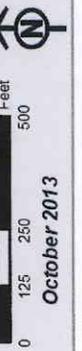
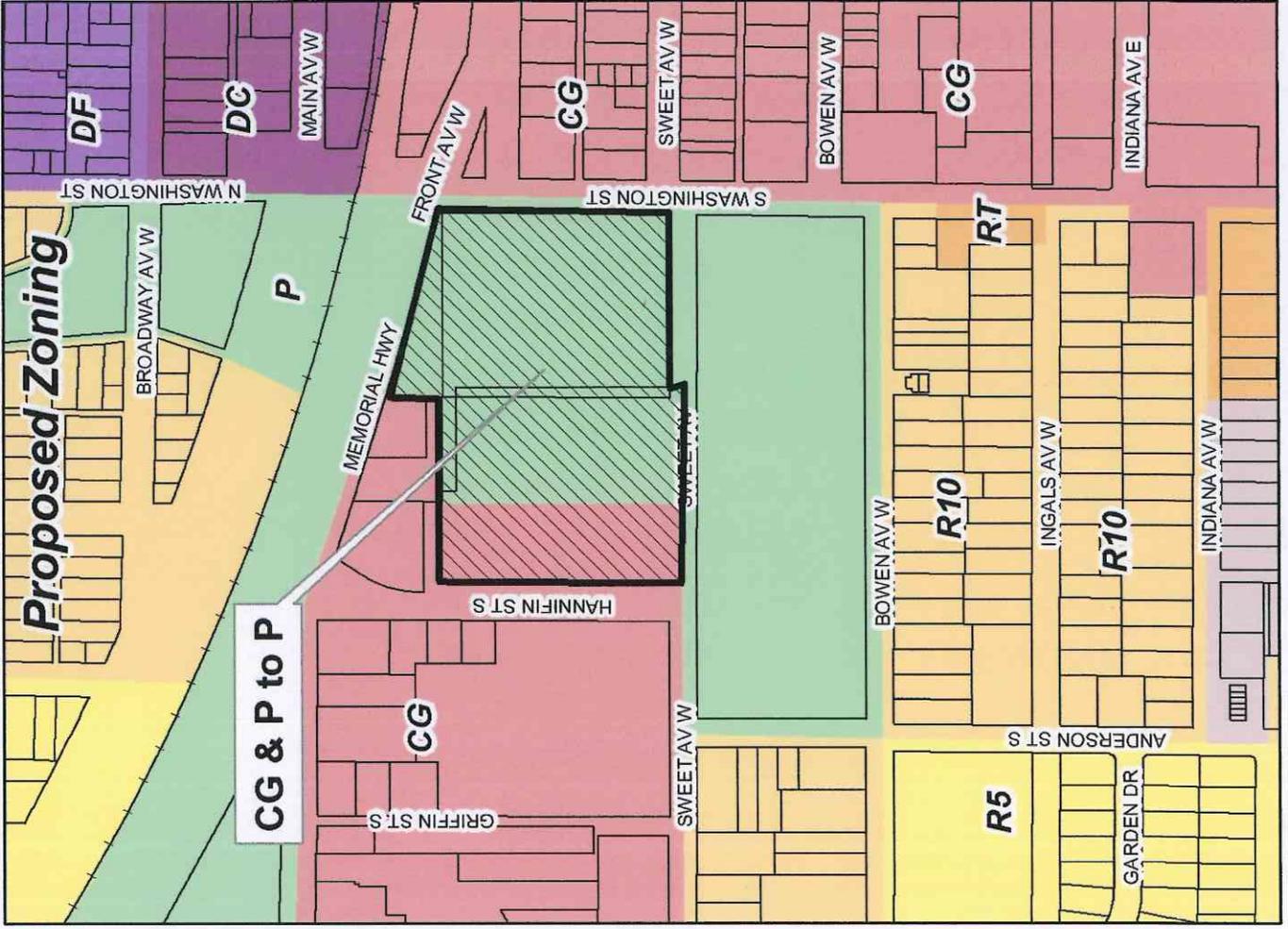
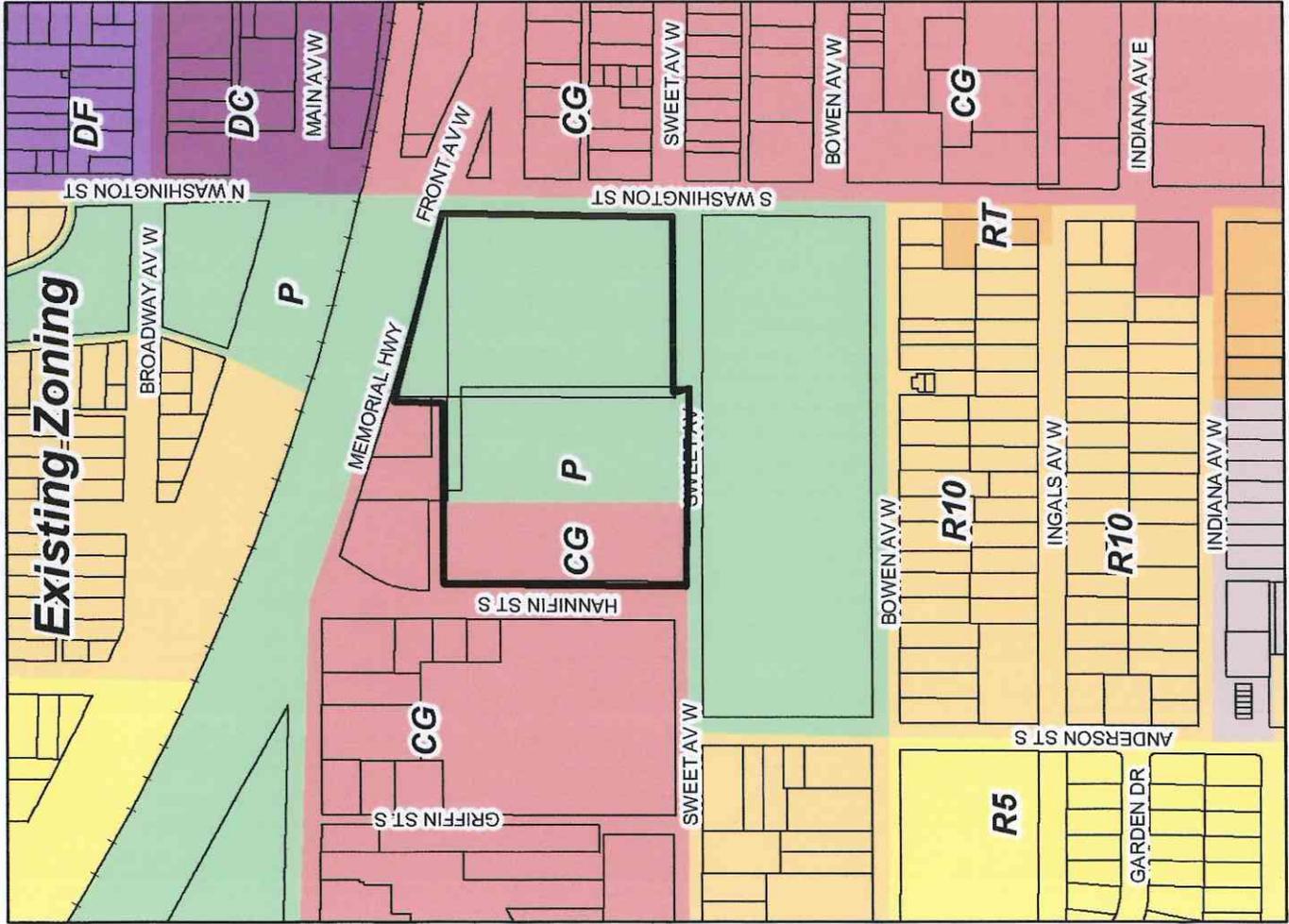


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 Map was Updated/Created: September 27, 2013 (Klee)

Source: City of Bismarck



Lots 2 & 3 of Park Hill Subdivision of Lot 14, Lot A of Auditor's Lot 15, Park Hill Auditor's Lot 15, Part of Auditor's Lot 15, and Part of Section 5



October 2013

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

BACKGROUND:		
Title: South Meadows Addition – Zoning Change (A to R5, R10, RM30 & P)		
Status: Planning Commission – Continued Public Hearing	Date: October 23, 2013	
Owner(s): Santa Fe, LLP – owner Chad & Stacy Wachter – owner Capital Electric Cooperative - owner Wachter Development – applicant	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat and zone property for mixed density residential development.		
Location: South of Burleigh Avenue and west of South Washington Street (part of the E½ of the NE¼ of Section 20, T138N-R80W/Lincoln Township).		
Project Size: 75.89 acres	Number of Lots: 147 lots in 6 blocks	
EXISTING CONDITIONS:		
Land Use: Undeveloped	PROPOSED CONDITIONS:	
Zoning: A – Agricultural	Land Use: Mixed density residential	
	Zoning: R5 – Residential R10 – Residential RM30 – Residential P – Public	
Uses Allowed: A – Agriculture	Uses Allowed: R5 – Single-family residential R10 – Single- and two-family residential RM30 – Multi-family residential P – Public uses, including parks and storm water facilities	
Maximum Density Allowed: A – One unit/40 acres	Maximum Density Allowed: R5 – 5 units/acre R10 – 10 units/acre RM30 – 30 units/acre P – N/A	
PROPERTY HISTORY:		
Zoned: N/A	Platted: N/A	Annexed: N/A
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> The public hearing on this request was continued at the September 25th meeting because the storm water management plan for the final plat had not been approved by the City Engineer. The storm water management plan for the final plat has not yet been approved by the City Engineer. 		
FINDINGS:		
<ol style="list-style-type: none"> The Land Use Plan identifies this area as urban residential (Bismarck-Mandan Regional Future Land Use Plan). 		

(continued)

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.
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.

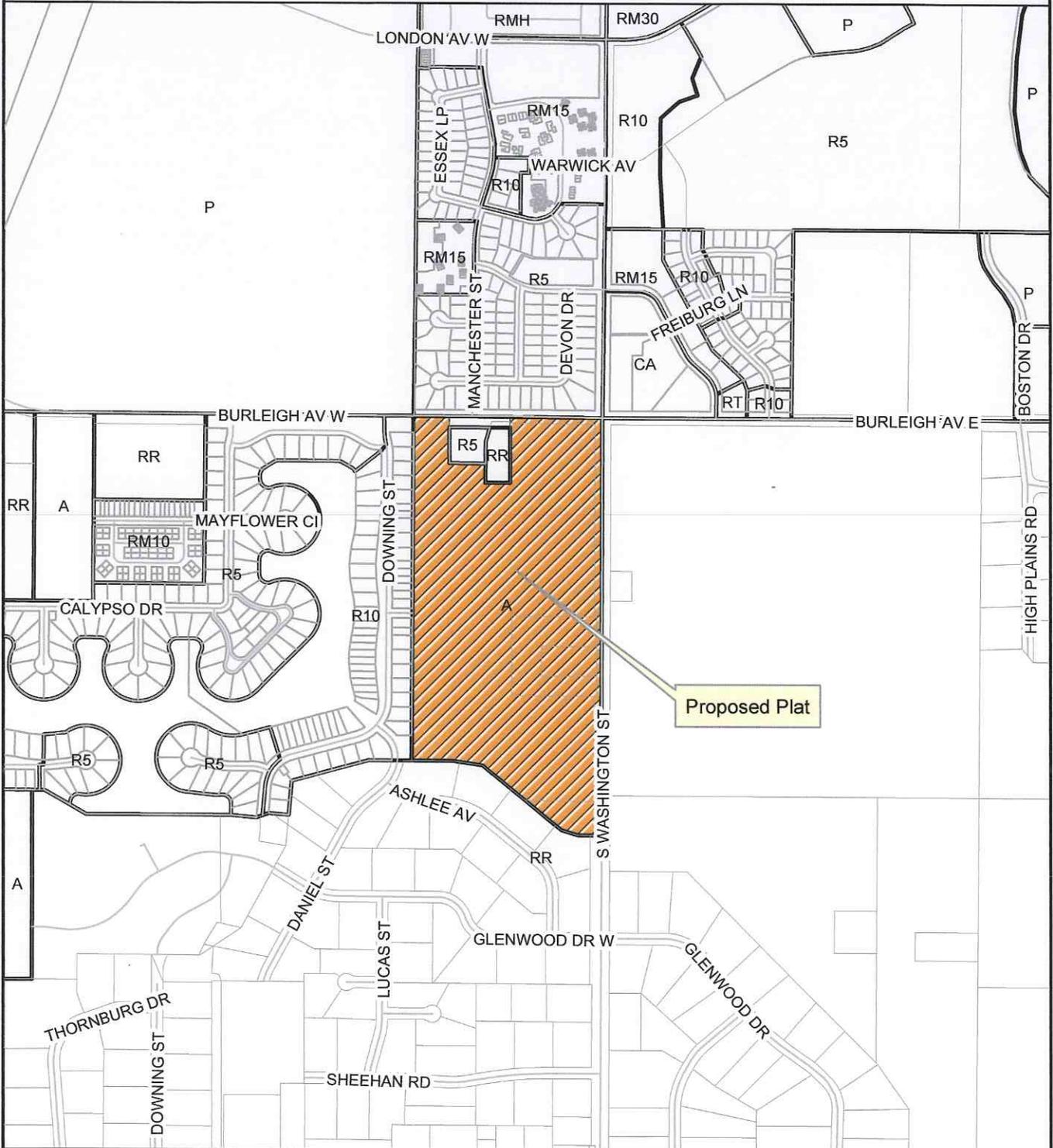
RECOMMENDATION:

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

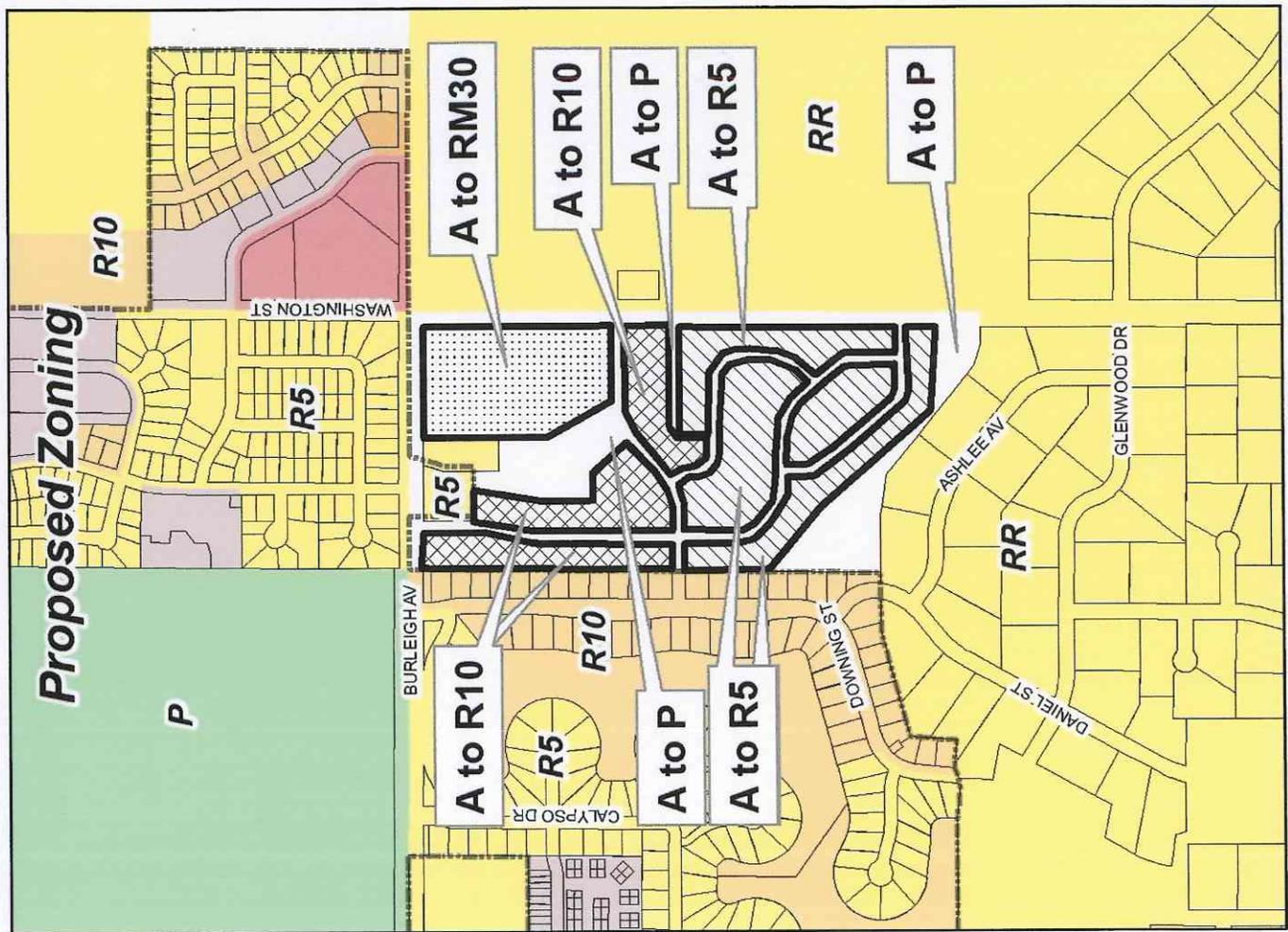
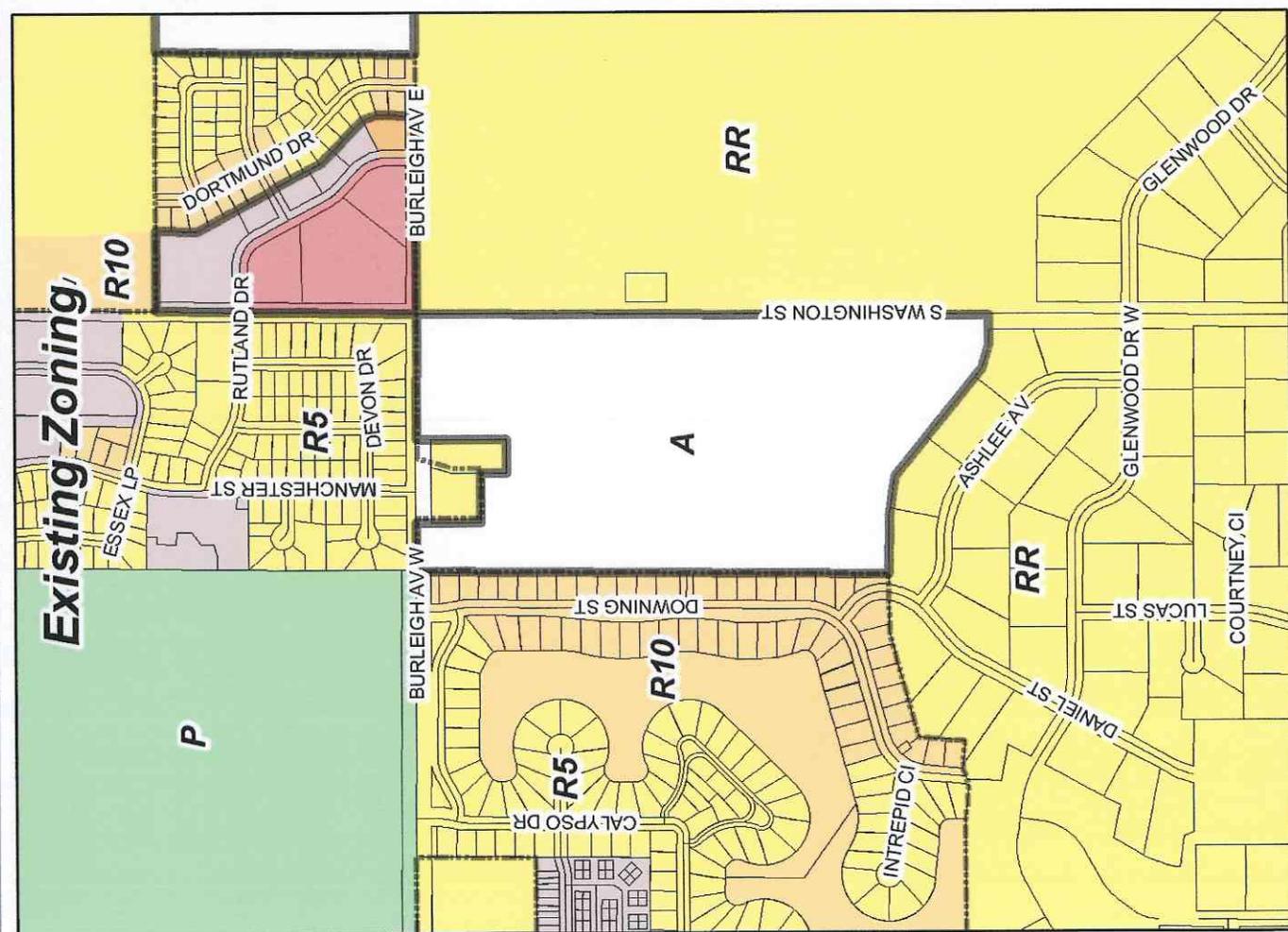


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Map was Updated/Created: September 12, 2013 (klee)

Source: City of Bismarck



South Meadows Addition - Zoning Change



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

BACKGROUND:		
Title: South Meadows Addition – Final Plat		
Status: Planning Commission – Continued Public Hearing	Date: October 23, 2013	
Owner(s): Santa Fe, LLP – owner Chad & Stacy Wachter – owner Capital Electric Cooperative - owner Wachter Development – applicant	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat and zone property for mixed density residential development.		
Location: South of Burleigh Avenue and west of South Washington Street (part of the E½ of the NE¼ of Section 20, T138N-R80W/Lincoln Township).		
Project Size: 75.89 acres	Number of Lots: 147 lots in 6 blocks	
EXISTING CONDITIONS:		
Land Use: Undeveloped	PROPOSED CONDITIONS:	
Zoning: A – Agricultural	Land Use: Mixed density residential	
	Zoning: R5 – Residential R10 – Residential RM30 – Residential P – Public	
Uses Allowed: A – Agriculture	Uses Allowed: R5 – Single-family residential R10 – Single- and two-family residential RM30 – Multi-family residential P – Public uses, including parks and storm water facilities	
Maximum Density Allowed: A – One unit/40 acres	Maximum Density Allowed: R5 – 5 units/acre R10 – 10 units/acre RM30 – 30 units/acre P – N/A	
PROPERTY HISTORY:		
Zoned: N/A	Platted: N/A	Annexed: N/A
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> 1. The public hearing on this request was continued at the September 25th meeting because the storm water management plan had not been approved by the City Engineer. 2. 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.” 		

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.

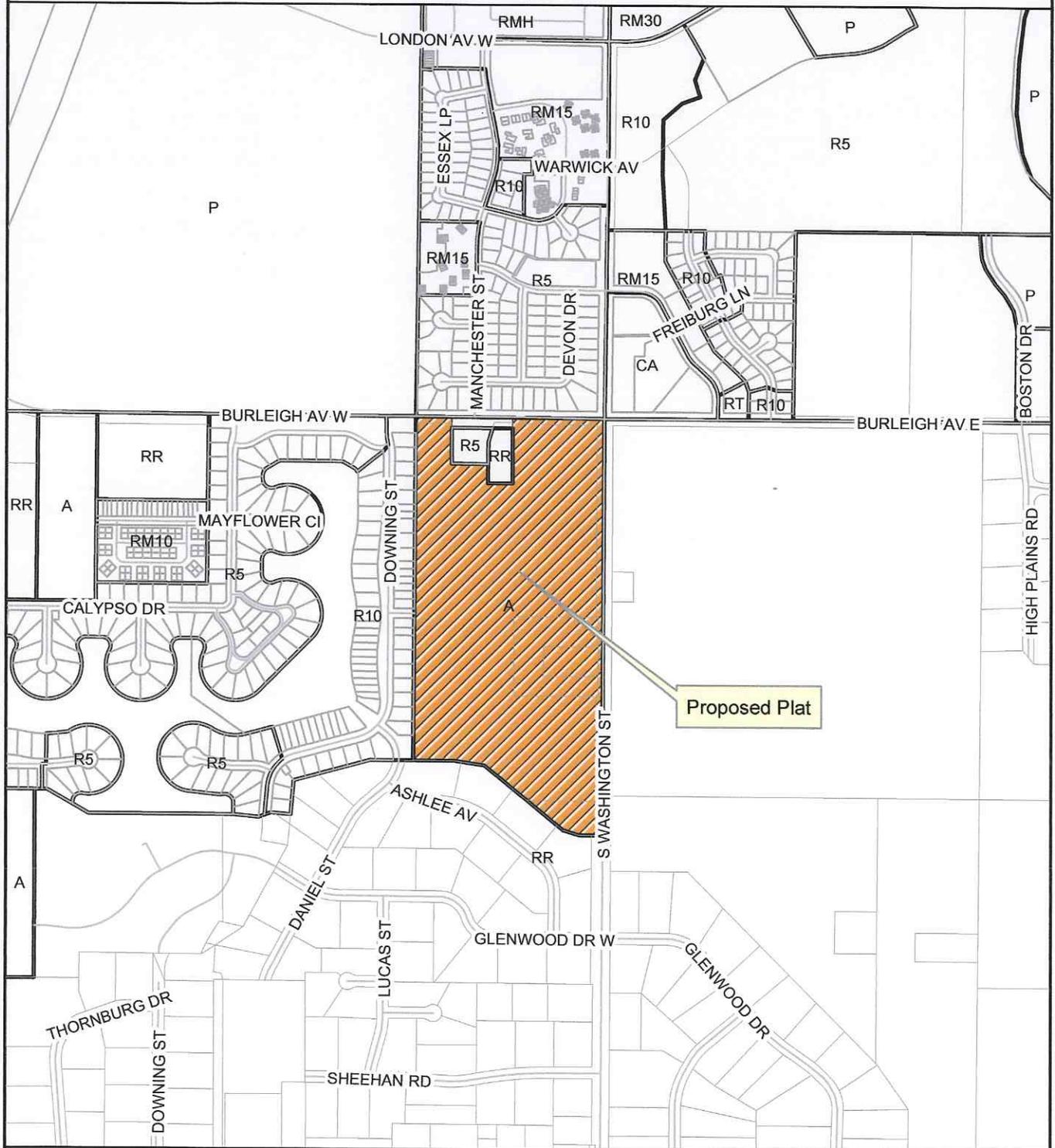
RECOMMENDATION:

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



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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

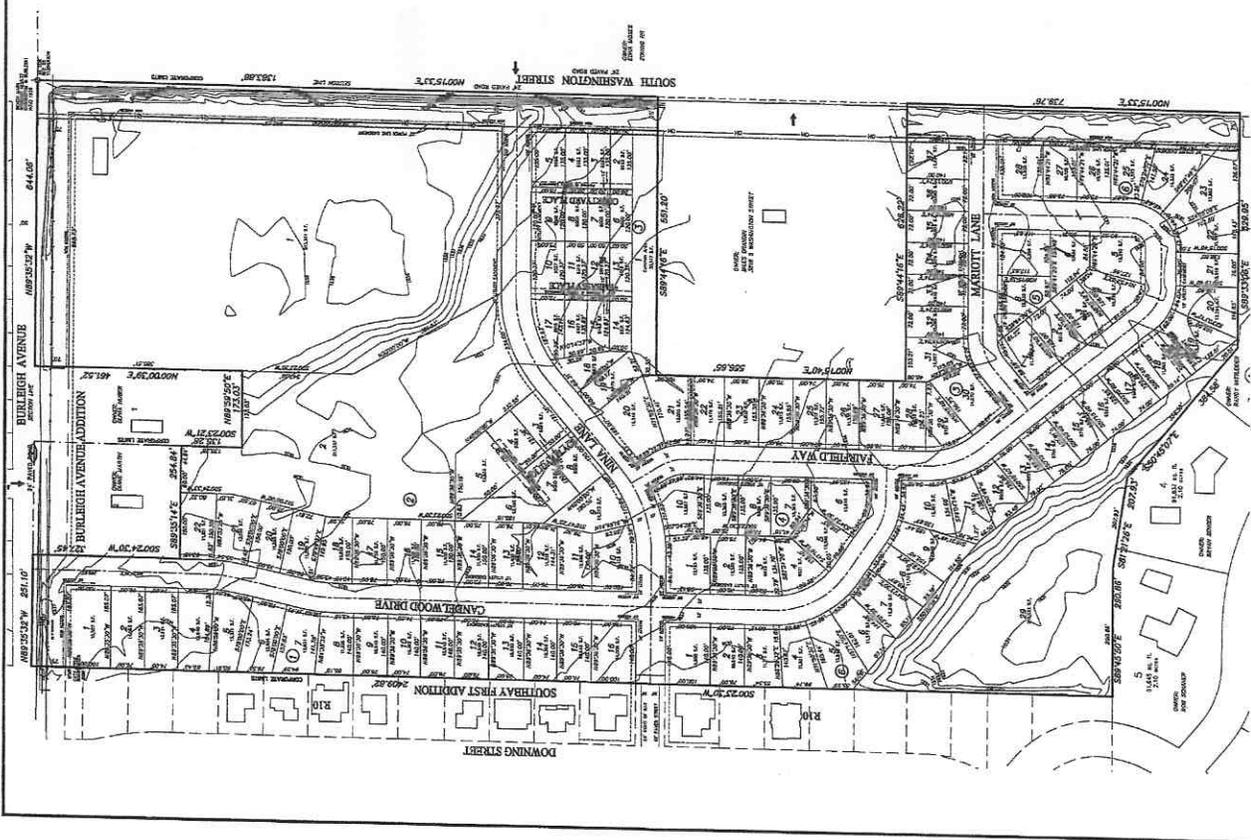
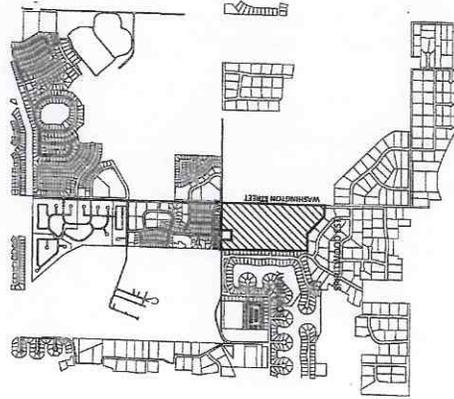
WACHTER DEVELOPMENT
P.O. BOX 520
BISMARCK, ND 58502
223-2200

