



Community Development Department

BISMARCK PLANNING AND ZONING COMMISSION
MEETING AGENDA
January 22, 2014

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

Item No. Page

MINUTES

- 1. Consider approval of the minutes of the December 18, 2013 meeting of the Bismarck Planning & Zoning Commission.

CONSENT AGENDA

CONSIDERATION

The following items are requests for a public hearing.

- 2. Evergreen Ridge Addition (Klee)
a. Zoning Change (RR to R5 & PUD) 1
Staff recommendation: schedule a hearing []schedule a hearing []table []deny
b. Preliminary Plat 15
Staff recommendation: tentative approval []tentative approval []table []deny
3. Southbay 5th Addition (JW)
a. Zoning Change (A & RR to RR, R5 & R10) 21
Staff recommendation: schedule a hearing []schedule a hearing []table []deny
b. Preliminary Plat 27
Staff recommendation: tentative approval []tentative approval []table []deny
4. Part of Lot 4, Block 1, Boutros 2nd Addition - Zoning Change (A to CG)(JW) 33
Staff recommendation: approve []schedule a hearing []table []deny



5. Lot 4, Block 1, Trenton Addition (JW)	
a. Land Use Plan Amendment (Residential to Commercial).....	37
<i>Staff recommendation: schedule a hearing</i>	<input type="checkbox"/> schedule a hearing <input type="checkbox"/> table <input type="checkbox"/> deny
b. Zoning Change (RT to CG).....	43
<i>Staff recommendation: schedule a hearing</i>	<input type="checkbox"/> schedule a hearing <input type="checkbox"/> table <input type="checkbox"/> deny
6. Off-street Parking and Loading/Joint Use of Parking – Zoning Ordinance Text Amendment (Klee).....	53
<i>Staff recommendation: schedule a hearing</i>	<input type="checkbox"/> schedule a hearing <input type="checkbox"/> table <input type="checkbox"/> deny
7. Appeal Procedures – Zoning Ordinance Text Amendment (Klee).....	57
<i>Staff recommendation: schedule a hearing</i>	<input type="checkbox"/> schedule a hearing <input type="checkbox"/> table <input type="checkbox"/> deny

REGULAR AGENDA

FINAL CONSIDERATION/PUBLIC HEARINGS

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

8. Hamburg Industrial Park 2nd Addition (Klee)	
a. Annexation	65
<i>Staff recommendation: continue</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
b. Zoning Change (A to MA).....	67
<i>Staff recommendation: continue</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
c. Final Plat.....	71
<i>Staff recommendation: continue</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
9. Kamrose Addition First Replat – Minor Subdivision Final Plat (JT).....	77
<i>Staff recommendation: continue</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
10. Lots 1 & 2, Block 1, Hamilton’s First Addition – Zoning Change (PUD to RM15)(JT).....	83
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
11. Landscaping & Screening – Zoning Ordinance Text Amendment (JT).....	89
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny
12. Downtown Districts – Zoning Ordinance Text Amendment (JT).....	93
<i>Staff recommendation: approve</i>	<input type="checkbox"/> approve <input type="checkbox"/> continue <input type="checkbox"/> table <input type="checkbox"/> deny

OTHER BUSINESS

13. **Election of Officers**
14. **Other**

ADJOURNMENT

15. **Adjourn.** The next regular meeting date is scheduled for Wednesday, February 26, 2014.

Enclosures: Meeting Minutes of December 18, 2013
Building Permit Activity Report for December 2013

**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: Evergreen Ridge Addition – Zoning Change (RR to R5 and PUD)		
Status: Planning Commission – Consideration	Date: January 22, 2014	
Owner(s): Art Goldammer/Red Door Homes (applicant) Leverson Family Trust (owner/applicant) KLC of Willmar, Inc. (owner)	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat, zone and annex property for one and two-family residential development.		
Location: In northwest Bismarck, west of North Washington Street along the south side of Ash Coulee Drive (a replat of Lot 2 and Lots 3A and 3B of Lot 3, Block 1, KMK Estates Subdivision).		
Project Size: 8.96 acres	Number of Lots: 49 lots in 2 blocks	
EXISTING CONDITIONS:		
Land Use: Rural residential	PROPOSED CONDITIONS:	
Zoning: RR – Residential	Land Use: One and two-family residential	
	Zoning: R5 – Residential (Lot 10, Block 1) PUD – Planned Unit Development (Remainder)	
Uses Allowed: Rural residential	Uses Allowed: R5 – Single-family residential PUD – Uses specified in PUD	
Maximum Density Allowed: 65,000 sf minimum lot size	Maximum Density Allowed: R5 – 5 units per acre PUD – Density as specified in PUD	
PROPERTY HISTORY:		
Zoned: 04/1959	Platted: 08/1966	Annexed: ---
ADDITIONAL INFORMATION		
<ol style="list-style-type: none"> The City initiated the annexation of those parts of KMK Estates Subdivision and KMK Estates 2nd Subdivision not previously annexed in October 2006. In June 2007, an annexation agreement was entered into between the City and all property owners that annexation would be delayed for five years, until June 2012. In June 2011, conversations amongst City staff and impacted property owners resulted in a decision being made that annexation would be delayed until June 2014. All property owners were also informed that they could be annexed earlier upon request. The proposed development would be a one and two-family residential development with an overall density of 5.5 units per acre. The PUD portion of the development would have a density of 6.0 units per acre. The development includes a mix of one and two-family dwellings that will function as a transition between what is expected to be higher intensity land uses along North Washington Street and the existing larger lot rural and urban single family residential to the west and south. 		
<i>(continued)</i>		

FINDINGS:

1. The proposed zoning change is outside of the area covered by the Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include larger lot rural and urban residential to the east, west and south and undeveloped CA-zoned property to the north across Ash Coulee Drive. It is expected that the underlying rural residential lots in KMK Estates will transition to urban density residential over time, and the proposed development will provide a land use transition between the expected future higher intensity land uses to the east along North Washington Street and the lower intensity land uses to the west and south.
3. The subdivision proposed for this property will be annexed and services will be extended in conjunction with development; therefore, it 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 and subdivision regulations.
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 RR – Residential zoning district to the R5 – Residential on Lot 10, Block 1 and to the PUD – Planned Unit Development zoning district on Lots 1-9, Block 1 and Lots 1-39, Block 2, 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 RR – Residential District and included within the R5 – Residential District.

Lot 10, Block 1, Evergreen Ridge Addition.

Section 2. 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 RR – Residential District and included within the PUD – Planned Unit Development District.

Lots 1-9, Block 1 and Lots 1-39, Block 2, Evergreen Ridge Addition.

This PUD is subject to the following development standards:

- 1. Uses Permitted.* Uses permitted include a maximum of 48 residential units in both single-family and two-family buildings. Lots 1-9, Block 1 and Lots 35-39, Block 2 are limited to single-family dwellings and Lots 1-34, Block 2 are limited to one-half of a two-family dwelling. The configuration of residential units shall generally conform to the overall development plan for Evergreen Ridge Addition dated December 20, 2013. Any change in the use of the property from that indicated above will require an amendment to this PUD.
- 2. Single-family Residential Development Standards.* Each buildable lot shall have an area of not less than five thousand (5,000) square feet, a minimum

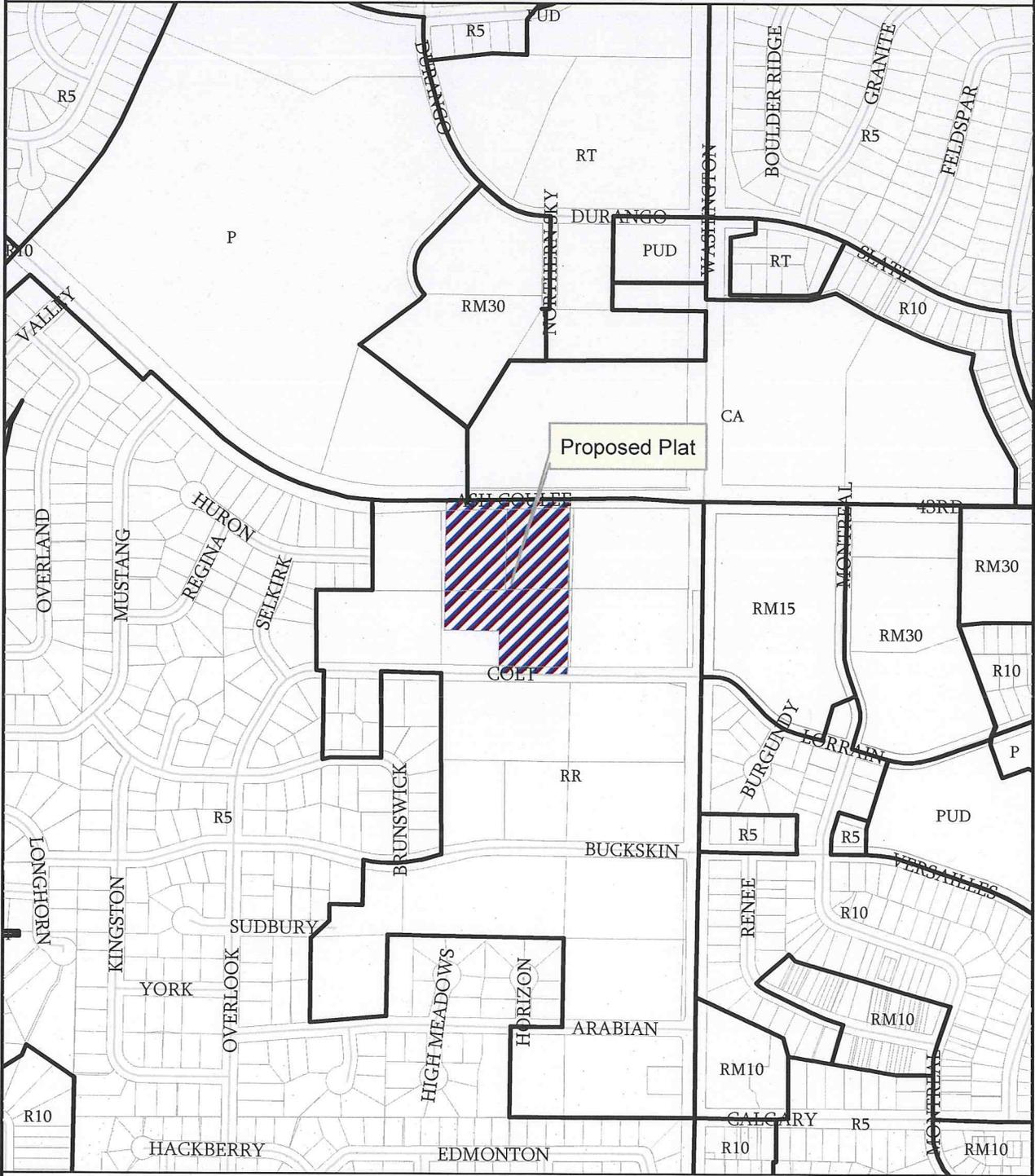
width at the building setback line of not less than fifty (50) feet, a minimum front yard setback of twenty (20) feet, a minimum side yard setback of five (5) feet, a minimum rear yard setback of twenty (20) feet, and a maximum building height of thirty-five (35) feet.

3. *Two-family Residential Development Standards.* Each buildable lot shall have an area of not less than thirty-three hundred (3,300) square feet, a minimum width at the building setback line of not less than thirty (30) feet, a minimum front yard setback of twenty (20) feet (as measured from the edge of the access easement for the private road), a minimum side yard setback of five (5) feet, a minimum rear yard setback of twenty (20) feet, and a maximum building height of thirty-five (35) feet.
4. *Private Roadway Maintenance.* The development and construction of the private roadway shall be the responsibility of the developer. On-going repair and maintenance of the private roadway shall be the responsibility of the home owners association.
5. *Changes.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and a majority vote of the Bismarck Planning & Zoning Commission.

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

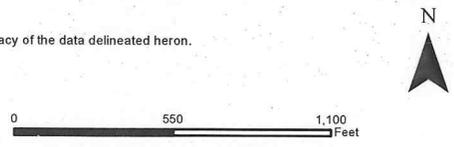
Section 3. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