TOTAL ACREAGE - 65.6 ACRES
113 LOTS
PROPOSED ZONING - RS, R10, RM
FLOOD PLAIN ELEVATION 1636.0



SCALE: 1"=100'
DATE: JANUARY 10, 2013
DRAWN BY: JESSIE BROWN
CHECKED BY: JESSIE BROWN
REVISIONS:
1. 10/10/12: ADDED LOT 113
2. 10/10/12: ADDED LOT 114

LOCATION MAP



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

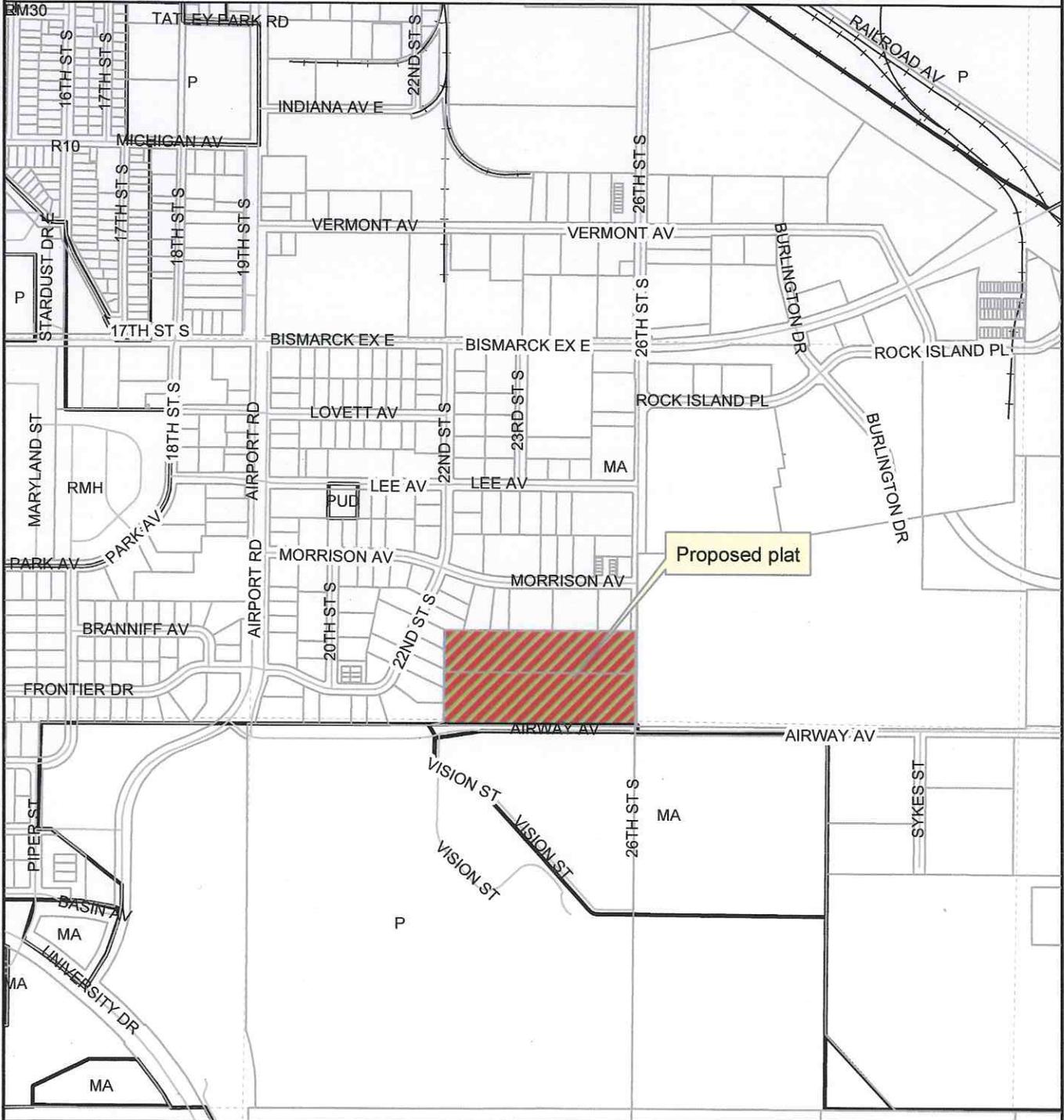
BACKGROUND:		
Title: Airway Avenue Addition – Final Plat		
Status: Planning Commission – Public Hearing	Date: October 23, 2013	
Owner(s): Clairmont 3G, LLP TSI Enterprises, LLC	Engineer: Swenson, Hagen & Company	
Reason for Request: To allow for future development of industrial lots.		
Location: In southeast Bismarck, along the south side of Airway Avenue and the west side of South 26 th Street. (The S ½ of the S ½ of the NE ¼ of Section 10, T138N-R80W/Lincoln Township).		
Project Size: 20.0 acres	Number of Lots: 11 lots in 1 block	
EXISTING CONDITIONS:		
Land Use: Partially-developed/industrial uses	PROPOSED CONDITIONS:	
	Land Use: Industrial	
Zoning: MA – Industrial	Zoning: MA – Industrial	
Uses Allowed: MA – Industrial and commercial uses	Uses Allowed: MA – Industrial and commercial uses	
Maximum Density Allowed: MA – N/A	Maximum Density Allowed: MA – N/A	
PROPERTY HISTORY:		
Zoned: Pre-1990	Platted: N/A	Annexed: Pre-1990
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> The proposed subdivision would include the use of a private roadway via an access easement through the development. The applicant has requested the use of a private roadway due to existing buildings on-site and limited ability to construct a public roadway through the development. 		
FINDINGS:		
<ol style="list-style-type: none"> All technical requirements for consideration of the final plat have been met. The storm water management plan has been approved by the City Engineer. The proposed subdivision conforms to the Fringe Area Road Master Plan, which identifies Airway Avenue as the east-west collector roadway for this section. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include industrial uses to the north and west; undeveloped land to the east which is zoned MA - Industrial and the Airport to the south. 		
<i>(continued)</i>		

5. The proposed subdivision would not adversely affect the adjacent properties.
6. The City and other agencies would be able to provide necessary public services, facilities, and programs to serve the development allowed by the proposed subdivision at the time the property is developed, provided access via urban section roadways are required prior to development of lots within the development
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.

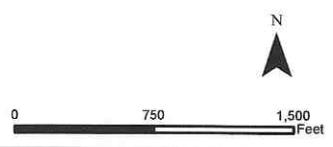
RECOMMENDATION:

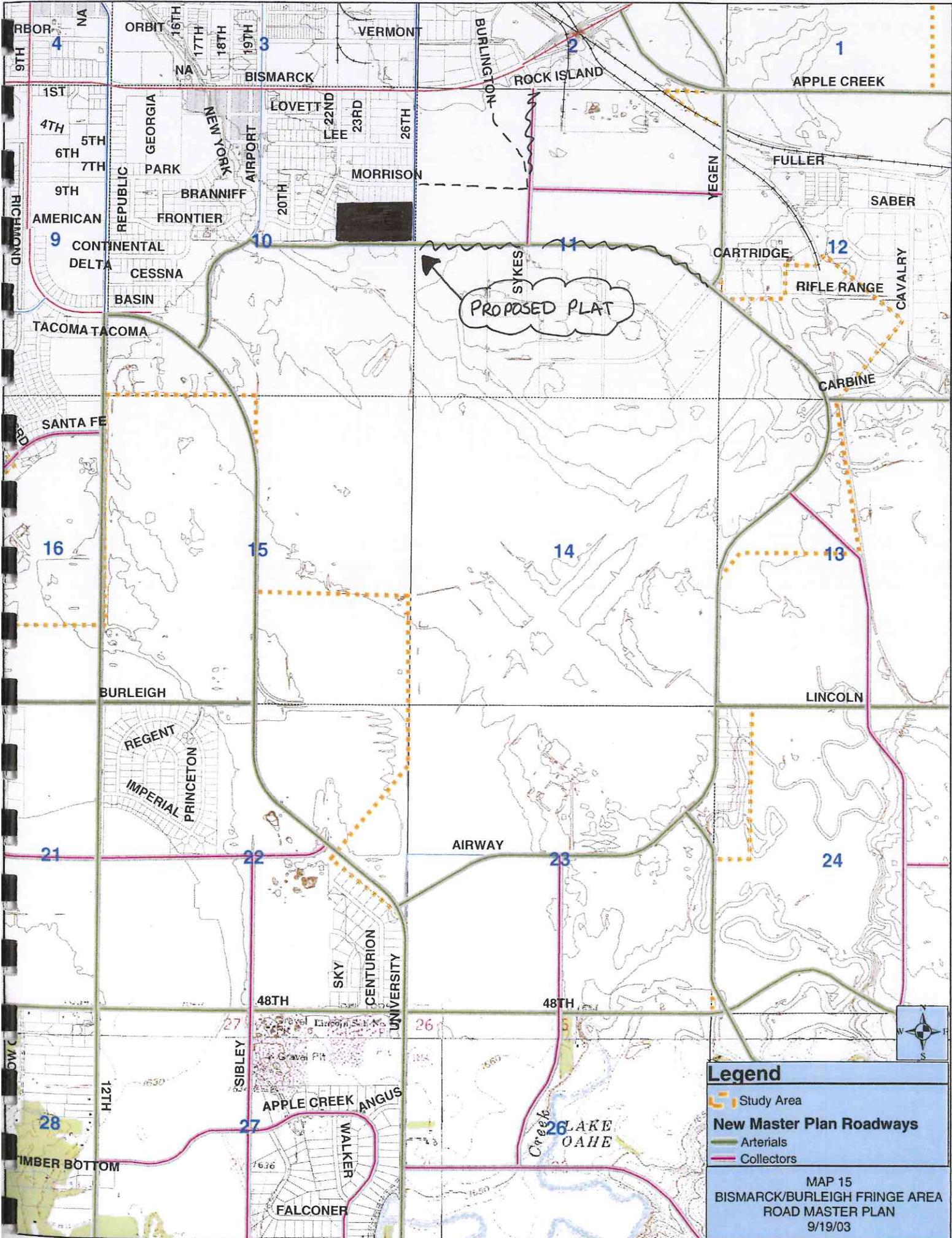
Based on the above findings, staff recommends approval of the final plat for Airway Avenue Addition with the understanding that individual lots will not be developable until access via an paved roadway is provided and all adjacent roadways are improved to City urban section roadway standards or are under contract for such improvement.

Proposed Plat Airway Avenue 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: February 29, 2012 (Klee)
 Source: City of Bismarck





PROPOSED PLAT

Legend

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

MAP 15
 BISMARCK/BURLEIGH FRINGE AREA
 ROAD MASTER PLAN
 9/19/03

RECEIVED

FEB 24 2012

Airway Avenue Addition Private Road

The owner of Airway Avenue Addition has proposed a private road to be constructed within the property. Due to existing buildings on the site and their proximity to the north property line there is not adequate room for public improvements north of the buildings and adequate room for an additional building and parking lot south of the north property line. A City street in an industrial district requires an 80 foot right of way. Setbacks will require 25 feet each side of the public right of way and a rear yard for an additional building north of the public street of 10 feet is required. Therefore a public street north of the building will not leave adequate room for a building and parking lot north of a proposed public street.

The alternate to a public street is for the developer to create a lot owners association to provide for the construction and maintenance of a private roadway inside the subdivision for the benefit of the owners of all the lots.

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

BACKGROUND:	
Title: Oakland Subdivision – Zoning Change (A to RR)	
Status: Planning Commission – Public Hearing	Date: October 23, 2013
Owner(s): Thomas and Angela Oakland	Engineer: Lowry Engineering
Reason for Request: Plat and zone property to allow development of a single-family rural residential subdivision.	
Location: Northeast of Bismarck, along the south side of 84 th Avenue NE, between 26 th Street NE and 41 st Street NE (part of the NE ¼ of Section 2, T139N-R80W/Hay Creek Township).	
Project Size: 40 acres	Number of Lots: 17 lots in 3 blocks
EXISTING CONDITIONS:	
Land Use: Agriculture/Undeveloped	PROPOSED CONDITIONS:
Zoning: A – Agriculture	Land Use: Rural Residential
Uses Allowed: Agriculture	Zoning: RR – Residential
Maximum Density Allowed: One unit/40 acres	Uses Allowed: Rural residential & limited agriculture
Maximum Density Allowed: One unit/65,000 square feet	Maximum Density Allowed: One unit/65,000 square feet
PROPERTY HISTORY:	
Zoned: N/A	Platted: N/A
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> The proposed subdivision is located within the four-mile ETA and is subject to joint jurisdiction procedures as established by NDCC 40-47-01.1. Although the City of Bismarck has lead jurisdiction, the governing body that would otherwise have jurisdiction (in this case, Burleigh County) may object to the final decision of the City and request negotiation within 30 days of the final decision of the City Commission. If the City of Bismarck and Burleigh County could not come to an agreement within 30 days, the dispute is submitted to a committee for mediation. If the mediation committee is unable to resolve the dispute to the satisfaction of the City and Burleigh County, the dispute must be resolved by the Burleigh County Board of Commissioners. The stormwater management plan for the final plat has not yet been approved by the City Engineer, written concurrence from the County Engineer is also. 	
FINDINGS:	
<ol style="list-style-type: none"> The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as rural residential (US Highway 83 Corridor Study). The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include agricultural to the north and east, and partially-developed rural residential to the south and west. 	
<i>(continued)</i>	

3. The subdivision proposed for the property would be served by South Central Regional Water District and would have access to both 71st Avenue NE and 41st Street NE via internal streets; therefore, the proposed zoning change would not place an undue burden on public services.
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, with written concurrence from the County Engineer, staff recommends continuing action on the zoning change for Oakland Subdivision.

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

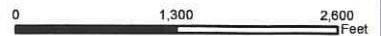
Based on the above findings, staff recommends approval of the zoning change from the A-Agricultural zoning district to the RR-Residential zoning district for Oakland Subdivision.

Proposed Plat & Zoning Change (A to RR) Oakland Subdivision

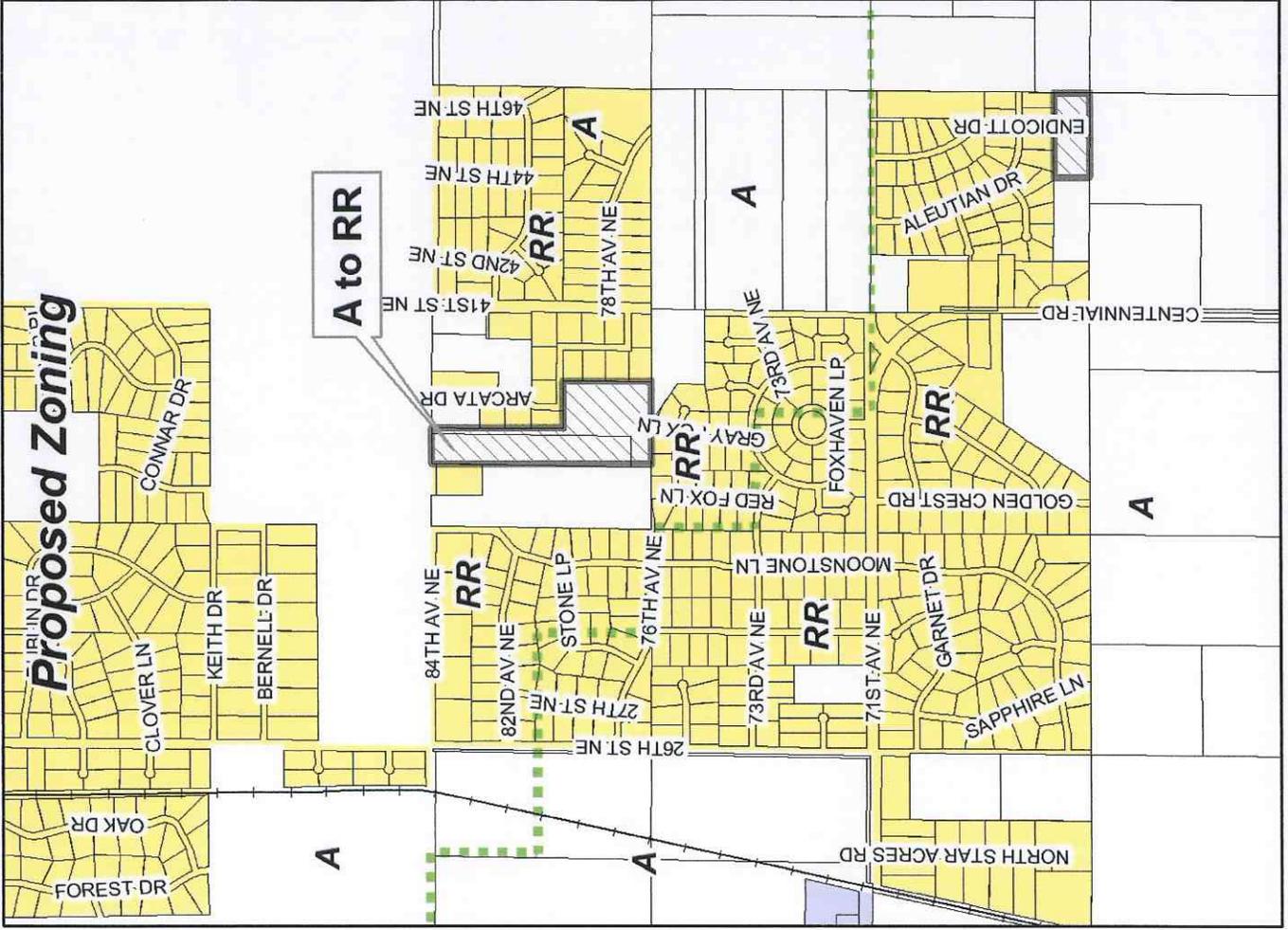
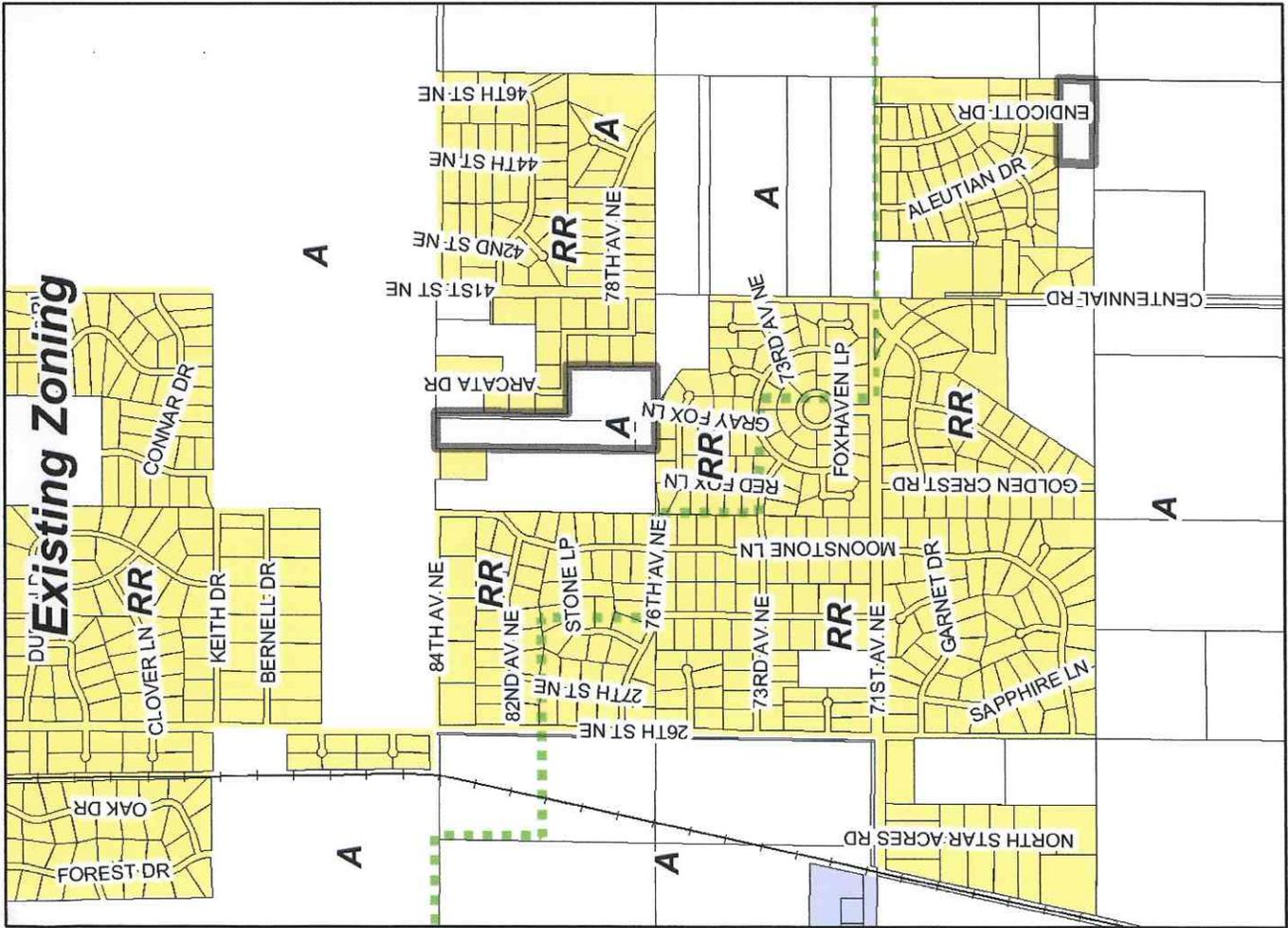


DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: October 10, 2013 (klee)

Source: City of Bismarck



Oakland Subdivision - Zoning Change



July 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 COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: Oakland Subdivision – Final Plat	
Status: Planning Commission – Public Hearing	Date: October 23, 2013
Owner(s): Thomas and Angela Oakland	Engineer: Lowry Engineering
Reason for Request: Plat and rezone property to allow development of a single-family rural residential subdivision.	
Location: Northeast of Bismarck, along the south side of 84 th Avenue NE, between 26 th Street NE and 41 st Street NE (part of the NE¼ of Section 2, T139N-R80W/Hay Creek Township)..	
Project Size: 40 acres	Number of Lots: 17 lots in 3 blocks
EXISTING CONDITIONS:	PROPOSED CONDITIONS:
Land Use: Agriculture/ undeveloped	Land Use: Rural residential
Zoning: A – Agriculture	Zoning: RR – Residential
Uses Allowed: Agriculture	Uses Allowed: Rural residential & limited agriculture
Maximum Density Allowed: One unit/40 acres	Maximum Density Allowed: One unit/65,000 square feet
PROPERTY HISTORY:	
Zoned: N/A	Platted: N/A
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> The proposed subdivision is located within the four-mile ETA and is subject to joint jurisdiction procedures as established by NDCC 40-47-01.1. Although the City of Bismarck has lead jurisdiction, the governing body that would otherwise have jurisdiction (in this case, Burleigh County) may object to the final decision of the City and request negotiation within 30 days of the final decision of the City Commission. If the City of Bismarck and Burleigh County could not come to an agreement within 30 days, the dispute is submitted to a committee for mediation. If the mediation committee is unable to resolve the dispute to the satisfaction of the City and Burleigh County, the dispute must be resolved by the Burleigh County Board of Commissioners. The proposed subdivision is located within the Urban Service Area Boundary (USAB); however, the applicant has requested a waiver from the USAB requirement including the requirement to ghost plat the proposed lots. The applicant cited that the proposed subdivision is surrounded by existing subdivisions that were not required to ghost plat. This request seems reasonable recognizing that the proposed subdivision surrounded by existing subdivisions that were not required to ghost plat. 	
FINDINGS:	
<ol style="list-style-type: none"> All technical requirements for approval of a final plat have been met. The storm water management plan has not yet been approved by the City Engineer, written concurrence from the County Engineer is also required. 	
<i>(continued)</i>	

3. The Hay Creek Township Board of Supervisors has recommended approval of the proposed subdivision.
4. The proposed subdivision is generally consistent with the Fringe Area Road Master Plan for this area, which identifies 84th Avenue NE as an arterial roadway and 76th Avenue NE as the east -west collector roadway for this section.
5. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include agricultural to the north and east, and partially-developed rural residential to the south and west.
6. The subdivision proposed for the property would be served by South Central Regional Water District and would have access to both 71st Avenue NE and 41st Street NE via internal streets; therefore, the proposed subdivision would not place an undue burden on public services.
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.

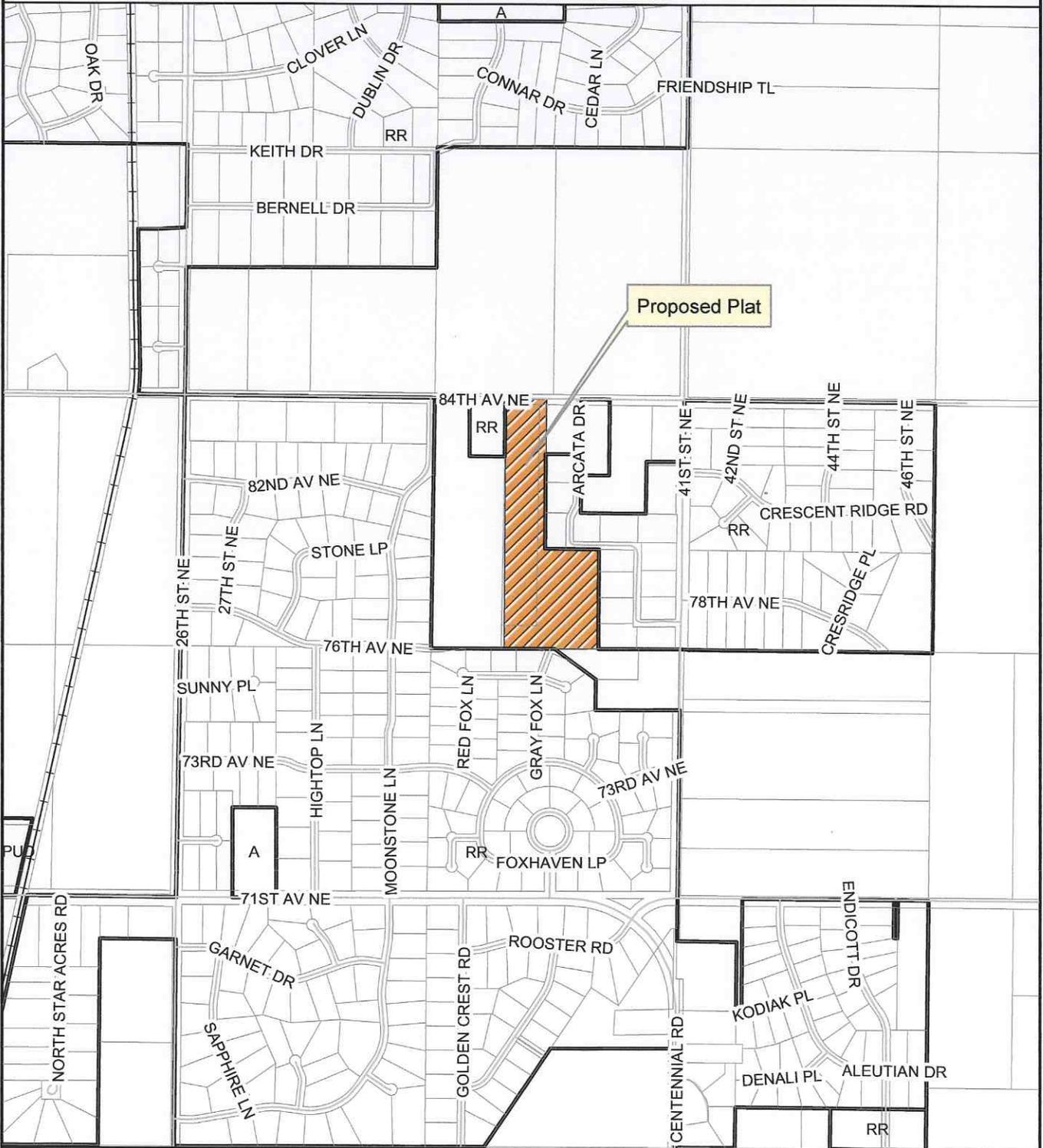
RECOMMENDATION:

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

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

Based on the above findings, staff recommends approval of the final plat for Oakland Subdivision, including the granting of a waiver from the ghost platting requirement.