Proposed Plat and Zoning Change (RR to PUD) Evergreen Ridge Addition

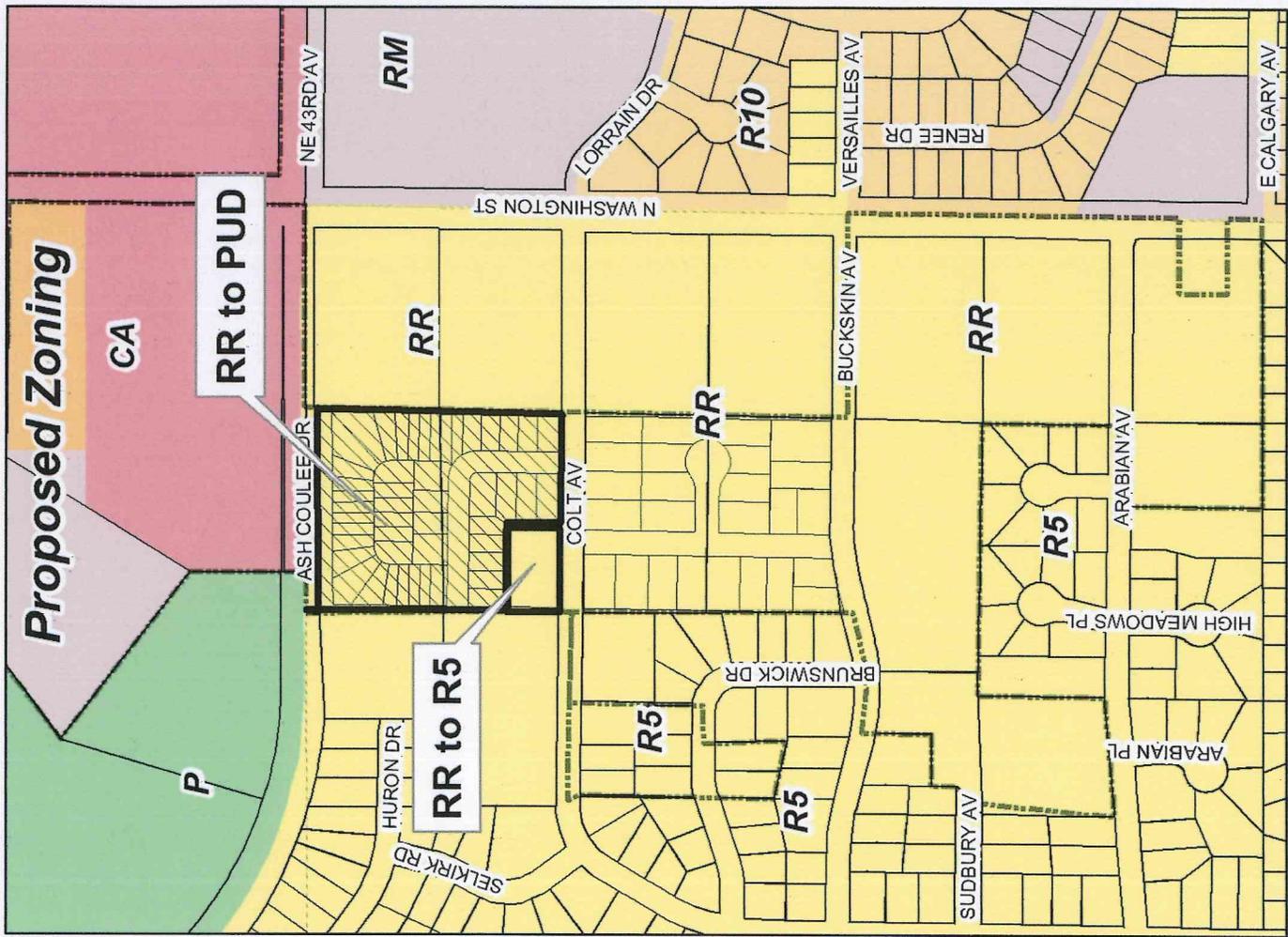
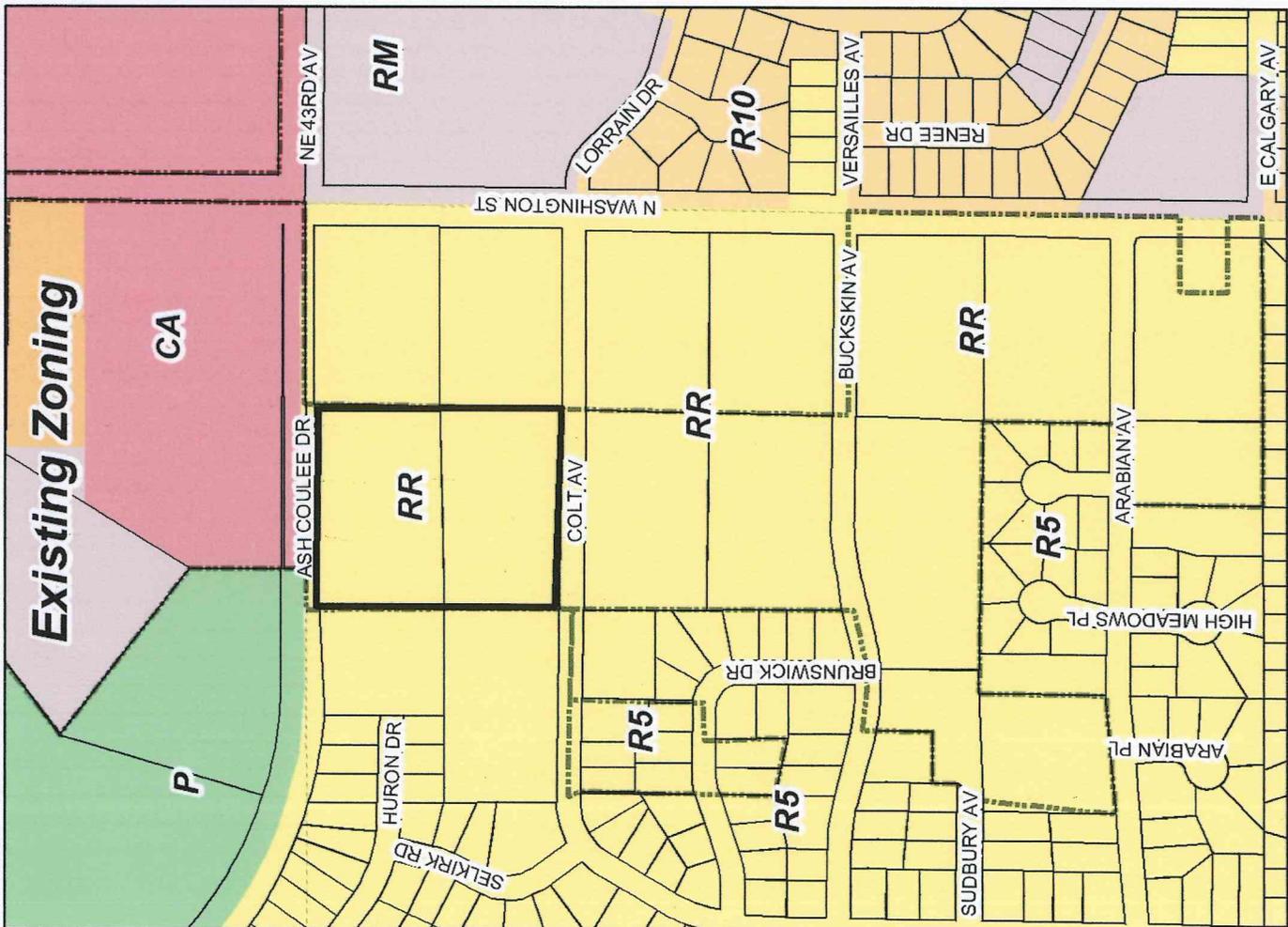


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Map was Updated/Created: December 23, 2013 (hib)

Source: City of Bismarck



Evergreen Ridge Addition - Zoning Change



Evergreen Ridge Addition

Request for Approval of Evergreen Ridge Planned Unit Development

Red Door Homes of North Dakota is proposing to develop approximately 7.98 acres located North of Colt Ave, Part of Lot 2 & All of Lot 3, Block 1 of KMK Estate Subdivision, Bismarck, North Dakota.

Red Door Homes is contemplating developing the property into a residential development with 48 residential units, including 15 affordable twin homes (30 units) and 18 single family homes available in a variety of sizes and color schemes.

Red Door Homes proposes rezoning the property to a PUD district in order to accommodate the intending project which will result in a logical and orderly development pattern, consistent with surrounding land uses. The projected density of 6.02 units per acre is not to establish new uses or significantly densify the area, but to maximize the available buildable land at a reasonable price.

The project will address the housing needs of the community by developing modestly priced housing in north Bismarck. Red Door Homes anticipates that the proposed twinhomes, located on smaller parcels of land, will attract younger, first-time homebuyers, while still providing move-up opportunities for growing families. Lot sizes within the project will vary from 3300 square feet to 9500 square feet for twin home lots, to 5000 square feet to 9000 square feet for single family lots.

Assuming that the adjacent rural residents' lots in KMK Estates will eventually transition to urban density over time, and considering that the subdivision is scheduled for annexation in 2014, the proposed zoning change would not adversely affect property in the vicinity.

Interior landscape buffer areas can be provided by Red Door Homes if the city so desires, however, street trees will be planted at standard intervals on the public ROW and the private access easement.

Zoning: PUD

Front yard: 20'

Side yard: 20% of width, 20' at Corner lots, 5' minimum

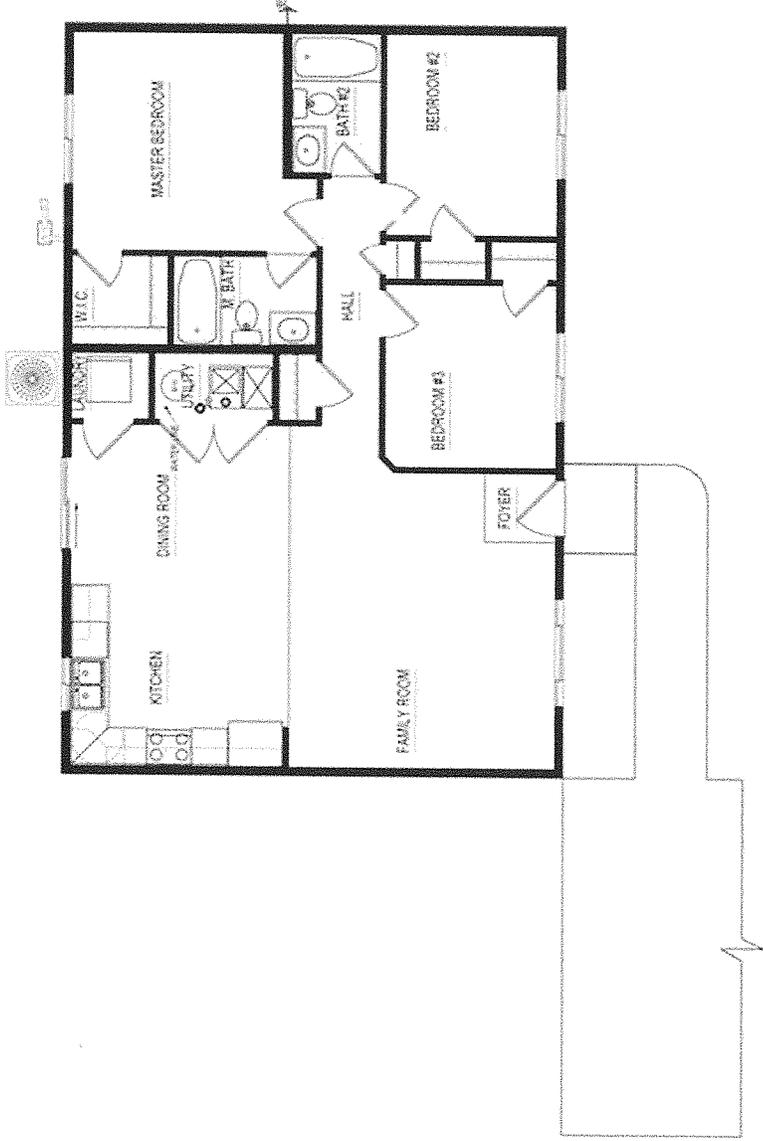
Rear yard: 20'

Lot area: 3,000 square feet minimum

Building Height: 40' maximum (32' Typical)

See attachments for condo agreements, architectural drawings, etc.





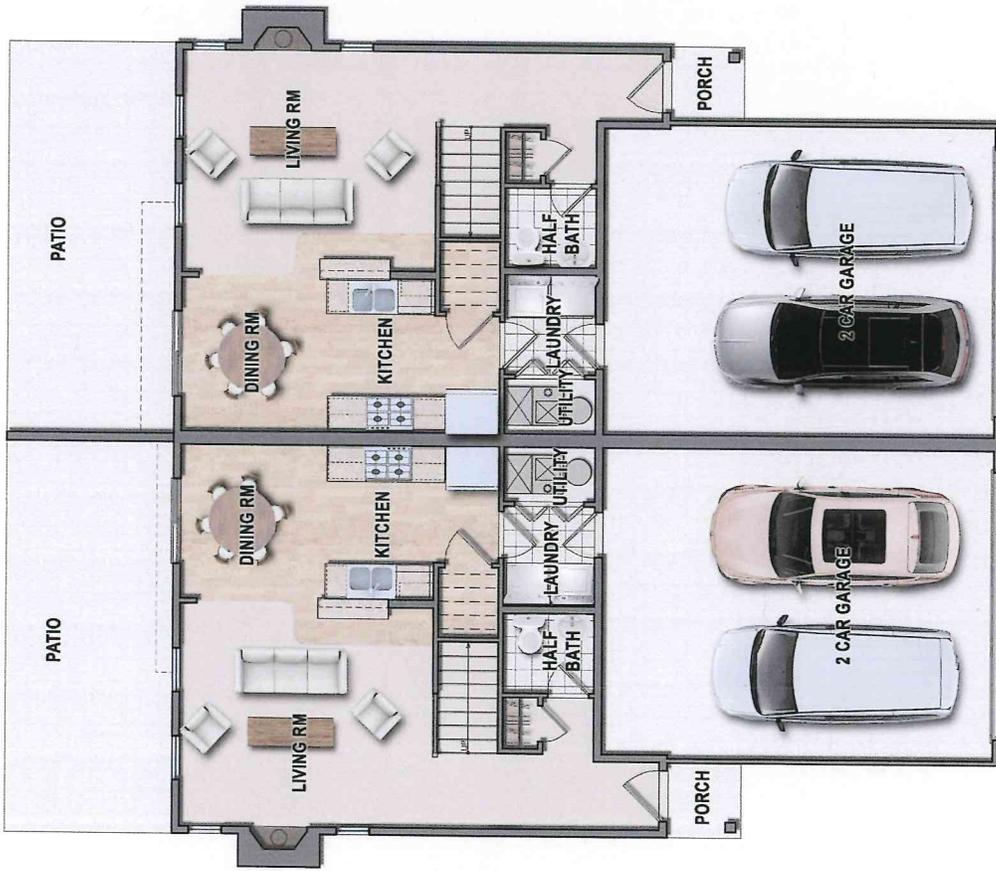
FIRST FLOOR PLAN



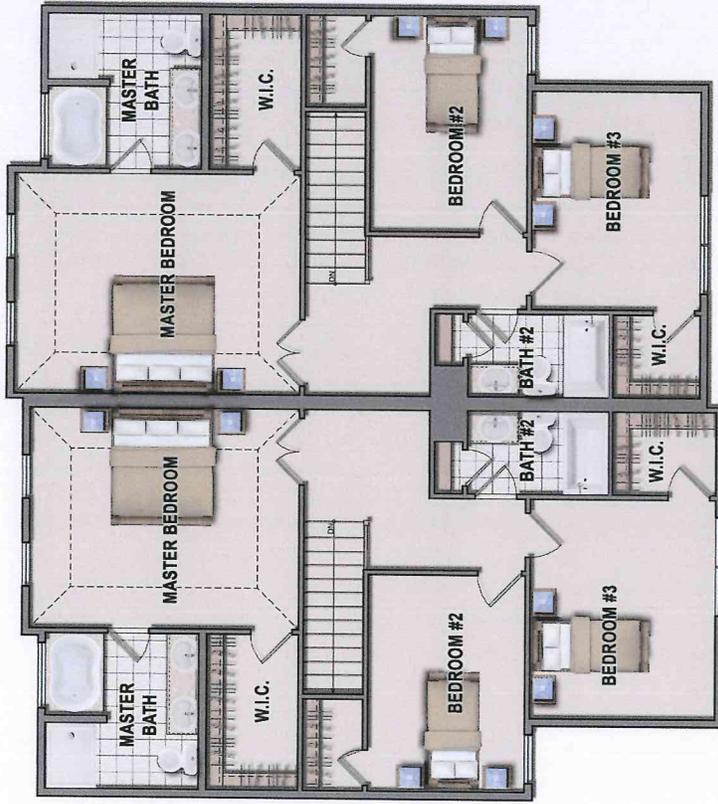
FIRST FLOOR PLAN







First Floor Plan



Second Floor Plan

**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: Evergreen Ridge Addition – Preliminary Plat		
Status: Planning Commission – Consideration	Date: August 28, 2013	
Owner(s): Art Goldammer/Red Door Homes (applicant) Levenson Family Trust (owner/applicant) KLC of Willmar, Inc. (owner)	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat, zone and annex property for one and two-family residential development.		
Location: In northwest Bismarck, west of North Washington Street along the south side of Ash Coulee Drive (a replat of Lot 2 and Lots 3A and 3B of Lot 3, Block 1, KMK Estates Subdivision).		
Project Size: 8.96 acres	Number of Lots: 49 lots in 2 blocks	
EXISTING CONDITIONS:		
Land Use: Rural residential	PROPOSED CONDITIONS:	
Zoning: RR – Residential	Land Use: One and two-family residential	
	Zoning: R5 – Residential (Lot 10, Block 1) PUD – Planned Unit Development (Remainder)	
Uses Allowed: Rural residential	Uses Allowed: R5 – Single-family residential PUD – Uses specified in PUD	
Maximum Density Allowed: 65,000 sf minimum lot size	Maximum Density Allowed: R5 – 5 units per acre PUD – Density as specified in PUD	
PROPERTY HISTORY:		
Zoned: 04/59	Platted: 08/66	Annexed: ---
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> The City initiated the annexation of those parts of KMK Estates Subdivision and KMK Estates 2nd Subdivision not previously annexed in October 2006. In June 2007, an annexation agreement was entered into between the City and all property owners that annexation would be delayed for five years, until June 2012. In June 2011, conversations amongst City staff and impacted property owners resulted in a decision being made that annexation would be delayed until June 2014. All property owners were also informed that they could be annexed earlier upon request. The proposed development would be a one and two-family residential development with an overall density of 5.5 units per acre. The PUD portion of the development would have a density of 6.0 units per acre. The development includes a mix of one and two-family dwellings that will function as a transition between what is expected to be higher intensity land uses along North Washington Street and the existing larger lot rural and urban single family residential to the west and south. 		
<i>(continued)</i>		

3. The proposed subdivision does not include a roadway connection to Ash Coulee Drive as such a roadway would be too close to the intersection of Ash Coulee Drive and North Washington Avenue and staff indicated they could not support it. A non-access line is included on the plat along the southern edge of Ash Coulee Drive to prohibit any access from this subdivision to Ash Coulee.
4. The Fire Marshal has expressed concerns with the lack of a secondary access for the development, as it does not meet the requirements of either the International Fire Code (IFC) or the City's secondary access policy.

IFC - SECTION D107

ONE- OR TWO-FAMILY RESIDENTIAL DEVELOPMENTS

D107.1 One- or two-family dwelling residential developments.

Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with separate and approved fire apparatus access roads and shall meet the requirements of Section D104.3.

Exceptions:

1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 of the International Fire Code, access from two directions shall not be required.
2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect with future development, as determined by the fire code official.

The issue of secondary access will need to be resolved prior to a public hearing being scheduled on the final plat.

5. During consideration of a previous development proposed for this property, concerns were raised by the adjacent land owners regarding the impact of this project on traffic in the neighborhood, especially at the intersection of Colt Avenue and North Washington Street. The latest traffic counts (2012) indicate an average daily traffic count (ADT) of 8,120 vehicles on North Washington Street between Ash Coulee Drive and Colt Avenue and an ADT of 10,310 vehicles further south on North Washington Street between Edmonton Drive and Estevan Drive. The Institute of Transportation Engineers (ITE) Trip Generation manual indicates that a unit in a single-family residence generates approximately 9 trips per day and a unit in a two-family residence generates approximately 6 trips per day. Based on these numbers, the additional units are estimate to generate 297 trips per day. Using the lower number to the north of this site of 8,120 ADT and assuming that all trips generated by this development would go to or come from North Washington Street (which is unlikely), the proposed development would represent a 3.7% increase to traffic on North Washington Street.
6. The City's Capital Improvement Program includes the reconstruction of North Washington Street from Calgary Avenue north through 57th Avenue NE in 2015, if funding is available.

FINDINGS:

1. All technical requirements for consideration of a preliminary plat have been met.

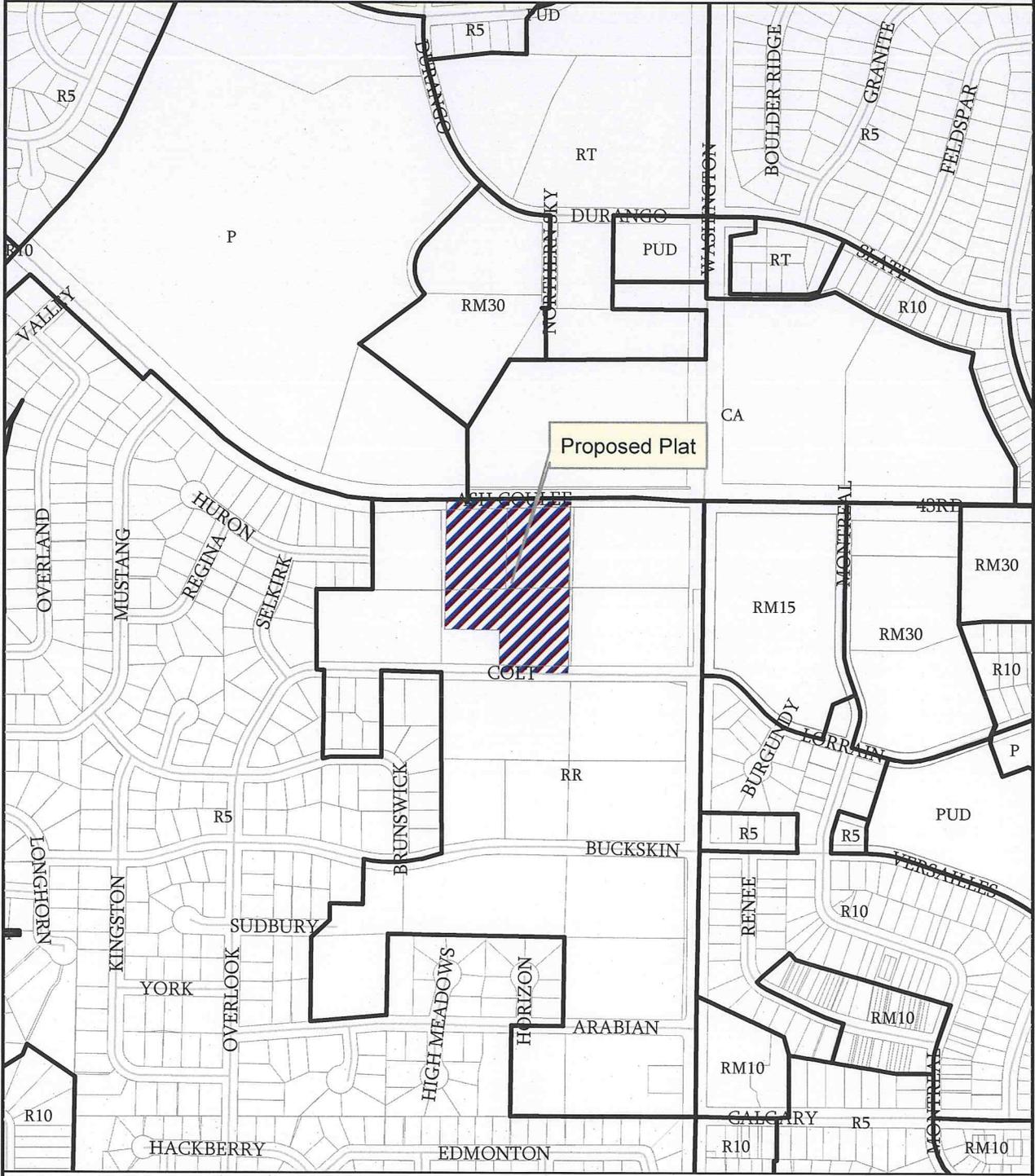
(continued)

2. The proposed subdivision is consistent with the Fringe Area Road Master Plan for this section, which identifies Ash Coulee Drive as an arterial roadway. North Washington Street to the east of the proposed plat is classified as a principal arterial on the MPO's Functional Classification Network (July 2011) and Ash Coulee Drive is classified as a minor arterial.
3. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include larger lot rural and urban residential to the east, west and south and undeveloped CA-zoned property to the north across Ash Coulee Drive. It is expected that the underlying rural residential lots in KMK Estates will transition to urban density residential over time, and the proposed development will provide a land use transition between the expected future higher intensity land uses to the east along North Washington Street and the lower intensity land uses to the west and south.
4. The proposed subdivision would be annexed and services would be extended in conjunction with 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.
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:

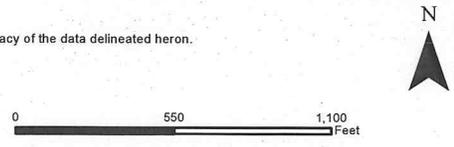
Based on the above findings, staff recommends tentative approval of the preliminary plat of Evergreen Ridge Addition, with the understanding that a public hearing on the final plat will not be scheduled until the issues related to secondary access are resolved.

Proposed Plat and Zoning Change (RR to PUD) Evergreen Ridge Addition

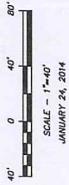


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Map was Updated/Created: December 23, 2013 (hib)

Source: City of Bismarck



EVERGREEN RIDGE ADDITION
 BEING A REPLAT OF PART OF LOT 2 & LOTS 3A & 3B BLOCK 1
 KMK ESTATES SUBDIVISION
 PART OF THE NE 1/4 OF THE NE 1/4
 OF SECTION 20, T. 139, R. 80 W.
 BISMARCK, NORTH DAKOTA

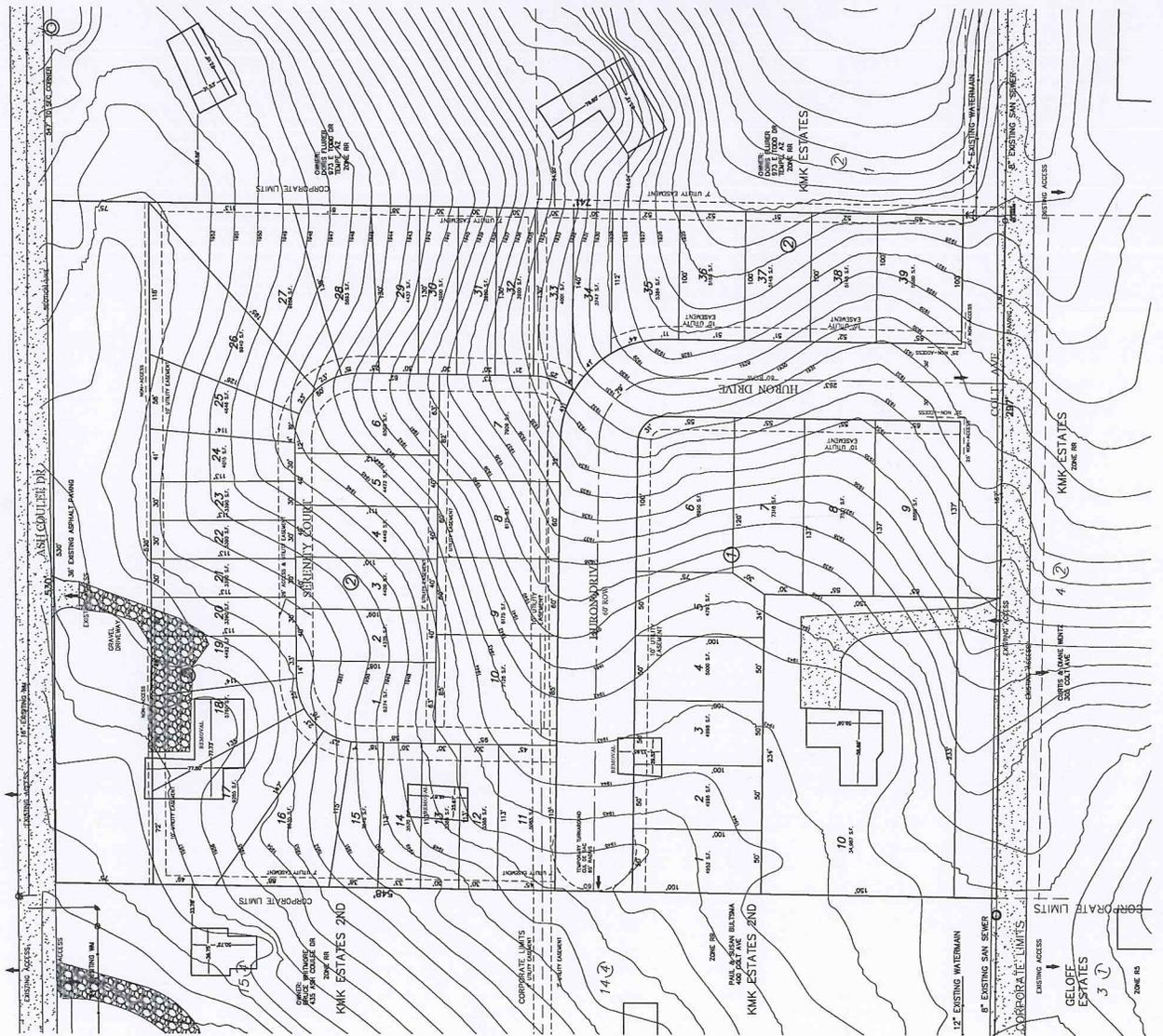


OWNERS/DEVELOPER:
 R&D DOOR HOMES
 ADDRESS: 3100 N 14TH ST
 SUITE 1
 BISMARCK ND 58503
 PHONE 663-4117

LEVERSON TRUST
 300 COLT AVE
 BISMARCK ND 58503
 PHONE: 701 223 9687

KLC OF WILLMAR, INC
 2320 HWY 12 E,
 WILLMAR, MN 56201
 PHONE (320) 235-7440

8.96 ACRES
 EXISTING ZONING: RR
 PROPOSED ZONING: PUD
 49 LOTS



LOCATION MAP



JAN 10 2014



**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: SouthBay 5 th Addition – Zoning Change (A & RR to RR, R5 & R10)		
Status: Planning Commission – Consideration	Date: January 22, 2014	
Owner(s): SouthBay Development LLC Casey and Gena Neuman (Lot 9, Block 4)	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat and zone property for the 5 th phase of development to allow single and two-family residential development and one existing rural residence.		
Location: South of Bismarck, south of Burleigh Avenue, between England Street and South Washington Street (part of the SE1/4 and part of the SW ¼, Section 20, T138N-R80W Lincoln Township) including replat of part of Spiritwood Estates Subdivision.		
Project Size: 39.59 acres	Number of Lots: 62 lots in 4 blocks	
EXISTING CONDITIONS:		
Land Use: Rural residential and undeveloped	PROPOSED CONDITIONS:	
Zoning: A – Agricultural RR – Residential	Land Use: Rural residential and single and two-family residential	
Zoning: A – Agricultural RR – Residential	Zoning: RR – Residential (L9, B4) R5 – Residential (L1-26, B1; L1, B2; L16-24, B2; L1-3, B3 & L 1-8, B4) R10 – Residential (L1-15 & L25-40, B2)	
Uses Allowed: A – Agriculture RR – Rural Residential	Uses Allowed: RR – Rural residential R5 – Single-family residential R10 – Single and two-family residential	
Maximum Density Allowed: A – One unit/40 acres RR – One unit/ 65,000 square feet	Maximum Density Allowed: RR – 65,000 square feet/lot R5 – 5 units/ acres R10 – 10 units/acre	
PROPERTY HISTORY:		
Zoned: 11/2002 (portion)	Platted: 11/2002 (portion)	Annexed: N/A
ADDITIONAL INFORMATION:		
<p>1. Waiver requests were submitted to allow the use of a cul-de-sac and a private roadway at the termination of Britannic Lane at the south-west corner of the plat. Both requests seem reasonable as the construction of the cul-de-sac is part of the original design and has been in place for a number of years and as it is unlikely that Britannic Lane will continue south due to the existing rural residential subdivisions in this area (Secluded Acres 2nd Subdivision and Secluded Acres 3rd Subdivision).</p>		