Proposed Plat & Zoning Change (A to RR) Oakland Subdivision



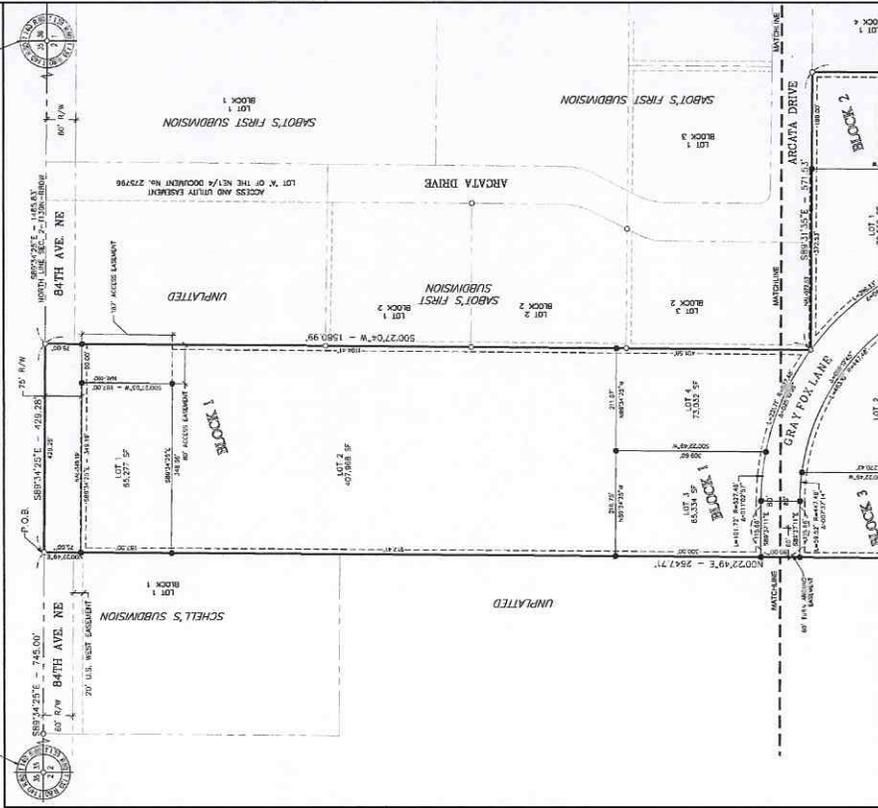
DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: October 10, 2013 (klee)

Source: City of Bismarck



OAKLAND SUBDIVISION

A PORTION OF THE NORTH EAST QUARTER OF SECTION 2, T130N, R80W OF THE FIFTH PRINCIPAL MERIDIAN, COUNTY OF BURLEIGH, STATE OF NORTH DAKOTA



DESCRIPTION

A PORTION OF THE NORTH EAST QUARTER OF SECTION 2, TOWNSHIP 13N NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

Commencing from the North West Corner of the North East Quarter of said Section 2; thence S82°42'25"E, along the north line of said Section 2 a distance of 745.00 feet to the Northeast Corner of Sabot's Subdivision, Lot 1 Block 1, the Point of Beginning; thence S89°31'35"E a distance of 571.53 feet to the North West Corner of Lot 1 Block 4 of Sabot's Subdivision; thence S89°31'35"E a distance of 571.53 feet to the North West Corner of Lot 1 Block 4 of Sabot's Subdivision; thence S89°31'35"E a distance of 1002.50 feet on the lot line of Lot 8 Block 1 of Sabot's First Subdivision; thence N02°22'49"E a distance of 284.71 feet to the Point of Beginning.

SABOT'S FIRST SUBDIVISION CONTAINS 24 LOTS, MORE OR LESS, AND IS DIVIDED INTO UNPLATTED (NINE) AND REGISTERED (FIFTEEN) LOTS.

SURVEYOR'S CERTIFICATE

I, COLE A. NESSET, HEREBY CERTIFY THAT THE ATTACHED SURVEY WAS COMPLETED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT THE MONUMENTS ARE PLACED AS SHOWN, AND THAT I AM A FULLY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

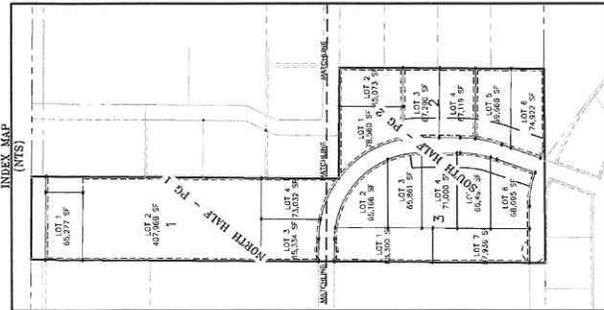
DATE: _____

NOTE: A NESSET
REGISTERED PROFESSIONAL LAND SURVEYOR
N.D. REGISTRATION NO. 62324

STATE OF NORTH DAKOTA) SS
COUNTY OF _____

ON THIS _____ DAY OF _____, 2013, BEFORE ME A NOTARY PUBLIC KNOWN TO ME TO BE THE PERSON DESCRIBED HEREIN, AND WHO EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC _____ COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES: _____



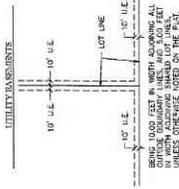
- PLAN INFORMATION**
- 17 LOTS
 - 17 BLOCKS
 - 17 ACRES ± 8.27
 - TOTAL ACRES ± 129.77

SURVEY INFORMATION

DATE OF SURVEY: MAY 2013
NORTH ARCATIA SOUTH ZONE, NAD 83 (DMS 86)
ELECTRONIC TOTAL STATION

STATE PLANS CORRELATION TABLE	
PLAT NO.	448-341-1-1506-272A
PLAT B.	448-341-1-1506-272A
PLAT C.	448-341-1-1506-272A

ALL DISTANCES SHOWN ARE GROUND



- LEGEND**
- FROM MONUMENT FOUND 5/07 1/01
 - FROM MONUMENT FOUND
 - PLAT BOUNDARY
 - LOT LINES
 - EX. LOT LINES
 - UTILITY EASEMENT (USE U.L.)
 - STORM WATER SUBORDINATE LIFE
 - HIGH ACCESS LINE (H.A.)

THOMAS AND ANGELI LORIANO
REGISTERED PROFESSIONAL LAND SURVEYORS
BISMARCK, ND 58503

PROJECT NO. 103
3330 PARCELS, NO. 201613

RECEIVED
OCT 07 2013

1 OF 2



CUTTING EDGE FOR 30X36

CUTTING EDGE FOR 30X36

PRELIMINARY PLAT OF OAKLAND SUBDIVISION

A PORTION OF THE NORTH EAST QUARTER OF SECTION 2, T139N, R80W OF THE
FIFTH PRINCIPAL MERIDIAN, COUNTY OF BURLEIGH, STATE OF NORTH DAKOTA

ENGINEER
LOWRY ENGINEERING
3330 PARKWAY, SUITE 102
FARGO, ND 58103

OWNER
THOMAS AND ANIELA OAKLAND
3330 PARKWAY, SUITE 102
FARGO, ND 58103

DATE OF SUBMISSION: 1-11-13

NORTH HALF

NORTH HALF



DESCRIPTION
A PORTION OF THE NORTH EAST QUARTER OF SECTION 2, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:
Commencing from the North West Corner of the North East Quarter of said Section 2; thence S89°34'25"E along the north line of said Section 2 a distance of 745.00 feet to the Northeast Corner of Scheil's Subdivision Lot 1 Block 1, the Point of Beginning; thence continuing S89°34'25"E along said north line a distance of 429.26 feet; thence S00°27'04"W 1580.95 feet to the South West Corner of Lot 3 Block 2 of Sabot's First Subdivision; thence S89°34'25"E 871.53 feet to the North East Corner of Lot 1 Block 1 of Sabot's First Subdivision; thence S00°17'36"W a distance of 1056.39 feet to the South West Corner of Lot 4 Block 4 of Sabot's First Subdivision; thence S89°51'42"W a distance of 1050.00 feet on the lot line of Lot 8 Block 1 of Fourness First Subdivision; thence N00°22'49"E a distance of 2647.71 feet to the Point of Beginning.
SAID OAKLAND SUBDIVISION CONTAINS 39.91 ACRES, MORE OR LESS, AND IS DIVIDED INTO THREE(3) BLOCKS CONTAINING SEVENTEEN(17) LOTS.

SUBDIVISION'S CERTIFICATE
I, COLE A. NESSET, HEREBY CERTIFY THAT THE ATTACHED SURVEY WAS COMPLETED BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT THIS PLAT IS THE CORRECT REPRESENTATION OF THE SURVEY AS PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

DATE: _____

COLE A. NESSET
REGISTERED PROFESSIONAL LAND SURVEYOR
N.D. REGISTRATION NO. LS-2533

STATE OF NORTH DAKOTA)
COUNTY OF CASS) SS

ON THIS _____ DAY OF _____ 2013 BEFORE ME A NOTARY PUBLIC FOR SAID COUNTY AND STATE PERSONALLY APPEARED _____ AND WHO EXECUTED THE SAME AS HIS FREE ACT AND DEED.

NOTARY PUBLIC
CASS COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES: _____

DATE: _____

LEGEND

- IRON MONUMENT PLACED
- 5/8" BAR CAPPED LS-7513 IRON MONUMENT FOUND
- PLAT BOUNDARY
- LOT LINES
- EX. LOT LINES
- UTILITY EASEMENT LINE (U.E.)
- DRAINAGE EASEMENT LINE (D.E.)
- NON-ACCESS LINE
- (CS) CONVEYANCE SPIRAL CURVE
- (M) MEASURED DISTANCE
- (D) DEEDED DISTANCE

PLAT INFORMATION

- PROPOSED ZONE: RURAL RESIDENTIAL
- 16 BLOCKS
- LOT AREA = 433,69
- TOTAL AREA = 7,377
- TOTAL ACRES = 33.91

SURVEY INFORMATION

DATE OF SURVEY: MAY, 2013
BASIS OF BEARING - SOUTH S 30° 00' 00" W 100.00 FT
NORTH DAKOTA SOUTH ZONE 3002, 3002 AND 86 DATUM
BENCHMARK USED: 1949 86

CITY OF BIRMCAR GPS CONTROL TIES

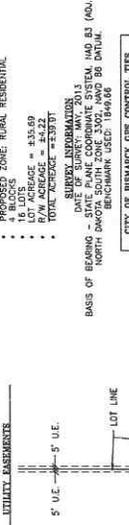
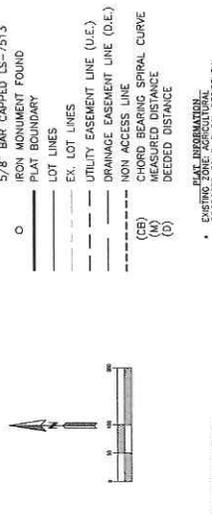
POINT	GRID NORTH	GRID EAST
B95-2	443,176.7086	1,905,712.6807
B97-1	448,341.8919	1,917,072.4150
B98-1	448,234.9493	1,908,873.0893

SCALE FACTOR: 0.9999975 FROM GRID TO GROUND.

UTILITY EASEMENTS

5' U.E. — 5' U.E.

1' U.E. — 1' U.E.



10 FT

LOWRY
ENGINEERING
3330 FIFTH AVENUE, SUITE 102
FARGO, ND 58103
PHONE: 791-325-8188

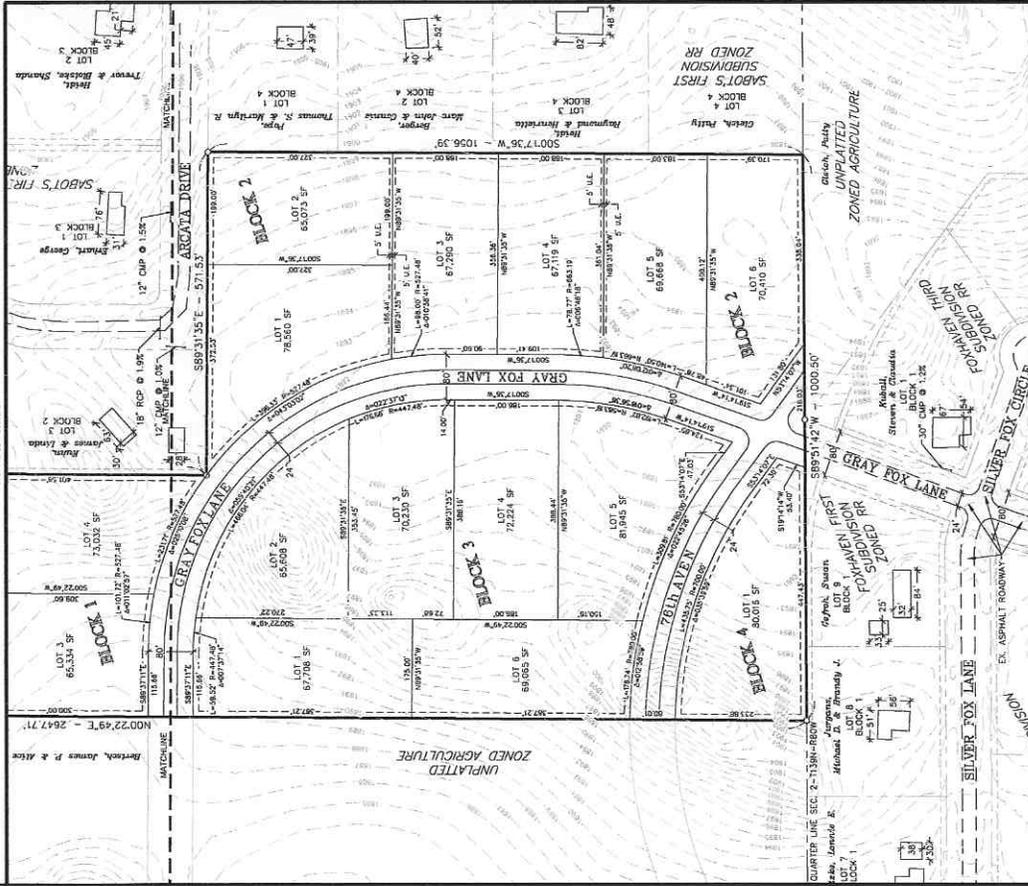
PRELIMINARY PLAT OF OAKLAND SUBDIVISION

A PORTION OF THE NORTHEAST QUARTER OF SECTION 2, T139N, R80W OF THE
FIFTH PRINCIPAL MERIDIAN, COUNTY OF BURLEIGH, STATE OF NORTH DAKOTA

THOMAS J. OAKLAND
ENGINEER
3605 84TH AVE. NE
BISMARCK, ND 58503

THOMAS J. OAKLAND
ENGINEER
3330 TECHCENTER DR. SW 102
BISMARCK, ND 58103

SOUTH HALF



APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS REVIEWED THE PRESENTS AND HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN HEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT, AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THIS _____ DAY OF _____, 2013.