FINDINGS:

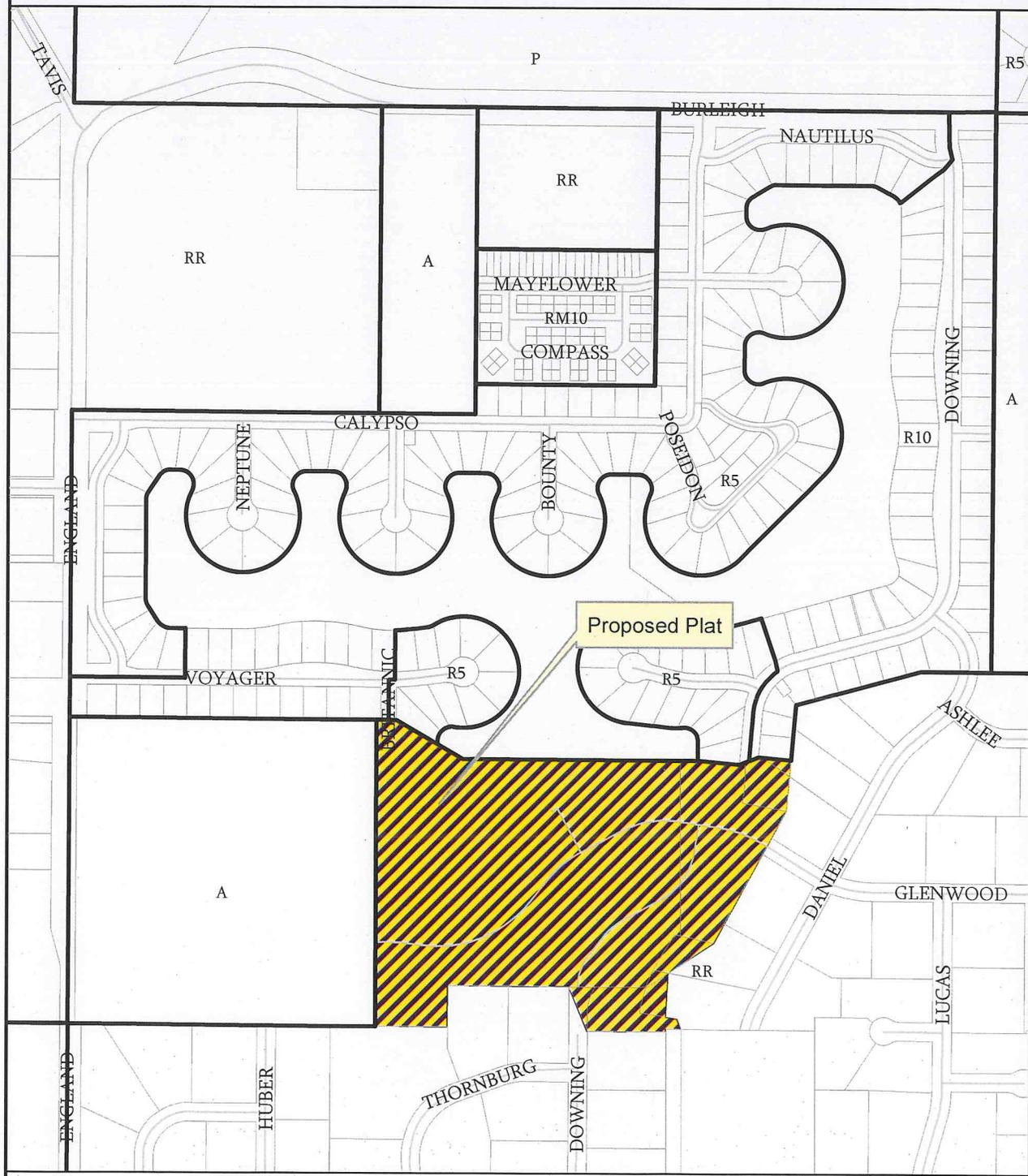
1. The proposed zoning change is consistent with the Land Use Plan, which identifies this area as urban residential (Bismarck-Mandan Regional Future Land Use Plan).
2. The proposed subdivision, would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north, rural residential to the south and east and agriculturally zoned property with a residence to the west.
3. The proposed subdivision with the exception of Lot 9, Block 4 would be annexed prior to development; 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.

RECOMMENDATION:

Based on the above findings, staff recommends approval of the zoning change from A – Agricultural and RR – Residential zoning districts to the RR – Residential zoning district for Lot 9, Block 4, to the R5 – Residential zoning district for Lots 1-26, Block 1; Lot 1, Block 2; Lots 16-24, Block 2; Lots 1-3, Block 3 and Lots 1-8, Block 4 and to the R10 – Residential zoning district for Lots 1-15 and 25-40, Block 2 for SouthBay 5th Addition, with the following conditions.

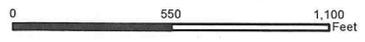
1. Lots 1-15 and 25-40, Block 2 are developed as two-family dwellings.

Proposed Plat and Zoning Change (A & RR to RR, R10 & R5) Southbay 5th Addition

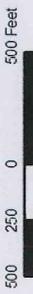
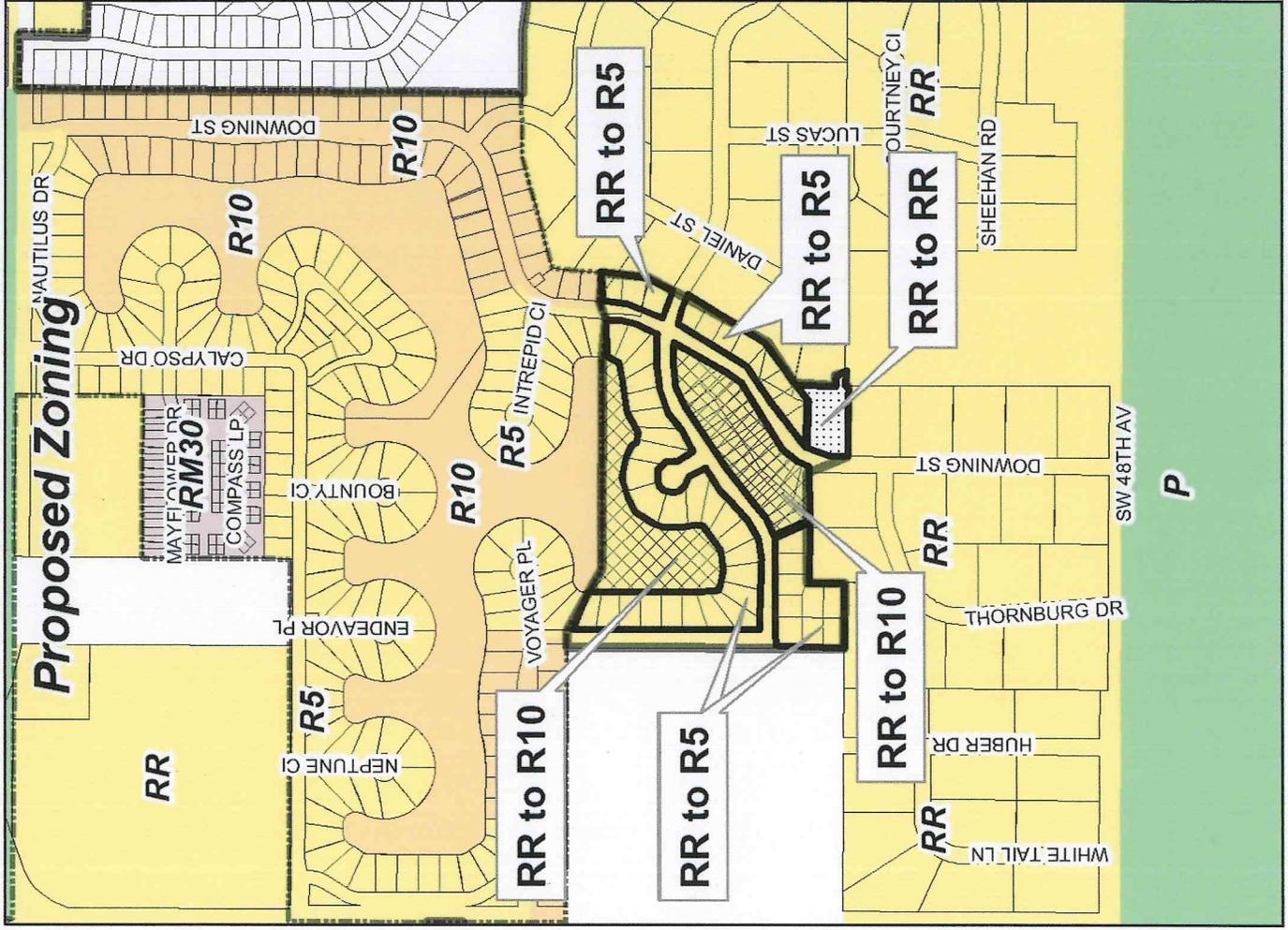
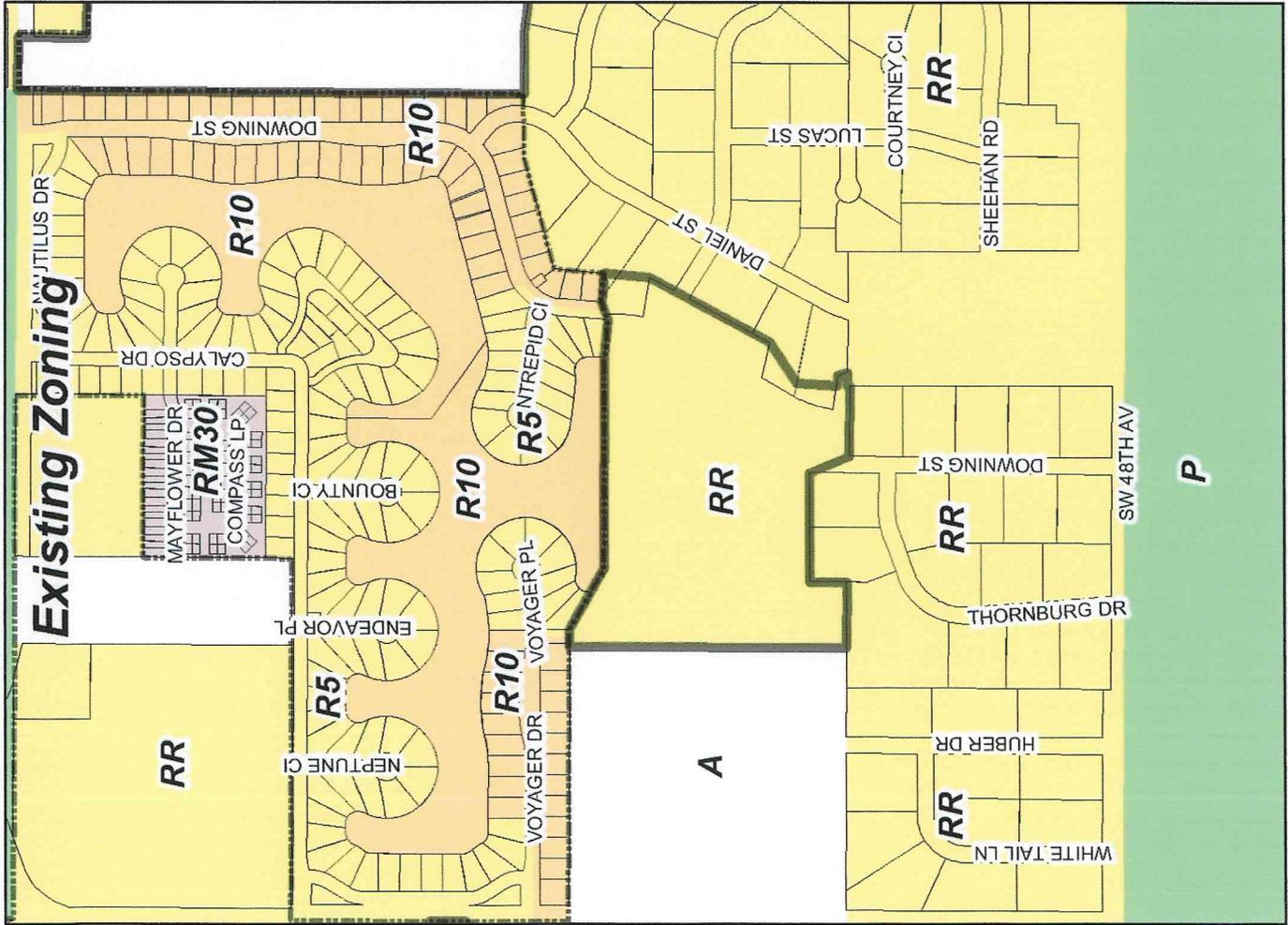


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Source: City of Bismarck



SouthBay Fifth Addition - Zoning Change



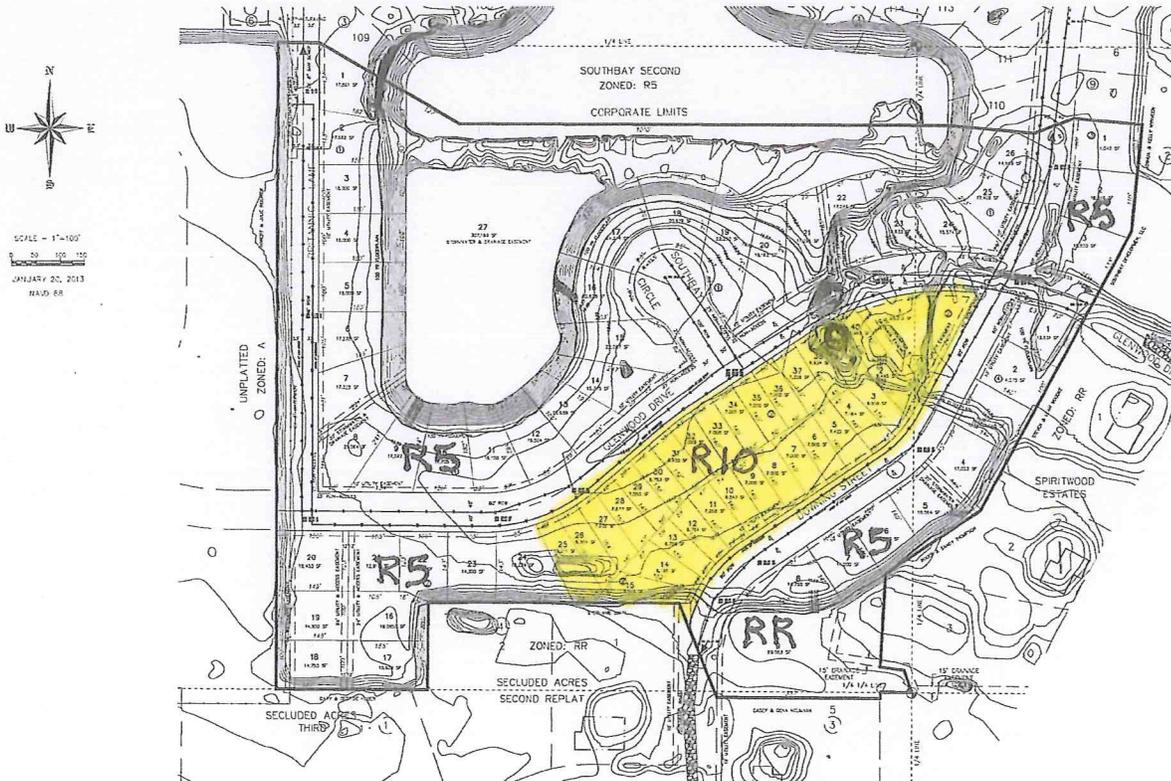
January 2014

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SOUTHBAY FIFTH ADDITION

PART OF THE SE 1/4 AND PART OF THE SOW 1/4, TRACT D IN THE SW 1/4, TRACT S2 IN THE SE 1/4, LOT B OF LOT 3, BLOCK 2, LOT B OF LOT 4, BLOCK 2, LOT B OF LOT 2, BLOCK 7, LOT B OF LOT 3, BLOCK 7, AND TRACT E OF PART OF TRACT B OF LOT 3, BLOCK 7 ALL OF SECTION 20, T. 138, R. 80 W

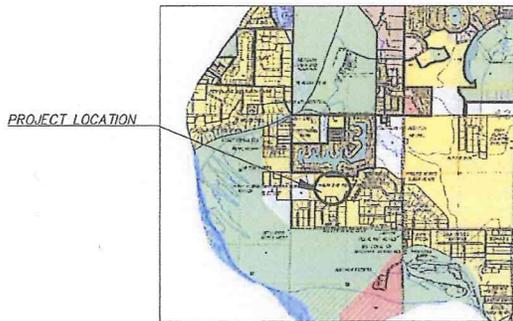
BISMARCK, NORTH DAKOTA



39.59 ACRES
 EXISTING ZONING: RR
 PROPOSED ZONING: R5, R10
 62 LOTS

OWNERS:
 SOUTHBAY DEVELOPMENT, LLC
 1805 HARBOR DRIVE
 BISMARCK, ND 58504
 701-258-7815
 CASEY AND GENA NEUMAN
 4429 DOWNING ST
 BISMARCK, ND 58504

FLOODPLAIN INFORMATION
 FLOODPLAIN ELEV. 1635.7 - NAVD 85
 FEMA FRM MAP # 38015C0795C, EFFECTIVE JULY 19, 2005



LOCATION MAP

SWENSON, HAGEN & COMPANY P.C.
 Surveying
 Mapping
 Land Planning
 Civil Engineering
 Architecture & Site Planning
 Construction Management

809 Black Avenue
 Bismarck, North Dakota 58504
 Phone (701) 251-2600
 Fax (701) 251-2609
 Cell (701) 251-2608

**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: SouthBay 5 th Addition – Preliminary Plat		
Status: Planning Commission – Consideration	Date: January 22, 2014	
Owner(s): SouthBay Development LLC Casey and Gena Neuman (lot 9, Block 4)	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat and zone property for the 5 th phase of development to allow single and two-family residential development and one existing rural residence.		
Location: South of Bismarck, south of Burleigh Avenue, between England Street and South Washington Street (part of the SE1/4 and part of the SW ¼, Section 20, T138N-R80W Lincoln Township) including a replat of part of Spiritwood Estates Subdivision.		
Project Size: 39.59 acres	Number of Lots: 62 lots in 4 blocks	
EXISTING CONDITIONS:		
Land Use: Rural residential and undeveloped	PROPOSED CONDITIONS:	
Zoning: A – Agricultural RR – Residential	Land Use: Rural residential and single and two-family residential	
	Zoning: RR – Residential (L9, B4) R5 – Residential (L1-26, B1; L1, B2; L16-24, B2; L1-3, B3 & L 1-8, B4) R10 – Residential (L1-15 & L25-40, B2)	
Uses Allowed: A – Agriculture RR – Rural Residential	Uses Allowed: RR – Rural residential R5 – Single-family residential R10 – Single and two-family residential	
Maximum Density Allowed: A – One unit/40 acres RR – One unit/ 65,000 square feet	Maximum Density Allowed: RR – 65,000 square feet/lot R5 – 5 units/ acres R10 – 10 units/acre	
PROPERTY HISTORY:		
Zoned: 11/2002 (portion)	Platted: 11/2002 (portion)	Annexed: N/A
ADDITIONAL INFORMATION:		
1. Waiver requests were submitted to allow the use of a cul-de-sac and a private roadway at the termination of Britannic Lane at the south-west corner of the plat. Both requests seem reasonable as the construction of the cul-de-sac is part of the original design and has been in place for a number of years and as it is unlikely that Britannic Lane will continue south due to the existing rural residential subdivisions in this area (Secluded Acres 2 nd Subdivision and Secluded Acres 3 rd Subdivision).		
FINDINGS:		
1. All technical requirements for consideration of a preliminary plat have been met.		

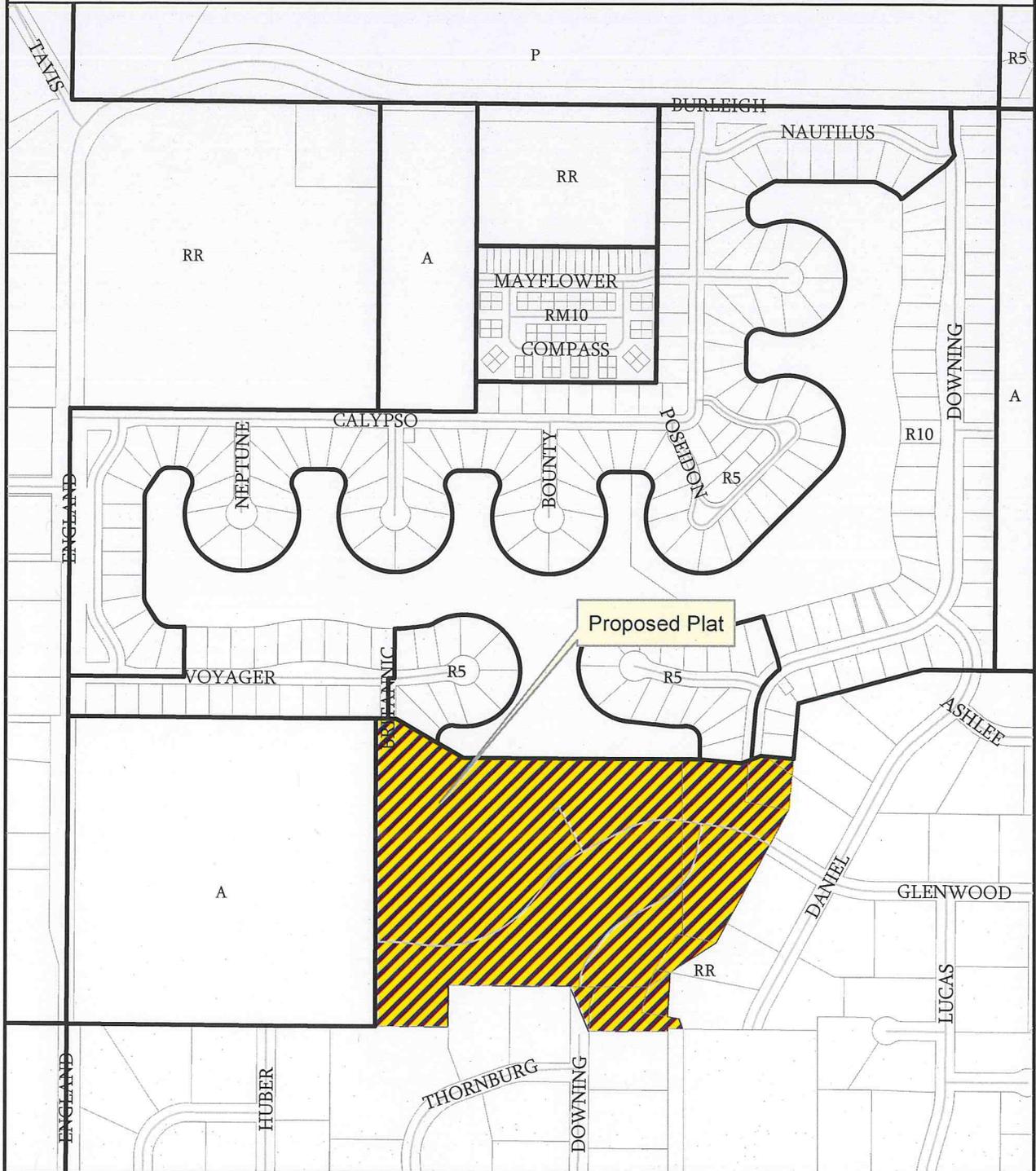
(continued)

2. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for this area, which identifies Downing Street as a collector roadway.
3. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north, rural residential to the south and east, and agriculturally zoned property with a residence to the west.
4. The proposed subdivision, with the exception of Lot 9, Block 4, 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.
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 of SouthBay 5th Addition, granting a waiver to allow the use of a cul-de-sac and a private roadway, and with the understanding that any further subdivision of Lot 9, Block 4 (the RR lot) would require annexation of the entire lot.

Proposed Plat and Zoning Change (RR to R10) Southbay 5th 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: December 23, 2013 (hlb)

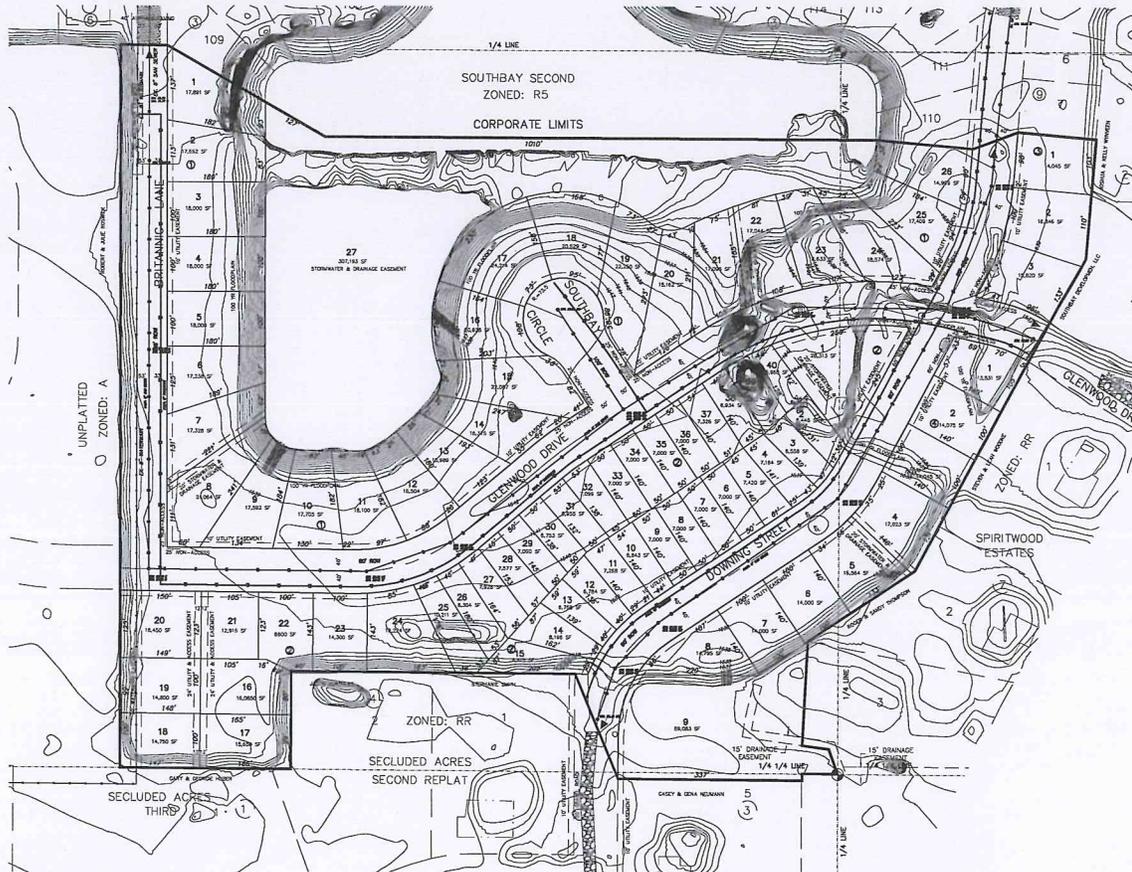
Source: City of Bismarck



SOUTHBAY FIFTH ADDITION

PART OF THE SE 1/4 AND PART OF THE SOW 1/2, TRACT D IN THE SW 1/4, TRACT S2 IN THE SE 1/4, LOT B OF LOT 3, BLOCK 2, LOT B OF LOT 4, BLOCK 2, LOT B OF LOT 2, BLOCK 7, LOT B OF LOT 3, BLOCK 7, AND TRACT E OF PART OF TRACT B OF LOT 3, BLOCK 7 ALL OF SECTION 20, T. 138, R. 80 W

BISMARCK, NORTH DAKOTA

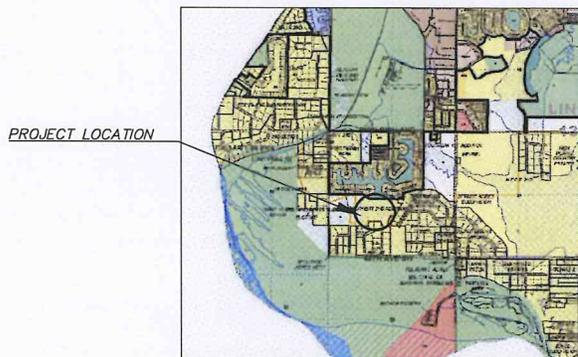


39.59 ACRES
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FLOODPLAIN INFORMATION
 FLOODPLAIN ELEV. 1635.7 - NAVD 88
 FEMA FIRM MAP # 38015C0795C, EFFECTIVE JULY 19, 2005



LOCATION MAP



SWENSON, HAGEN & COMPANY P.C.
 909 Illinois Avenue
 Bismarck, North Dakota 58504
 ahang@swensonhagen.com
 Phone: (701) 223-2600
 Fax: (701) 223-2606

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



**CITY/ETA SUBDIVISION SUBMITTAL REQUIREMENTS
WAIVER REQUEST FORM**

If any waivers from subdivision requirements/standards are being requested, this form must be completed and submitted in conjunction with the unified development application.