W. C. WICKEN
CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, MELVIN J. BULLINGER, P.E., CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "OAKLAND SUBDIVISION", BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

MELVIN J. BULLINGER
BISMARCK CITY ENGINEER

DATE: _____

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, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF, I HAVE SIGNED AND SEALED THESE PRESENTS AND THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

WAYNE LEE YEAGER
CHAIRMAN

CAROL D. HOKENSTAD
SECRETARY

DATE: _____

APPROVAL OF BOARD OF COUNTY COMMISSIONERS

THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, HAS REVIEWED THE PRESENTS AND HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN HEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT, AS AN AMENDMENT TO THE MASTER PLAN OF BURLEIGH COUNTY, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THIS _____ DAY OF _____, 2013.

DOUG SHORBERT
CHAIRMAN

KEVIN SCANT
COUNTY AUDITOR

OWNER'S CERTIFICATE AND DEDICATION

I, KIM ALL MEN BY THESE PRESENTS THAT THOMAS AND ANGELA OAKLAND BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN ON THE ANNEXED PLAT HAVE CAUSED THAT PORTION DESCRIBED HEREON, TO BE SURVEYED AND PLATTED AS OAKLAND SUBDIVISION BISMARCK, NORTH DAKOTA, AND DO HEREBY DEDICATE AND DEDICATE EASEMENTS TO THE PUBLIC TO ALL SHOWN AND LOCATED STREETS AS SHOWN AND LOCATED ON THE ANNEXED PLAT AND DO HEREBY VACATE ANY PREVIOUS FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THIS _____ DAY OF _____, 2013.

THOMAS J. OAKLAND
3605 84TH AVE. NE
BISMARCK, ND 58503

ANGELA OAKLAND
3605 84TH AVE. NE
BISMARCK, ND 58503

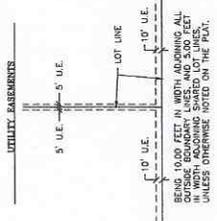
STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH) SS

ON THIS _____ DAY OF _____, 2013 BEFORE ME A NOTARY PUBLIC AND KNOWN TO ME TO BE THE PERSONS DESCRIBED HEREON, AND WHO DECLARED THE SAME AS THEIR FREE ACT AND DEED.

ROBERTA PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES: _____



- LEGEND**
- IRON MONUMENT PLACED
 - IRON MONUMENT FOUND
 - PLAT BOUNDARY
 - LOT LINES
 - - - EX. LOT LINES
 - - - UTILITY EASEMENT LINE (U.E.)
 - - - DRAINAGE EASEMENT LINE (D.E.)
 - - - NON ACCESS LINE
 - (B) CURVE DISTANCE
 - (M) CURVE DISTANCE
 - (D) DECEDDED DISTANCE



LOWRY
ENGINEERS
3339 FARMER
BISMARCK, ND 58103
PHONE: 725-252-8188

RESOLUTION

WE, THE BOARD OF TOWNSHIP SUPERVISORS OF HAY CREEK TOWNSHIP,
BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE
PROPOSED PLAT AND ZONING CHANGE OF OAKLAND 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:

Contingent upon NO building permits issued until
roads are paved + chip sealed + the drainage plan
was approved.


CHAIRMAN, TOWNSHIP BOARD


ATTEST: TOWNSHIP CLERK

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

BACKGROUND:	
Title: Lot 13B, Block 1, North Star Acres – Special Use Permit (oversized accessory building)	
Status: Planning Commission – Public Hearing	Date: October 23, 2013
Owner(s): Alan Lerberg	Engineer: N/A
Reason for Request: To increase the total amount of accessory buildings located on the property to 3,200 square feet, by constructing a 40'x40' accessory building (6808 North Star Acres Road).	
Location: Northeast of Bismarck, south of 71 st Avenue NE and west of North Star Acres Road.	
Project Size: 1.95 acres (lot size)	Number of Lots: One lot
EXISTING CONDITIONS:	
Land Use: Rural residential	PROPOSED CONDITIONS: Land Use: Rural residential
Zoning: RR – Rural Residential	Zoning: RR - Rural Residential
Uses Allowed: Large lot single-family dwellings and limited agriculture	Uses Allowed: Large lot single-family dwellings and limited agriculture
Maximum Density Allowed: One unit per 65,000 square feet	Maximum Density Allowed: One unit per 65,000 square feet
PROPERTY HISTORY:	
Zoned: 06/1965	Platted: 06/1965
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> 1. The applicant obtained a building permit in August 2013 to construct a single-family residence on the property and anticipates the residence to be completed and a certificate of occupancy be issued in spring 2014. 2. Section 14-03-01(10) of the City Code of Ordinances permits the area of allowable accessory buildings for a single-family residence on a lot of this size in an RR – Residential to be increased to a maximum of thirty-two hundred (3,200) square feet, provided a special use permit is approved by the Planning and Zoning Commission in accordance with provisions of Section 14-03-08. 	
FINDINGS:	
<ol style="list-style-type: none"> 1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance. 2. The proposed special use would not adversely affect the public health, safety and general welfare. 	

(continued)

3. The proposed special use would not be detrimental to the use or development of adjacent properties.
4. The proposed special use would be compatible with the surrounding rural residential neighborhood.
5. The request is compatible with adopted plans, policies and accepted planning practice.

RECOMMENDATION:

Based on the above findings, staff recommends approval of the special use permit to increase the total allowable square feet of accessory buildings to 3,200 square feet on Lot 13B, Block 1, North Star Acres.

Proposed Special Use Permit Lot 13B, Block 1, North Star Acres



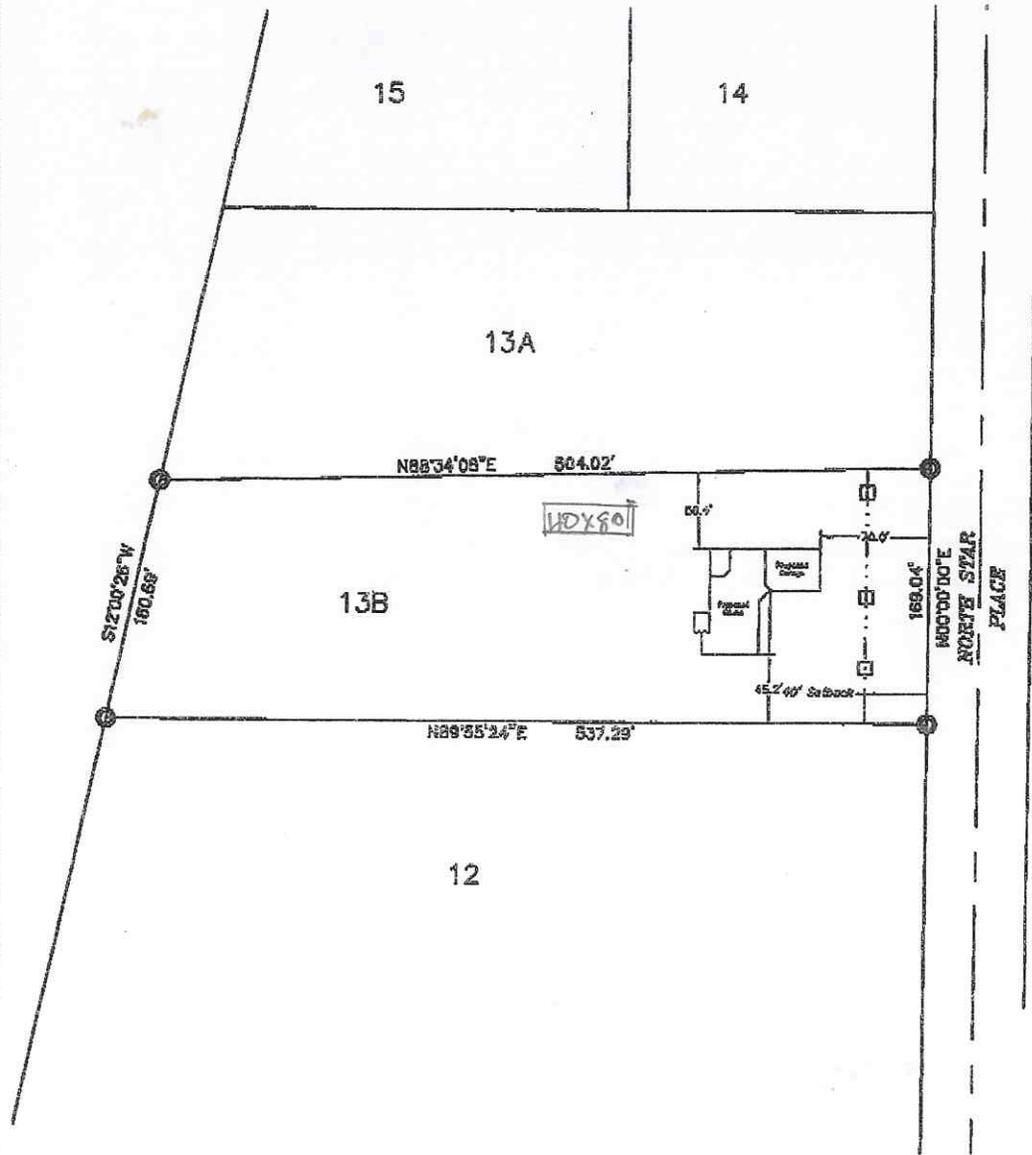
DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: September 27, 2013 (klee)

Source: City of Bismarck



LOT SURVEY EXHIBIT

LOT 13B
 SUBDIVISION North Star Acres
 ADDRESS North Star Place
 BUILDER John Edwards



SCALE: 1" = 120'
 DATE: 8/23/13

- ⊙ FOUND MONUMENT
- ⊙ SET MONUMENT
- ⊠ BUILDING SETBACK OR NON-ACCESS STAKE



SWENSON, HAGEN & COMPANY P.C.

Surveying
 Hydrology
 Land Planning
 Civil Engineering
 Landscape & Site Design
 Construction Management

509 Basin Avenue
 Bismarck, North Dakota 58504
 shc@swensonhagen.com
 Phone (701) 223 - 2600
 Fax (701) 223 - 2604

NOTES

THE BUILDING SETBACK LINES SHOWN ARE TYPICAL. THERE MAY BE OTHER BUILDING RESTRICTIONS THAT AFFECT THIS PROPERTY. THE BUILDER IS RESPONSIBLE FOR VERIFYING THE BUILDING SETBACKS. LOT DIMENSIONS ARE FROM PLAT.

FAXED TO:
 BUILDER OR OWNER

PLS

DATED: _____

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

BACKGROUND:		
Title: Lots 1-3, Block 2, and the S½ of the vacated Mayfair Avenue Adjacent, Mayfair Managers Addition – Special Use Permit (Church)		
Status: Planning Commission – Public Hearing	Date: October 23, 2013	
Owner(s): 12 th Street Investments, LLP	Engineer: N/A.	
Reason for Request: To allow the operation of a 2,400 square foot church in an existing strip mall facility.		
Location: In southeast Bismarck, south of Bismarck Expressway on the west side of South 12 th Street (1012 South 12 th Street).		
Project Size: 62,454 (land) 25,532 square feet (existing buildings) 2,400 square feet (proposed church)	Number of Lots: One parcel in 1 block	
EXISTING CONDITIONS:		
Land Use: Undeveloped	PROPOSED CONDITIONS:	
Zoning: MA – Industrial	Land Use: Church	
	Zoning: MA – Industrial (existing) CG – Commercial (proposed)	
Uses Allowed: MA – Light industrial uses including retail facilities, storage facilities and Manufacturing (existing)	Uses Allowed: MA – Light industrial uses including retail facilities, storage facilities and manufacturing (existing) CG – General commercial uses including churches by special use permit.	
Maximum Residential Density Allowed: 1 unit per 40 acres	Maximum Residential Density Allowed: 30 units per acre	
PROPERTY HISTORY:		
Zoned: 05/12	Platted: 12/1975	Annexed: Pre-1980
ADDITIONAL INFORMATION:		
<p>1. A zoning change for this property (Lots 1-3, Block 1, Lots 1-3, Block 2 and the vacated Mayfair Avenue adjacent, Mayfair Managers Addition) from the MA-Industrial zoning district to the CG-Commercial zoning district was approved by the Planning & Zoning Commission on Wednesday, September 25, 2013 and forwarded to the City Commission with an approval recommendation. A public hearing is scheduled for the October 22, 2013 City Commission meeting. It is anticipated that the City Commission will take action on this request at that time and the zoning change from the MA-Industrial zoning district to the CG-Commercial zoning district will be effective prior to the public hearing for this request.</p>		
FINDINGS:		
<p>1. A church is allowed as a special use in the CG-Commercial zoning district, provided specific conditions are met. The proposed church meets all five provisions outlined in Section 14-03-08(3)(f) of the City Code of Ordinances (Zoning). A copy of this section of the City Code is attached.</p>		
<i>(continued)</i>		

2. The use of the property for a church is in harmony with the purpose and intent of the zoning ordinance and with the master plan of the City of Bismarck.
3. The use of the property for a church would not adversely affect the health and safety of the public and the workers and residents of the area, nor will it be detrimental to the use or development of adjacent properties or the general neighborhood.
4. The use of the property for a church would comply with all special regulations established by the zoning ordinance and the building code, as well as all special conditions necessary for the safety and welfare of the public.

RECOMMENDATION:

Based on the above findings, staff recommends approval of a special use permit for a church in a multi-tenant retail facility on Lots 1-3, Block 2, and the S½ of the vacated Mayfair Avenue Adjacent, Mayfair Managers Addition, with the following condition:

1. A change of occupancy building permit for this use will not be issued until all regulations established by the zoning ordinance including required off-street parking and loading are met..