SUBDIVISION INFORMATION:

Name of Subdivision: Southbay 5th Addition

Location of Subdivision: SE 1/4 & SW 1/4, SECTION 20, T. 138, R. 80 W, BISMARCK, ND

Name of Property Owner/Developer: SOUTHBAY DEVELOPMENT, LLC/KEVIN TURNBOW

Contact Person (if different from owner): DAVE PATIENCE

REQUESTED WAIVERS FROM SUBDIVISION REQUIREMENTS/STANDARDS:

<input type="checkbox"/> Ghost Platting	Reason for Request	
<input type="checkbox"/> Paving of Interior Roadways	Reason for Request	
<input type="checkbox"/> Maximum Block Length	Reason for Request	
<input type="checkbox"/> Minimum Lot Width	Reason for Request	
<input checked="" type="checkbox"/> Use of Cul-de-sacs	Reason for Request	<p>EXTENSIVE DIRT WORK IN THE AREA WOULD MAKE IT PROHIBITIVELY COSTLY FOR THE DEVELOPER TO REGRADE & OPTIMIZE THE USABLE LAND IN A WATER-ORIENTED SUBDIVISION</p>
<input type="checkbox"/> Minimum Lot Size (only allowed if platting an existing non-conforming parcel)	Reason for Request	
<input checked="" type="checkbox"/> Other (Please specify)	Reason for Request	<p>THE SW PORTION OF THE PROPERTY IS ISOLATED & THE PUBLIC ROW WILL NOT CONTINUE THROUGH THE ADDITION TO ALLOW ACCESS.</p>

Southbay Development has followed the same master plan since 2006. Many of the areas included in the original plan have seen grading and dredging accomplished prior to the need for development. To develop a project in phases is necessary. Sales must keep up with expenses, including property taxes and special assessments in order for a project to succeed.. Therefore the inventory a developer has can not exceed the projected sales.

The cul de sac in Southbay 5th Addition has been part of the original design and ongoing construction. This cul de sac does not meet current design standards for length. The original design of this cul de sac is shorter than the current minimum design length. A minimum length was established a couple of years after the original design for Southbay was in place. The minimum length was adopted to assist in snow storage on cul de sacs.

Being aware of this we have added a median or boulevard between the driving lanes within the street right of way for the purpose of additional snow storage.

We hope that this will provide the city with adequate parameters to accept this design.

David Patience AICP

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

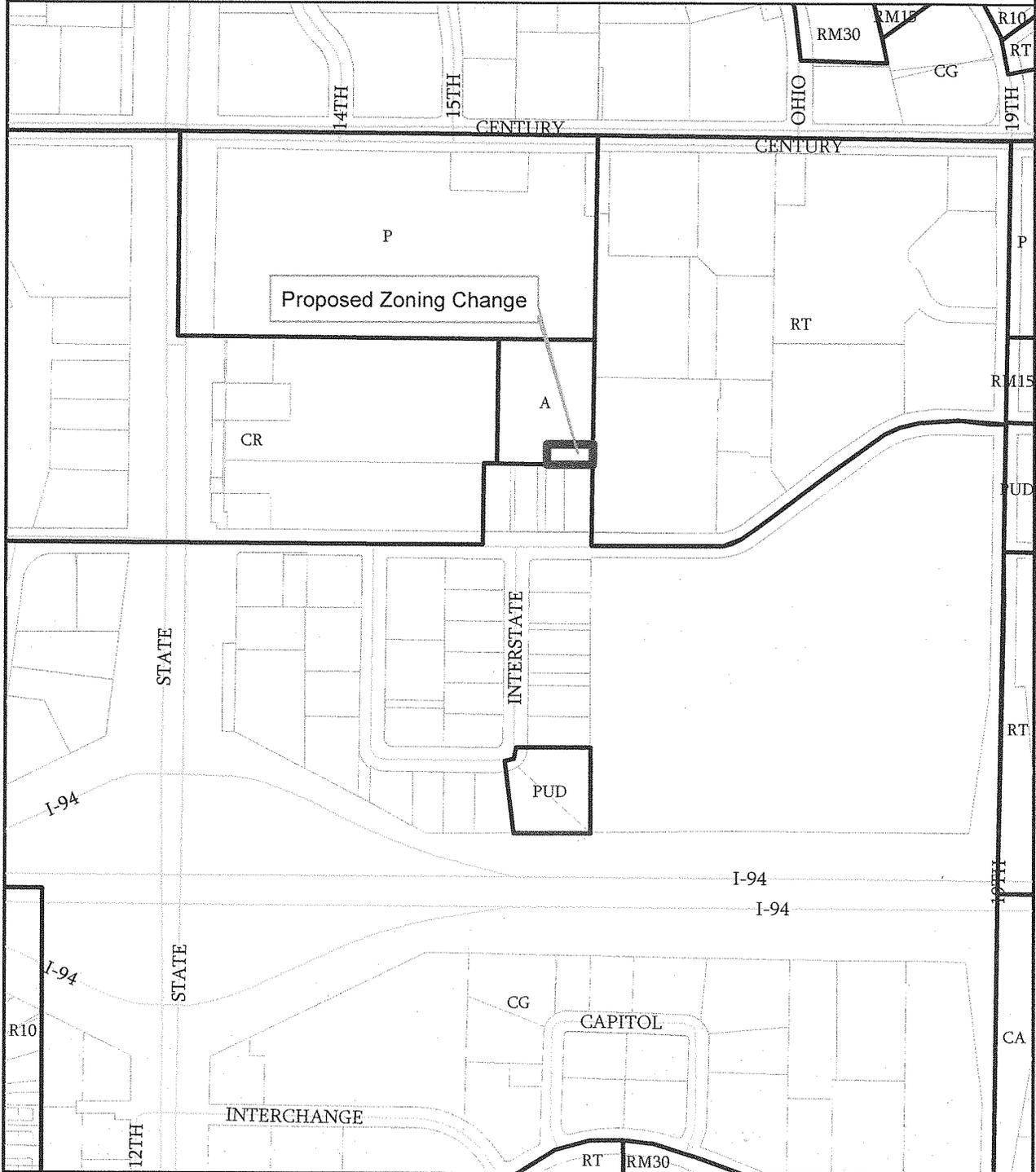
BACKGROUND:		
Title: Part of Lot 4, Block 1, Boutrous 2 nd Addition – Zoning Change (A to CG)		
Status: Planning Commission – Consideration	Date: January 22, 2014	
Owner(s): Jerry Brekke	Engineer: None	
Reason for Request: Rezone property to allow the property to be combined with the adjacent parcel to the south and allow the expansion of the existing parking lot for Grand Theaters.		
Location: In north Bismarck, north of East Interstate Avenue between State Street and North 19 th Street.		
Project Size: 14,800 square feet, more or less	Number of Lots: Portion of one parcel	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Surface parking lot	
Zoning: A– Agriculture	Zoning: CG – Commercial	
Uses Allowed: A - Agriculture	Uses Allowed: CG – General Commercial	
Maximum Density Allowed: A – One unit/ 40 acres	Maximum Density Allowed: CG – 42 units / acre	
PROPERTY HISTORY:		
Zoned: ---	Platted: 11/1970	Annexed: Pre-1980
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> The proposed zoning change is in conjunction with a lot modification request to combine the south 59 feet of the east 151 feet of Lot 4, Block 1, Boutrous 2nd Addition (14,800 square feet) with the adjacent Lots 2, 3, and 4, Block 1, Green Thumb Addition in order to expand the existing parking lot. In order for the property located within the proposed zoning change to be combined with the property to the south, a zoning change is required. In order to proceed with the lot modification, a zoning change must be approved by both the Bismarck Planning & Zoning Commission and the City 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.” 		
FINDINGS:		
<ol style="list-style-type: none"> The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include existing commercial uses to the west and south across East Interstate Avenue, an extension of Basin Electric office park to the east and an undeveloped agriculturally zoned property to the north. 		
<i>(continued)</i>		

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:

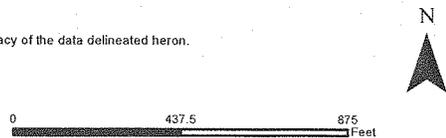
Based on the above findings, staff recommends scheduling a public hearing on the zoning change from the A – Agriculture zoning district to the CG – Commercial zoning districts on the south 59 feet of the east 151 feet of Lot 4, Block 1, Boutrous 2nd Addition.

**Proposed Zoning Change (A to CG)
South 59' of the east 151' of Lot 4, Block 1
Boutros 2nd Addition**

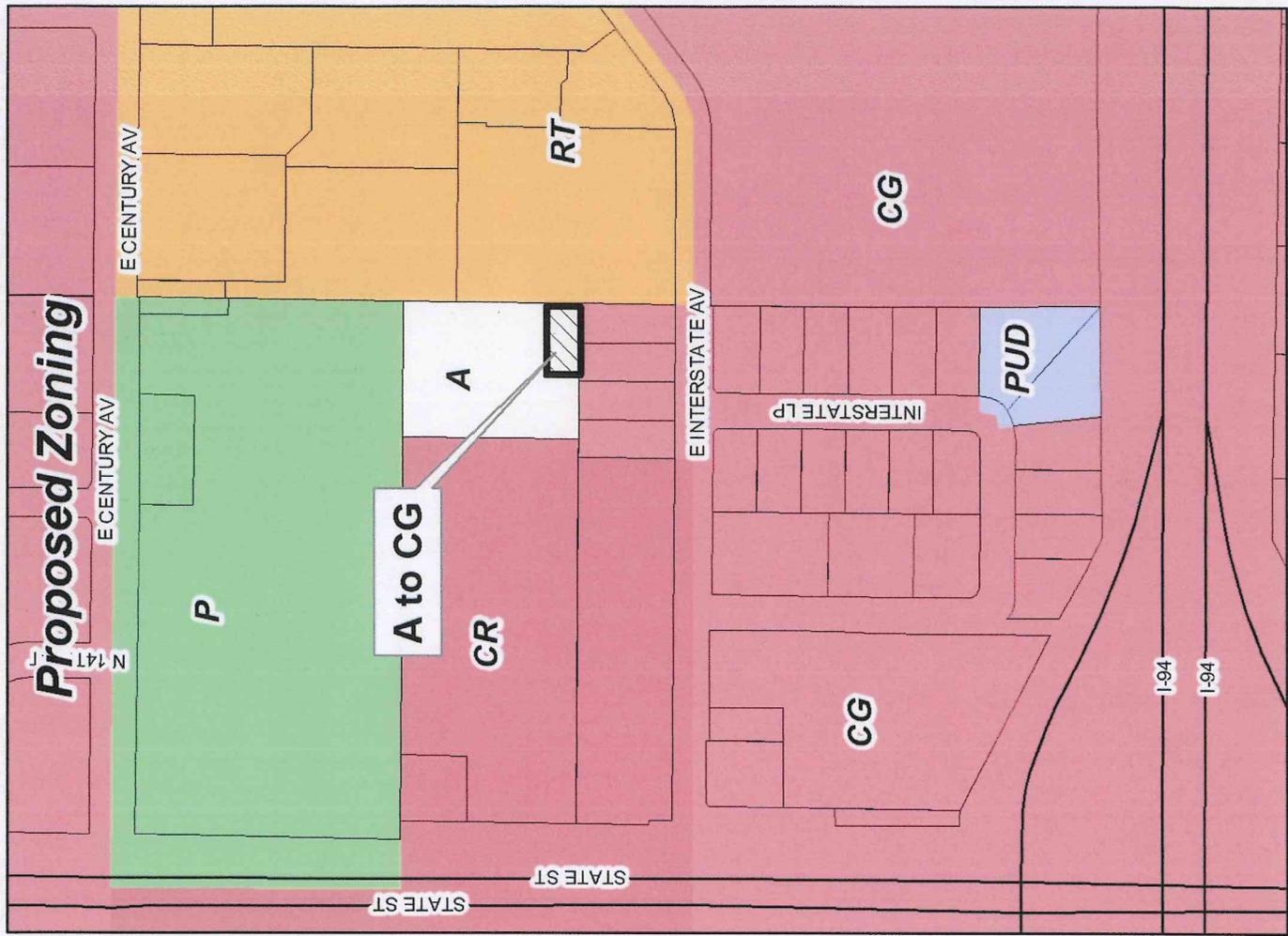
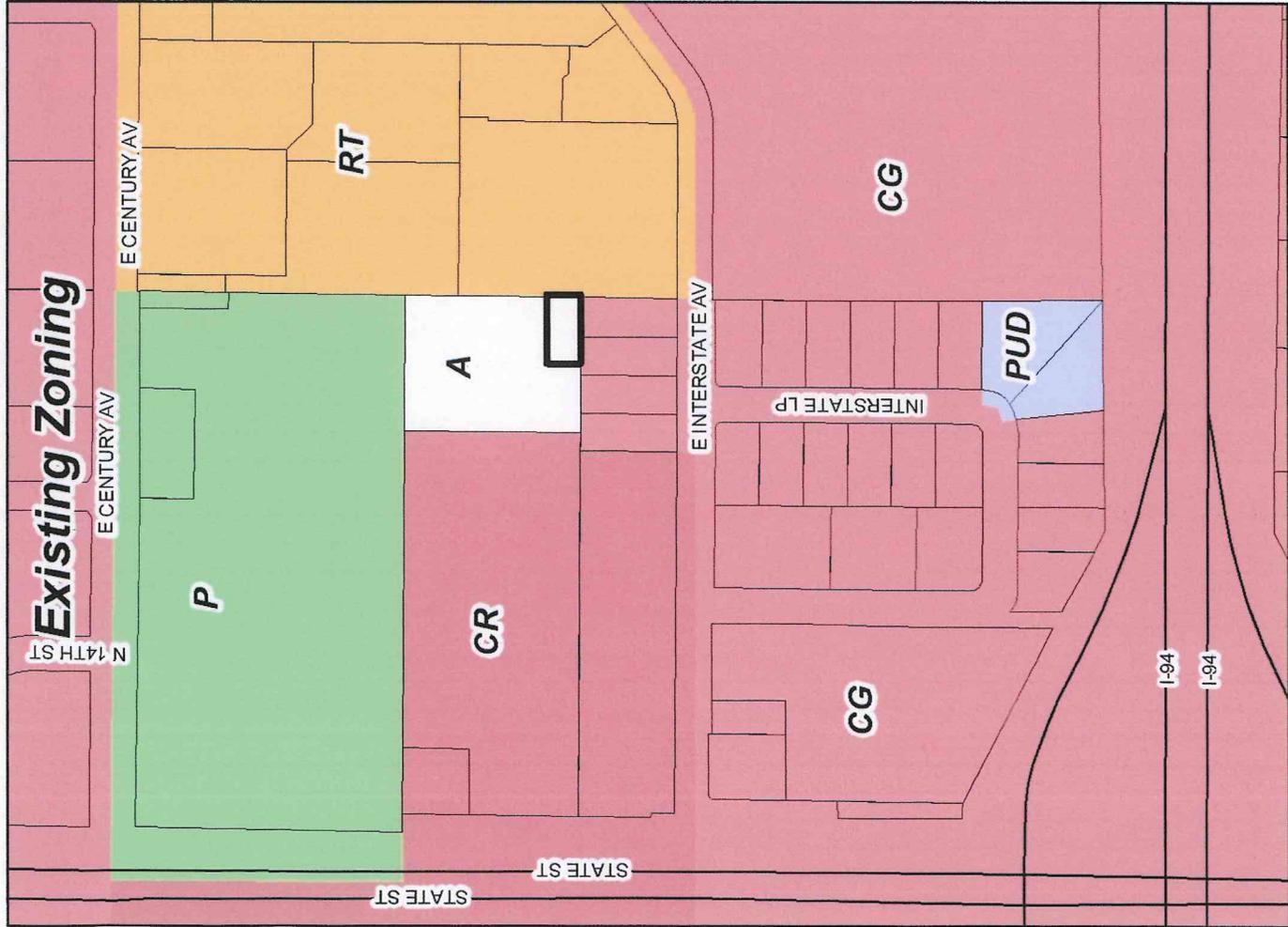


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Map was Updated/Created: December 17, 2013 (hib)

Source: City of Bismarck



Part of Lot 4, Block 1, Boutros Second Addition - Zoning Change



**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

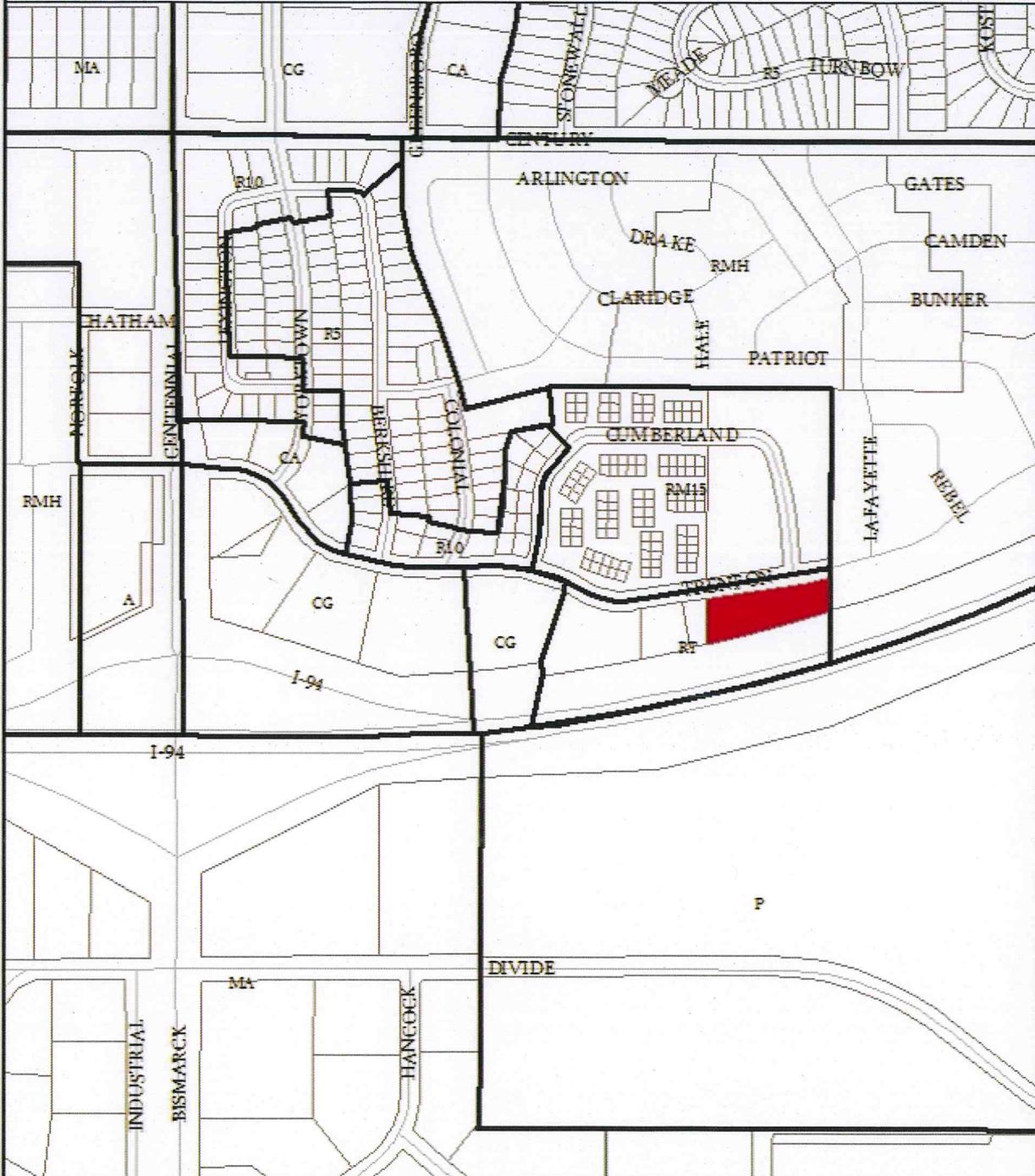
BACKGROUND:	
Title: Lot 4, Block 1, Trenton Addition – Land Use Plan Amendment	
Status: Planning Commission – Consideration	Date: January 22, 2014
Reason for Request: Introduce the commercial land use designation onto Lot 4, Block 1, Trenton Addition in conjunction with a request for a zoning change from the RT – Residential zoning district to the CG – Commercial zoning district.	
Location: In northeast Bismarck, south of Trenton Drive and north of Interstate 94, approximately ½ mile east of Centennial Road.	
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> 1. The Bismarck-Mandan Regional Land Use Plan was adopted by the Bismarck Planning and Zoning Commission on July 25, 2007 and by the Board of City Commissioners on August 14, 2007. The future land use portion of this document is a component of the Bismarck Land Use Plan (LUP). 2. The applicant is requesting an amendment to the land use concept identified for Section 25, Hay Creek Township, to introduce the commercial land use classification on Lot 4, Block 1, Trenton Addition in order to support a zoning change to CG – Commercial. 3. The proposed amendment would introduce the commercial land use classification onto Lot 4, Block 1, Trenton Addition. The Bismarck-Mandan Regional Land Use Plan identifies this area as urban residential. 4. The City of Bismarck is currently updating its Growth Management Plan. The updated plan makes recommendations regarding potential land use in areas that are not yet developed. The draft of updated plan (November 2013) excludes this particular area as the area been zoned in January 2013. At the time it was platted and rezoned this property conformed to the Land Use Plan (Bismarck-Mandan Regional Land Use Plan). 5. In conjunction with the plat of Trenton addition, a request for a Land Use Plan Amendment to extend the commercial land use designation approximately 2,100 feet east from Centennial Road and a request for a zoning change to the Conditional CG – Commercial zoning district for the lots adjacent to and west of this request (Lots 1-3, Block 3) were denied by the Planning and Zoning Commission on September 26, 2012. 6. The proposed zoning change would generally conform to the Land Use Plan, if amended. 	
FINDINGS:	
<ol style="list-style-type: none"> 1. The proposed amendment to the Land Use Plan would not be compatible with adjacent land uses. In particular, the proposed amendment would introduce the commercial land use classification approximately 2,500 feet east of Centennial Road into an area with existing low density uses along the north side of Trenton Drive and a single-family manufactured home park (Century Park) to the east. 	
<i>(continued)</i>	

2. The proposed Land Use Plan amendment does not reflect a change in conditions since the Land Use Plan was established, nor would it result in an improved Land Use Plan which better responds to the needs of the community.
3. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the Land Use Plan at the time the property is developed.
4. The proposed Land Use Plan amendment may adversely affect property in the vicinity. In particular, the introduction of general commercial uses on the south side of Trenton Drive and the amount of traffic potentially generated by those uses would adversely affect the existing low-density residential development on the north side of Trenton Drive and the single-family manufactured home park to the east (Century Park).
5. The proposed Land Use Plan amendment is not consistent with the other aspects of the master plan, other adopted plans, policies and planning practice.

RECOMMENDATION:

Based on the above findings, staff recommends scheduling a public hearing with the understanding that staff will recommend denial of the proposed amendment to the Land Use Plan to introduce the commercial land use classification onto Lot 4, Block 1, Trenton Addition.

Land Use Plan Amendment Lot 4, Block 1, Trenton Addition

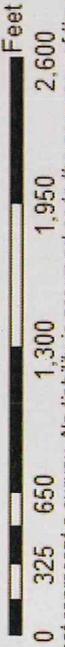
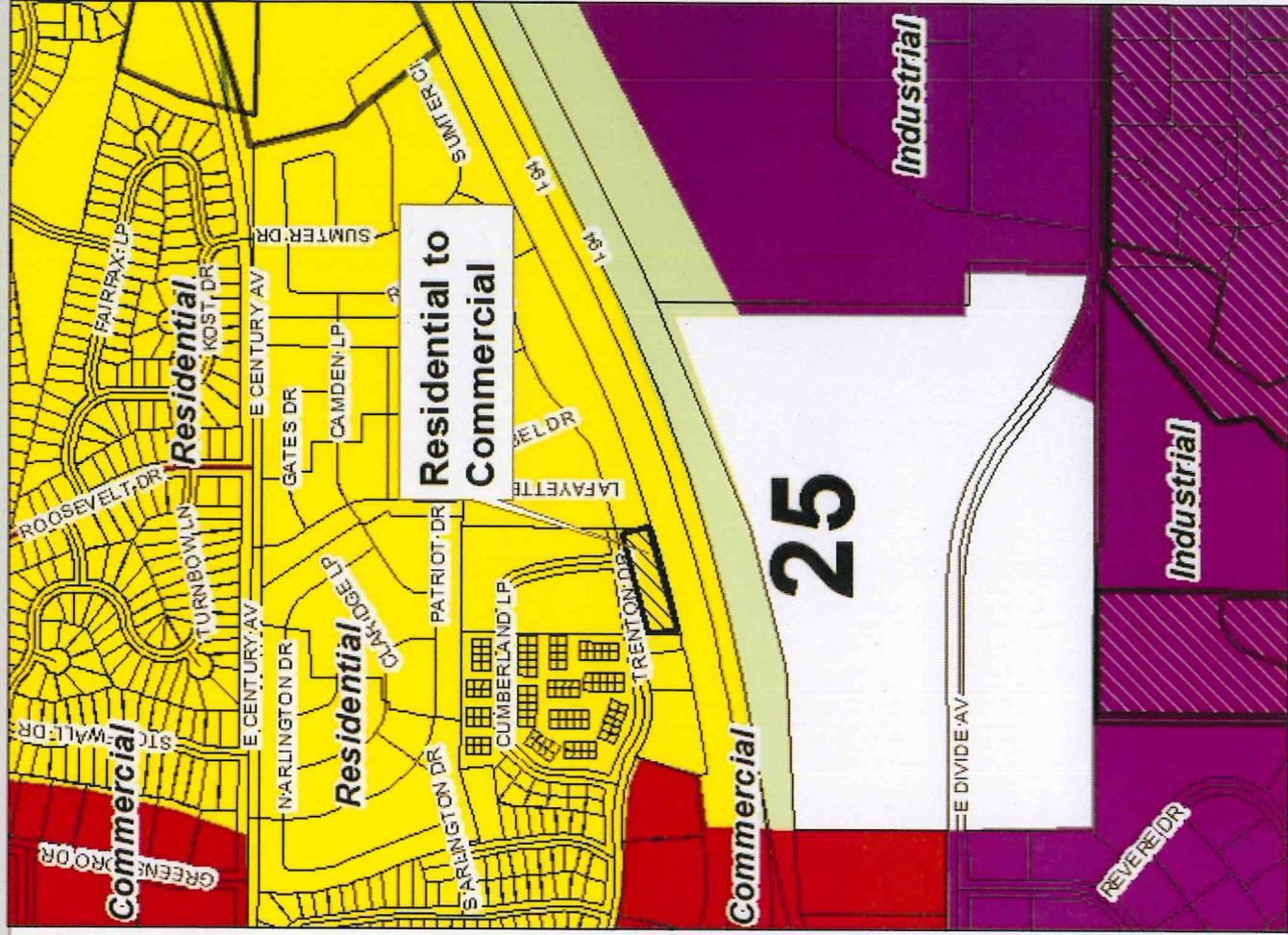
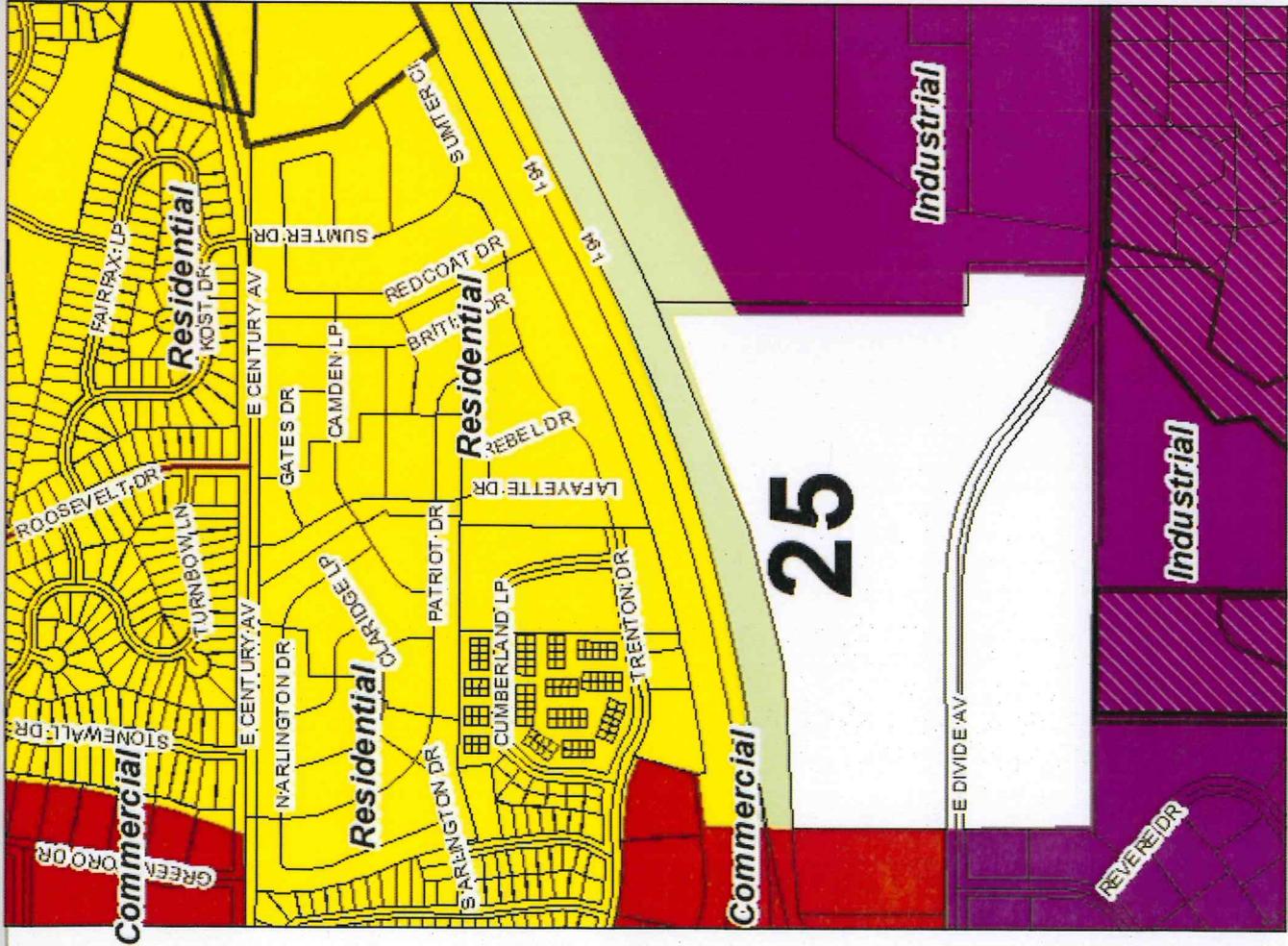