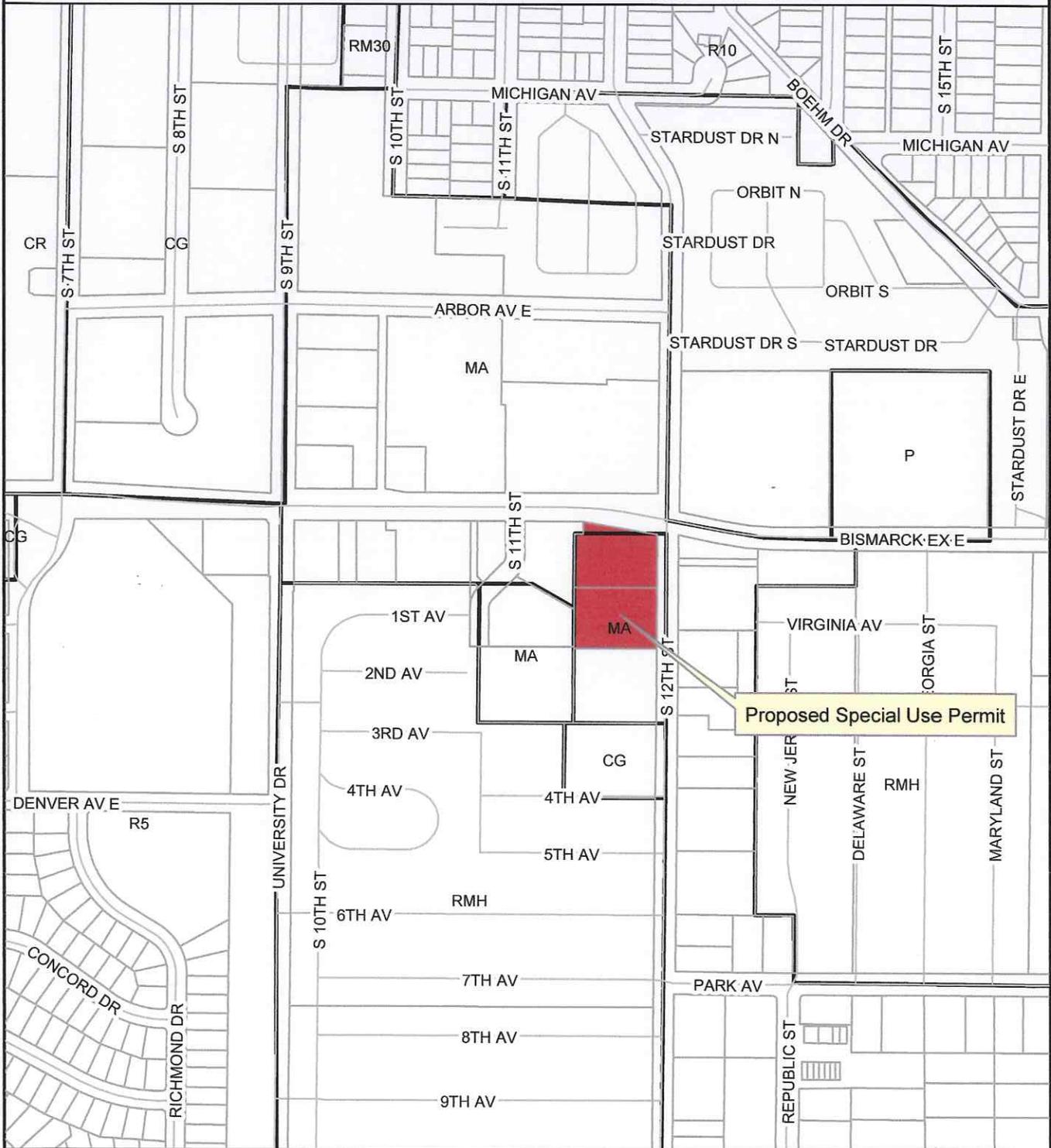
City Code of Ordinances 13-03-08(3)(f)-Permitted Uses

f. Churches. A church may be permitted in any district except MA, MB, P or RMH districts as a special use, provided:

1. The lot area, lot width, front yard, side yard, rear yard and height limits of a church shall conform to the lot, yard and height requirements specified for a principal building in the district regulations where the building permit is requested.
2. The ground area occupied by the principal and accessory buildings shall not exceed thirty-five (35) percent of the total area of the lot.
3. Space for off-street parking shall be provided as per section 14-03-10 hereof or as the city planning and zoning commission may require.
4. No application for a building permit or certificate of occupancy in any zone shall be approved unless there is included with the plan for such building a plot plan showing the open space designated as being reserved for off-street parking purposes to be provided in connection with such building and no certificate of occupancy shall be issued unless the required facilities have been provided in accordance with those shown on the approved plan.
5. A columbarium is allowed as an accessory use to a church in any district in which a church is permitted, provided it is included within the principal structure.

Proposed Special Use Permit

Lots 1-3, Block 2 and S1/2 of Vacated Mayfair Avenue, Mayfair Managers Addition

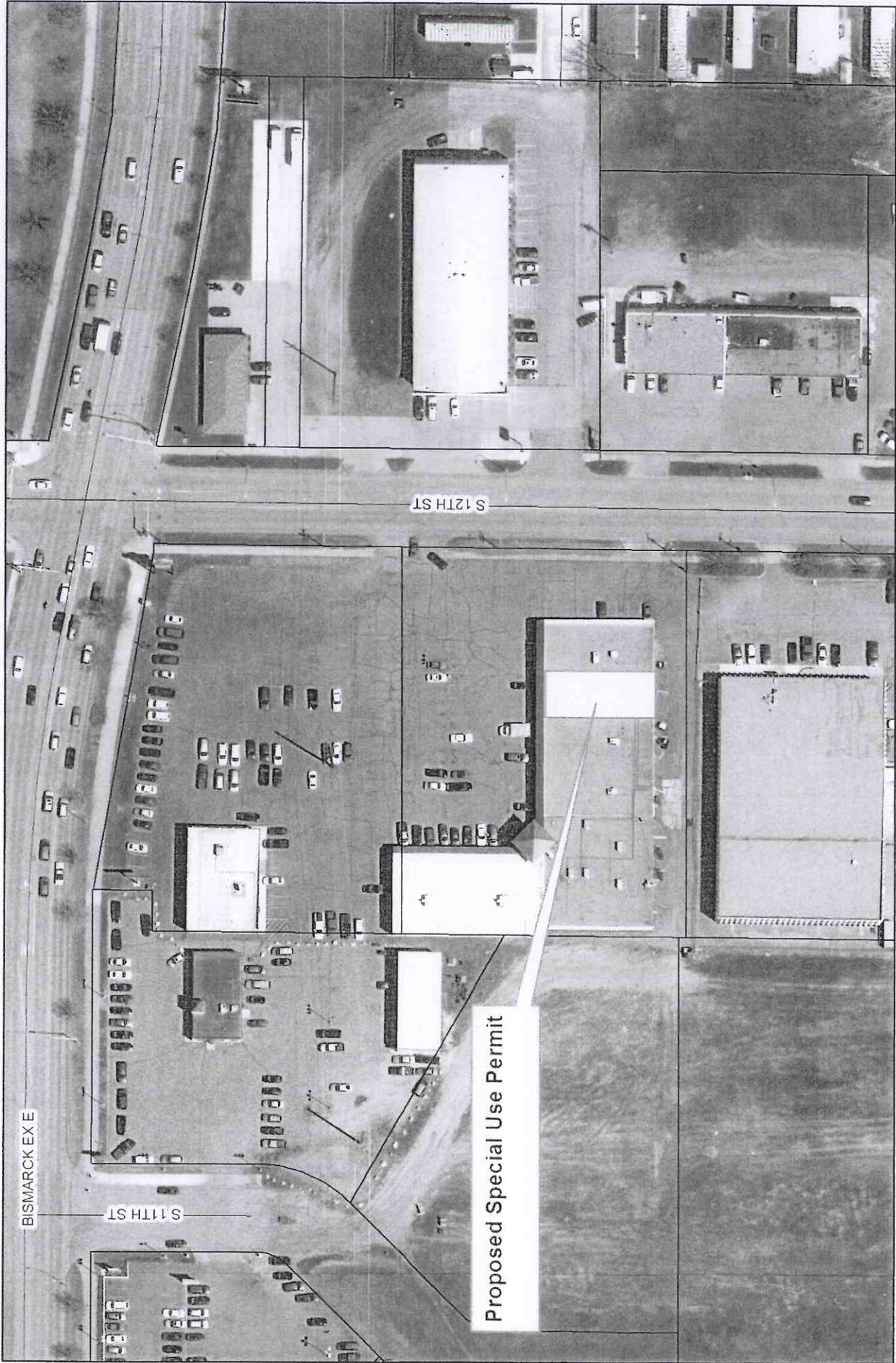


DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: September 27, 2013 (Klee)

Source: City of Bismarck



**Proposed Special Use Permit
(Lots 1-3, Block 2 and S 1/2 of Vacated Mayfair Avenue, Mayfair Managers Addition)**



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.

CITY OF BISMARCK Ordinance No. XXXX

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

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~~ 10,000 barrels (31 gallons/barrel = ~~155,000~~ 310,000 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 2. 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 5,000 <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 3. 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 4. 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 5. 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 6. 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~~ health officer 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~~ health officer 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.

(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)

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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.

**CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
September 25, 2013**

The Bismarck Planning & Zoning Commission met on September 25, 2013 at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Yeager presided.

Commissioners present were Mark Armstrong, Tom Atkinson, Mel Bullinger, Vernon Laning, Doug Lee, Ken Selzler, Lisa Waldoch, John Warford and Wayne Yeager.

Commissioners Mike Schwartz and Mike Donahue were absent.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Jason Tomanek – Planner, Jenny Wollmuth – Planner, Brady Blaskowski – Building Official and Charlie Whitman – City Attorney.

Others present were Diane Martin, Kim Martin, Olivia Huber, Julie Jeske, Bill Bauman, Kim Hanson, Elroy Haadem, Joan Millner, Dan Waldoch, Josh Askvig, Mark Swenson, Bob Swanson, Scott Beierle, Laura Anhalt, Bryan Senger, Roger Kaseman, Dennis K. Heupel, Andrea Urbach and Helen Linnertz.

MINUTES

Chairman Yeager called for consideration of the minutes of the June 26, July 24, and August 28, 2013 meetings.

MOTION: Commissioner Armstrong made a motion to approve the minutes of the June 26, July 24, and August 28, 2013 meetings as received. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

CONSIDERATION

- A. DEFINITIONS/BREWERY, BREW PUB AND MICROBREWERY – ZONING ORDINANCE TEXT AMENDMENT**
- B. ZONING ADMINISTRATOR/MULTIPLE SECTIONS – ZONING ORDINANCE TEXT AMENDMENT**

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

- A. A zoning ordinance text amendment for the Definitions/Brewery, Brew Pub and Microbrewery
- B. A zoning ordinance text amendment for the Zoning Administrator/Multiple Sections.

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

CONTINUED PUBLIC HEARING— FINAL PLAT – HIGH MEADOWS 12TH ADDITION

Chairman Yeager called for the continued public hearing on the final plat of High Meadows 12th Addition. The plat includes 25 lots in two blocks on 9.16 acres and is located in northwest Bismarck, west of North Washington Street between Colt Avenue and Buckskin Avenue.

Ms. Lee provided an overview of the request, including the 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.

Ms. Lee explained that this item was a continuation from the July meeting. The proposed layout will take three existing properties convert them into 25 lots. As the storm water

management plan has not yet been approved by the City Engineer, staff recommends another continuation until the stormwater management plan is approved.

Ms. Lee said that based on these findings, staff recommends approval of the final plat for High Meadows 12th Addition.

Chairman Yeager opened the public hearing.

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

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to continue the final plat for High Meadows 12th Addition. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Selzler, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT – SOUTH MEADOWS ADDITION

Chairman Yeager called for the public hearing on the zoning change from the A - Agricultural zoning district to the R5 – Residential, RM10 – Residential, RM30 – Residential and P - Public zoning districts and the final plat for South Meadows Addition. The proposed plat is 147 lots in six (6) blocks on 75.89 acres and is located south of Burleigh Avenue and west of South Washington Street (part of the E1/2 of the NE1/4 of Section 20, T138N-R80W/Lincoln Township).

Ms. Lee provided an overview of the requests, including the following findings for the zoning change:

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.
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.

Ms. Lee then provided the following findings for the final plat:

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.

Ms. Lee said that based on these findings, staff recommends continuing action on the zoning change and final plat for South Meadows Addition until the storm water management plan has been approved by the City Engineer.

Chairman Yeager opened the public hearing.

Diane Martin, who lives adjacent to the new development, expressed concern with the pond water and asked if it was going to be stagnant, regarding mosquito breeding. Chairman Yeager requested the applicants' consulting engineer speak to the proposed ponds. Dave Patience stated that it would be a similar construction to a nearby pond, which does have circulation and is used as a temporary retention area.

Ms. Martin's second concern was with adjacent Candlewood Road grade, and its potential rain drainage, onto her property.

Chairman Yeager motioned again for Mr. Patience who stated that all will be built close to grade and water will drain into the pond, not the adjacent property.

Ms. Martin's third concern was traffic accessibility and questions about congestion. Mr. Patience stated that there will be more traffic than there used to be.

Ms. Linnertz expressed concern about the traffic flow, citing South Washington Street already congested. Commissioner Bullinger stated that nothing is planned for South Washington Street in terms of changing traffic patterns or flow. He further stated there is growth and the City performs traffic counts every spring, which may prompt changes to be made; however funding for improvements is difficult. Chairman Yeager suggested that perhaps there is more traffic now due to nearby construction.

Ms. Martin also has concerns about the dust being a constant presence during excavation and that the burn pile on site smells and is alarming. She asked what the air quality regulations are. Chairman Yeager asked staff who has jurisdiction and Ms. Lee stated that it is outside the City limits and has not been annexed at this time, but she will check with Environmental Health and the Stormwater Management Coordinator.

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

MOTION: Based on the findings contained in the staff report, Commissioner Warford made a motion to continue the zoning change and final plat for South Meadows Addition pending approval of the stormwater management plan. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT – WAGNER'S SUBDIVISION

Chairman Yeager called for the public hearing on the zoning change from the from the A-Agriculture zoning district to the RR5 – Rural Residential zoning district and the final plat for Wagner's Subdivision. The final plat is 41.6 acres in two lots in one block and is located southeast of Bismarck along the south side of Apple Creek Road, north of the BNSF Railroad, ¼ mile east of 66th Street SE (an unplatted portion of the NW ¼ of Section 8, T138N-R79W/Apple Creek Township).

Ms. Wollmuth provided an overview of the requests, including the following findings for the zoning change:

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 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.
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.

Ms. Wollmuth then provided the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The stormwater management plan has been approved by the City Engineer, with written concurrence from the Burleigh County Engineer.
3. The Apple Creek Township Board of Supervisors has recommended approval of the proposed plat.
4. The proposed subdivision generally conforms to the Fringe Area Road Master Plan, which identifies Apple Creek Road as an east-west arterial.
5. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include partially developed rural residential to the west, and agricultural to the north, east and south.
6. 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.
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.

Chairman Yeager opened the public hearing.

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

Chairman Yeager asked Staff if the stormwater management plan was approved and Ms. Wollmuth stated that it was.

Commissioner Laning asked why the owners wanted to plat and rezone. Ms. Wollmuth explained properties located within the A-Agriculture zoning district must be 40 acres and at the time the request was submitted in order to further develop the property it must be platted and rezoned to RR5-Residential.

MOTION: Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve the zoning change from the A-Agricultural zoning district to the RR5-Residential zoning district and the final plat for Wagner's Subdivision. Commissioner Armstrong seconded the motion and it was unanimously approved by Commissioners Atkinson, Bullinger, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE – PART OF MAYFAIR MANAGERS ADDITION

Chairman Yeager called for the public hearing for 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. The property is located in south Bismarck along the west side of South 12th Street and the south side of Bismarck Expressway.

Ms. Lee then provided an overview of the request and the following findings:

1. The proposed zoning change is outside the boundaries of the Bismarck Land Use Plan.
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.

3. The area is already annexed; therefore, the 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.

MOTION: Based on the findings contained in the staff report Commissioner Laning made a motion to approve the zoning change from the MA-Industrial zoning district to the CG-Commercial zoning district on 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. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Bullinger, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

CONTINUED PUBLIC HEARING – MAJOR PUD AMENDMENT – MISSOURI VALLEY COMPLEX

Chairman Yeager called for the public hearing for the major PUD amendment for Missouri Valley Complex to allow auctions. The property is located 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.

Ms. Lee provided an overview of the requests, including the following findings:

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 & Zoning Commission.
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.
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.

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 & 18, Block 1.
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 Chairmanman 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.

Chairman Yeager opened the public hearing.

Mark Swenson stated he supported what Mr. Effertz was proposing, but had ongoing concerns about zoning of the surrounding property, which would more appropriately be industrial rather than residential. He also questioned why the County had not been required to pave the interior roadways. He then requested that the City extend Sewer lines to his property and made the case that the surrounding properties are not compatible with residential zoning on his property.

Chairman Yeager closed public hearing.

Ms. Lee stated that the request from Burleigh County was for auctions, not livestock auctions. Ms. Lee then stated that the interior roadway on the property is owned by the County and is a private roadway. She added that the site plan for the development was based on the master plan developed in 2001.

Commissioner Laning asked if the County was amenable to changes, or would prefer the City deny the request. Ms. Lee stated that she had discussed staff’s recommendation with Jerry Woodcox, Chairman of the Burleigh County Commission, and had notified Kevin Glatt, County Auditor, and that Mr. Glatt would normally forward the City’s letter to the Commissioners.

Commissioner Lee stated that he is in favor of livestock auctions at this location, since the activity is not in our area, adding that it brings good business to the region. He suggested the Commission approve the request as recommended by staff.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the Major PUD Amendment for Missouri Valley Complex as outlined in the PUD amendment document attached to the staff report. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT (DRIVE-THROUGH) – WEST 206 FEET OF TRACT 1503, SECTION 3, LINCOLN TOWNSHIP (CITY LANDS)

Chairman Yeager called for the public hearing for a special use permit for the West 206 Feet of Tract 1503 of the NW1/4 of Section 3, T138-R80W/Lincoln Township. The property is located along the south side of East Main Avenue, between South 12th Street and Airport Road.

Ms. Wollmuth provided an overview of the request, including the following findings:

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.
2. The proposed special use would not adversely affect the public health, safety and general welfare.
3. The proposed special use would not be detrimental to the use or development of adjacent properties.
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.
5. Adequate public facilities and services are in place.
6. This use would not cause a negative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.
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.

Chairman Yeager opened the public hearing on the proposed special use permit for the West 206 Feet of Tract 1503 of the NW1/4 of Section 3, T138-R80W/Lincoln Township.

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

Chairman Yeager asked if there was sufficient parking on the site. Ms. Wollmuth replied that the site plan is going through the site plan review process, which will determine the number of required off street parking spaces.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the special use permit for a drive-through in conjunction with a multi-tenant building on the West 206 Feet of Tract 1503 of the NW1/4 of Section 3, T138-R80W/Lincoln Township. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – SUBDIVISION REGULATIONS/PROCEDURES

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to regulations governing the subdivision of land and procedures.

Ms. Lee provided an overview of the request which cleans up language regarding associations and home owners common lots, adding that if there are common lots, and association documents would need to be recorded with the plat. Ms. Lee stated further that stormwater management plan requirements and other procedures were also modified for clarification.

Chairman Yeager opened the public hearing on the request.

There being no public comment, the public hearing was closed.

MOTION: Commissioner Laning made a motion to approve the zoning ordinance text amendment relating to regulations governing the subdivision of land and procedures, as recommended by staff. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – SUBDIVISION REGULATIONS/NEIGHBORHOOD PARKS AND OPEN SPACE

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to regulation governing the subdivision of land and neighborhood parks and open space.

City Commissioner Askvig provided an overview of the request. He stated that a neighborhood parks plan which incorporates dedicated provisions for creating parks and recreation land without alienating developers, yet answering the call of many private citizens, is a concept born from many social, community and health interests. The ordinance was redesigned through the collaboration of concerned officials and developers and is a requested policy change to be incorporated into the Planning Divisions procedures in all future plat and annexation requests. The intention of the change in policy is to enhance and maintain the quality of neighborhood developments and subdivisions. He added that land could be donated or purchased by the Bismarck Parks and Recreation Districts, and would be developed using a designated special assessment resembling current practices for funding other infrastructure in the City. There is no designated minimum nor maximum land area for park development, but generally three (3) acres is considered necessary to create a neighborhood park. There is no fee option in lieu of creating neighborhood parks space in this version. He went on to state the intention for schools or other public uses, but for neighborhood park space, except perhaps for possibly incorporating a stormwater storage plan. The park would be developed in conjunction with the surrounding housing development. The developer and Park District are requested to meet at the beginning of the platting process so as to not burden the length of the process further. The steps with this new ordinance would be done concurrently with the current plat review process. He added that maintenance would still be the responsibility of the Park District. If there are disputes about implementation and requested waivers due to special conditions, the final say would be at the City Commission level.

Commissioner Askvig then quoted research by Dr. John Crompton, Agriculture and Life Sciences, Texas A&M, which discussed the benefits of parks including increased values in health, lifestyle, aesthetics, recreation and home values.

Commissioner Warford complimented Mr. Askvig for his persistence, vision and ability to communicate positively with various entities to present this project.

Mr. Hokenstad discussed the technical aspect of the process of creating parks in new subdivisions. Specifically he stated that any waivers must be in writing according to an ordinance and policy.

Commissioner Askvig clarified that the donation of land is voluntary and requested that wording be incorporated into the subsequent ordinance and policies so that it is not considered to be a directive to demand dedications.

Mr. Hokenstad then presented a hypothetical 5 acre park developed in accordance with the proposed ordinance including a much desired stormwater feature. He explained how the park designation would become an integral part of the platting process through the Community Development Department. The ordinance will incorporate the intent and purpose of parks creation. Any changes from current wording would have to go through the public process to request approval.

Commissioner Laning asked staff if there is any proposed formula or expectations for spacing parks. Mr. Hokenstad stated that it is difficult to place hard scientific figures on this process, but the Parks and Recreation District does look at service areas.

Mr. Bullinger asked for the purpose of getting waivers in writing. Mr. Hokenstad stated that it will show the reason and explanation to document the unique situation.

Chairman Yeager opened the public hearing on the zoning ordinance text amendment.

Kim Hanson is happy to hear about the expansion of the parks system and supports the request citing family need, health concerns and beautification.

Julie Jeske, Vice Chair of the Bismarck Parks and Recreation Board, said the board supports the creation of parks citing health concerns and the importance of play for children's health, the presumption of other similar communities that park space is essential to the well-being of a city, and Bismarck's potential for beauty in its current growth state with the addition of this ordinance.

Bill Bauman, Executive Director of the YMCA, stated the importance of consensus reached in this process to improve quality of life in Bismarck. He supports the park ordinance and suggests it is time to move the process forward by passing the request.

Chad Wachter stated his support, as a developer, in creating parks through the platting process.

Laura Anhalt stated that she supports the parks ordinance citing positive social contacts for children and adults, and the safety and health benefits gained from the availability of open space along with increased property values.

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

MOTION: Commissioner Warford made a motion to approve the zoning ordinance text amendment relating to subdivision regulations/neighborhood parks and open space and the policy. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

OTHER BUSINESS

There was no other business to address at this time.

ADJOURNMENT

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 6:30 p.m. to meet again on October 23, 2013.

Respectfully submitted,

Sandra Bogaczyk
Recording Secretary

Wayne Lee Yeager
Chairman

DATE SELECTION 9/2013

Permit Type	***** City *****				***** ETA *****				***** County *****			
	9/2013		9/2012		9/2013		9/2012		9/2013		9/2012	
	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation
SINGLE FAMILY DETACHED	53	9,225,097.95	32	5,713,111.00	11	2,619,073.00	22	4,910,710.60	0	.00	1	174,956.50
SINGLE FAMILY ATTACHED	29	4,094,100.50	10	1,545,099.00	0	.00	0	.00	0	.00	0	.00
TWO UNIT	0	.00	4	1,022,000.00	0	.00	0	.00	0	.00	0	.00
THREE & FOUR FAMILY	0	.00	1	511,000.00	0	.00	0	.00	0	.00	0	.00
FIVE & MORE FAMILY	0	.00	6	25,552,652.00	0	.00	0	.00	0	.00	0	.00
CONDO/TOWNHOUSE-1 HR.WALL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MANUFACTURED HOMES	4	.00	3	.00	0	.00	2	.00	0	.00	0	.00
MOBILE HOME WITHOUT EXTRA	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITH EXTRAS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME MISCELLANEOUS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
HOTELS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOTELS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
GROUP QUARTERS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
NON-STRUCTURAL DEVELOPMENTS	1	105,000.00	9	3,644,743.00	0	.00	0	.00	0	.00	0	.00
AMUSEMENT & RECREATION	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
CHURCHES AND RELIGIOUS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
INDUSTRIAL	1	495,000.00	3	2,576,910.00	0	.00	0	.00	0	.00	0	.00
RESEARCH & DEVELOPMENT	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
AUTO SERVICE AND REPAIR	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
HOSPITALS & INSTITUTIONAL	0	.00	1	20,000.00	0	.00	0	.00	0	.00	0	.00
OFFICE, BANK & PROFESSION	1	1,869,600.00	1	2,686,000.00	0	.00	0	.00	0	.00	0	.00
SCHOOLS AND EDUCATIONAL	0	.00	1	5,000.00	0	.00	0	.00	0	.00	0	.00
COMM (RETAIL SALES)	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER (PUBLIC PARKING GAR	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER STRUCTURES	3	294,030.00	55	140,000.00	0	.00	0	.00	0	.00	0	.00
PUBLIC BUILDING	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
ROOM ADDITIONS	2	46,131.00	1	30,528.00	3	169,368.00	2	71,391.00	0	.00	0	.00
RESIDENTIAL GARAGES	11	70,752.00	13	115,894.00	9	244,100.00	21	553,118.00	2	30,856.00	4	60,928.00
PATIOS AND COVERS	11	39,720.00	14	32,625.00	2	9,840.00	0	.00	0	.00	0	.00
SWIMMING POOLS AND SPAS	1	40,000.00	1	40,000.00	1	30,000.00	0	.00	0	.00	0	.00
OTHER	6	49,800.00	17	59,000.00	1	69,000.00	2	20,336.00	0	.00	0	.00
HOME OCCUPATIONS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
STORAGE SHEDS	2	3,750.00	1	2,700.00	0	.00	0	.00	0	.00	0	.00
BASEMENT FINISH	7	37,818.25	12	50,981.00	2	9,975.00	4	24,671.00	0	.00	0	.00
INDUSTRIAL BUILDINGS	1	6,400.00	0	.00	0	.00	0	.00	0	.00	0	.00
COMMERCIAL BUILDINGS	5	1,059,700.00	5	4,100,800.00	0	.00	0	.00	0	.00	0	.00

DATE SELECTION 9/2013

Permit Type	***** City *****		***** ETA *****		***** County *****	
	9/2013	9/2012	9/2013	9/2012	9/2013	9/2012
	Permits	Valuation	Permits	Valuation	Permits	Valuation
OFFICE & PROFESSIONAL BLD	4	749,220.00	2	33,310.00	0	.00
OTHER	4	521,687.85	4	1,288,175.00	0	.00
ALTER PUBLIC	1	40,500.00	0	.00	0	.00
APTS TO CONDO	0	.00	0	.00	0	.00
TO/FROM RESIDENTIAL	0	.00	0	.00	0	.00
RESIDENTIAL	1	.00	0	.00	2	.00
OTHER	1	.00	0	.00	0	.00
CHRISTMAS TREE SALES	0	.00	0	.00	0	.00
FIREWORKS SALES	0	.00	0	.00	0	.00
NURSERY STOCK SALES	0	.00	0	.00	0	.00
TEMPORARY STRUCTURE PERMI	2	.00	0	.00	0	.00
CIRCUS/CARNIVAL	0	.00	0	.00	0	.00
MOVE OUT OF PMT LOCATION	0	.00	0	.00	0	.00
MOVE INTO PERMIT LOCATION	0	.00	0	.00	0	.00
MOVE WITHIN PMT LOCATION	0	.00	0	.00	0	.00
NEW SIGN PERMIT	6	87,000.00	11	224,376.40	0	.00
SIGN ALTERATION	0	.00	0	.00	0	.00
ELECTRONIC MESSAGE CENTER	0	.00	0	.00	0	.00
FLOOD RELATED PERMITS	0	.00	0	.00	0	.00
Permit Type Total	158	18,859,907.55	207	49,394,904.40	31	3,151,356.00

DATE SELECTION 9/2013

Permit Type	***** City *****		***** ETA *****		***** County *****	
	9/2013 Permits	9/2012 Permits	9/2013 Permits	9/2012 Permits	9/2013 Permits	9/2012 Permits
Plumbing	58	107	28	20	0	4
Electrical	115	147	0	1	0	0
Mechanical	138	147	27	41	3	5
Drain Field	0	0	13	22	2	3
Hood Suppression	1	6	0	0	0	0
SprinklerStandpipe	8	5	0	0	0	0
Alarm Detection	2	0	0	0	0	0
Total	322	412	68	84	5	12

DATE SELECTION 9/2013

Living Units	***** City *****		***** ETA *****		***** County *****	
	Units 9/2013	Units 9/2012	Units 9/2013	Units 9/2012	Units 9/2013	Units 9/2012
SINGLE FAMILY DETACHED	53	32	11	22	0	1
SINGLE FAMILY ATTACHED	29	10	0	0	0	0
TWO UNIT	0	8	0	0	0	0
THREE & FOUR FAMILY	0	4	0	0	0	0
FIVE & MORE FAMILY	0	190	0	0	0	0
MANUFACTURED HOMES	0	2	0	2	0	0
OTHER STRUCTURES	0	0	0	0	0	0
ROOM ADDITIONS	0	1	2	0	0	0
RESIDENTIAL GARAGES	0	9	0	17	0	2
PATIOS AND COVERS	0	9	0	0	0	0
SWIMMING POOLS AND SPAS	0	1	0	0	0	0
OTHER	0	85	0	2	0	0
STORAGE SHEDS	0	1	0	0	0	0
BASEMENT FINISH	0	8	0	4	0	0
INDUSTRIAL BUILDINGS	1	0	0	0	0	0
COMMERCIAL BUILDINGS	0	1	0	0	0	0
NEW SIGN PERMIT	0	3	0	0	0	0
Total	83	364	13	47	0	3

PERMIT LOCATION	PERMIT NUMBER	PROPERTY ADDRESS	DATE SELECTION	OWNERS NAME CONTRACTOR	VALUATION
CITY OF BISMARCK	2013-0001885	300 S 1ST	09/2013 ST	NELSON BUILDERS LLC NELSON BUILDERS LLC	1,869,600.00