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Map was Updated/Created: December 3, 2013 (r/b)

Source: City of Danvers



Land Use Plan Amendment - Lot 4, Block 1, Trenton Addition



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LAND USE PLAN AMENDMENT PROCEDURE

The City of Bismarck's Land Use Plan is comprised of the future land use components of the US Highway 83 Corridor Transportation Study, the Bismarck–Mandan Regional Land Use Plan and the South 12th Street Watershed Storm Water Management and Land Use Master Plan. The US Highway 83 Corridor Transportation Study was received by the Bismarck Planning and Zoning Commission on March 22, 2006 and by the Board of City Commissioners on March 28, 2006. The Bismarck-Mandan Regional Land Use Plan was adopted by the Bismarck Planning and Zoning Commission on July 25, 2007 and by the Board of City Commissioners on August 14, 2007. The South 12th Street Watershed Storm Water Management and Land Use Master Plan was received by the Board of City Commissioners on February 12, 2008.

Taken together, the future land use components of these three documents are classified as the Land Use Plan (LUP) for the City of Bismarck. Although these land use plans are conceptual in nature and are not intended to dictate the exact location of various land uses, the future land uses identified in these documents need to be taken into consideration when evaluating requests for zoning changes. With the adoption of these documents, developers will be required to request zoning that is generally consistent with the identified future land use or request an amendment to the Land Use Plan in conjunction with the zoning change. The City may also initiate amendments to the Land Use Plan if there is a change in conditions since a particular portion of the plan was adopted.

Unless the amendment is initiated by the City, a written request from the developer outlining the need and rationale for the amendment must be submitted, along with a copy of the map from the applicable document showing the proposed change. A LUP amendment request will only be accepted in conjunction with a request for a zoning change. In addition, if property not under the control of the developer will be directly impacted by the proposed amendment, written concurrence from the impacted property owners, including owners across section lines if a land use classification is proposed at the edge of the section, will be required.

The Bismarck Planning & Development Department has established a procedure for amending the Land Use Plan, which includes both formal amendments and administrative amendments.

A formal amendment shall be required if:

- a. The boundary between land use classifications is to be moved more than 660 feet (1/8 mile);
- b. A completely new land use classification is being introduced;
- c. A proposed land use classification is being eliminated; or
- d. The relationship of one or more land use classifications to the proposed roadway system is being impacted, such as a land use classification being extended across the roadway location when it is currently shown as stopping at the roadway location.

All other amendments will be considered minor amendments and will be made administratively.

A formal amendment will require both consideration and a public hearing at the Planning and Zoning Commission level, as well as consideration and a public hearing at the Board of City Commissioners level. A notice of public hearing will be published in the Bismarck Tribune once per week for two weeks prior to each meeting. The proposed LUP amendment will also be mailed to adjacent property owners, which is distributed no less than ten days prior to the public hearing at the Planning and Zoning Commission. If the amendment is approved by the Board of City Commissioners level, a resolution amending the LUP will be adopted.

Upon adoption of the resolution, the digital version of the LUP maintained by the GIS Division will be modified and a paper copy of the amendment will also be placed in the official copy of the LUP maintained by the City. A copy of the formal LUP amendment will also be forwarded to all interested parties included on the distribution list.

Administrative amendments will be made by staff and will not require a public hearing process or a resolution by the Board of City Commissioners. However, administrative amendments will be incorporated into the digital version of the LUP maintained by the GIS and a paper copy of the amendment will be placed in the official copy of the LUP maintained by the City. A copy of the minor LUP amendment will also be forwarded to all interested parties included on the distribution list.

In approving an amendment to the Land Use Plan, the City shall make the following findings:

1. The proposed change in the Land Use Plan is compatible with adjacent land uses;
2. The proposed Land Use Plan amendment reflects a change in conditions since the Land Use Plan was established or results in an improved Land Use Plan which better responds to the needs of the community;
3. The City and other agencies will be able to provide necessary public services, facilities and programs to serve the development allowed by the Land Use Plan at the time the property is developed;
4. The proposed Land Use Plan amendment will not adversely affect property in the immediate vicinity;
5. The proposed Land Use Plan is consistent with the other aspects of the master plan, other adopted plans, policies and planning practice; and
6. The amendment to the Land Use Plan is in the public interest and is not solely for the benefit of a single property owner.

**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

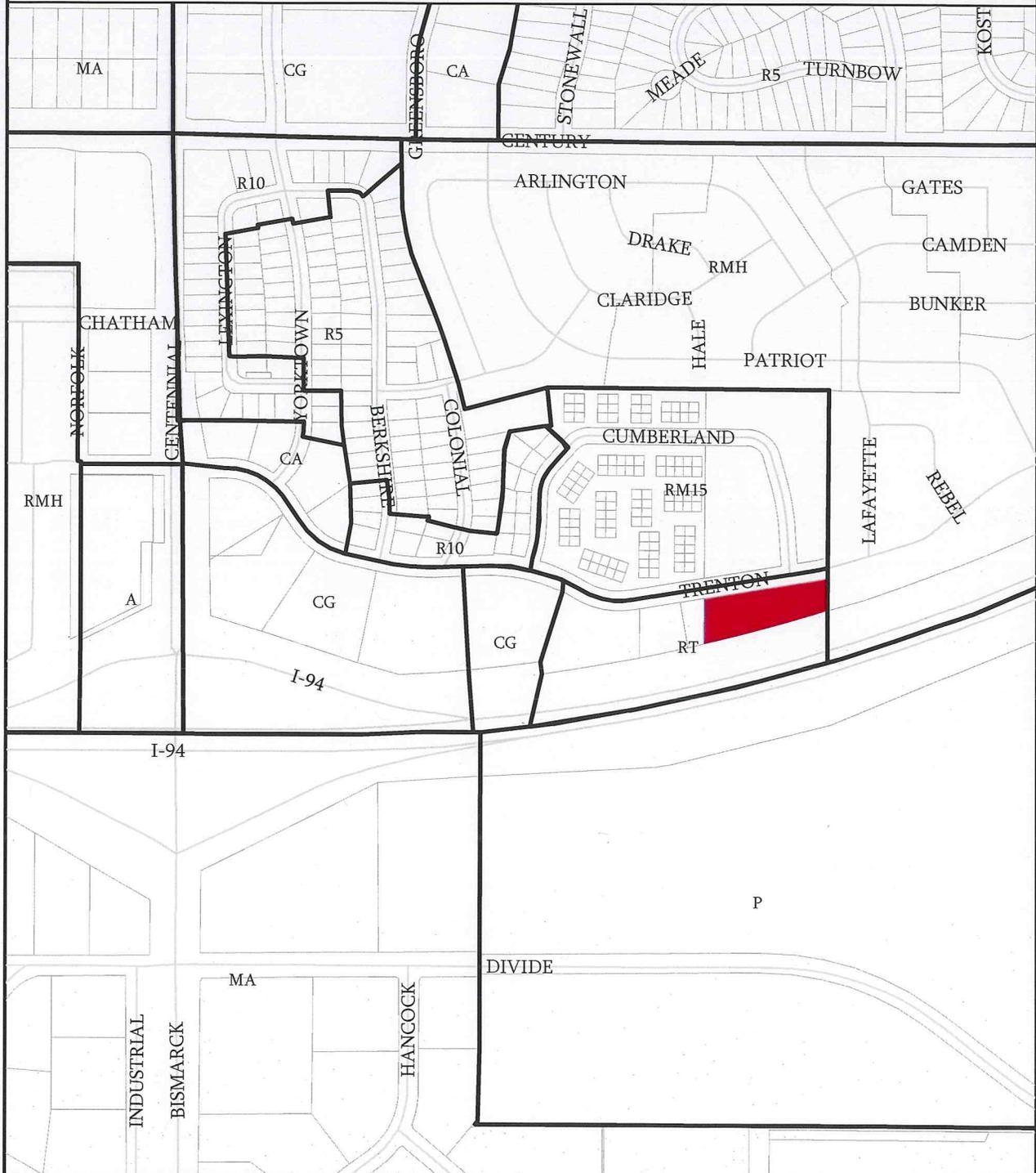
BACKGROUND:		
Title: Trenton Addition – Zoning Change (RT to CG)		
Status: Planning Commission – Consideration	Date: January 22, 2014	
Owner(s): Mark Payne & John Holt (owner) Les Kern (applicant)	Engineer: Swenson, Hagen & Co.	
Reason for Request: Rezone property to allow for commercial development.		
Location: In northeast Bismarck, south of Trenton Drive and north of Interstate 94, approximately ½ mile east of Centennial Road.		
Project Size: 79,112 square feet	Number of Lots: 1 lot in 1 block	
EXISTING CONDITIONS:		
Land Use: Undeveloped	PROPOSED CONDITIONS:	
Zoning: RT – Residential	Land Use: General commercial uses	
	Zoning: CG – Commercial	
Uses Allowed: RT – Multi-family residential and offices	Uses Allowed: CG – General commercial uses	
Maximum Density Allowed: RT – 30 units/acre	Maximum Density Allowed: CG – 42 units/acre	
PROPERTY HISTORY:		
Zoned: 04/2013	Platted: 04/2013	Annexed: 04/2013
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> In conjunction with the plat of Trenton addition, a request for a Land Use Plan Amendment to extend the commercial land use designation approximately 2,100 feet east from Centennial Road and a request for a zoning change to the Conditional CG – Commercial zoning district for the lots adjacent to and west of this request (Lots 1-3, Block 3) were denied by the Planning and Zoning Commission on September 26, 2012. 		
FINDINGS:		
<ol style="list-style-type: none"> The proposed zoning change is not consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan). An amendment to the commercial land use designation which would support this zoning change has been requested. The proposed zoning change would not be compatible with adjacent land uses. Adjacent land uses include Interstate 94 to the south, undeveloped RT zoned property to the west, developing RM15-zoned property to the north, and low density single-family manufactured home park (Century Park) to the east. 		
<i>(continued)</i>		

3. The property is already annexed; therefore, the zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change would adversely affect property in the vicinity. In particular, the introduction of general commercial uses on this property approximately 2,500 feet east of Centennial Road and the amount of traffic potentially generated by those uses would adversely affect the existing low-density residential development on the north side of Trenton Drive and the single-family manufactured home park (Century Park) to the east.
5. The proposed zoning change is not consistent with the general intent and purpose of the zoning ordinance. In particular, the zoning ordinance discourages incompatible uses in close proximity to one another without the use of transitional zoning and/or landscape buffers.
6. The proposed zoning change is not consistent with the master plan, other adopted plans, policies and accepted planning practice. In particular, introducing the commercial zoning district is contrary to the concepts of transitional zoning and buffers. given the fact that there would no longer a zoning transition between the low density residential area on the north side of Trenton Drive and the single-family manufactured park (Century Park) to the east of the proposed request

RECOMMENDATION:

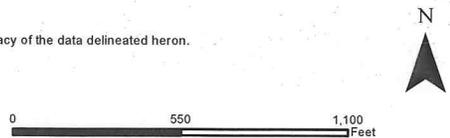
Based on the above findings, staff recommends scheduling a public hearing with the understanding that staff will recommend denial of the zoning change from the RT-Residential zoning district to the CG – Commercial zoning district on Lot 4, Block 1, Trenton Addition.

Proposed Zoning Change (RT to CG) Lot 4, Block 1, Trenton Addition

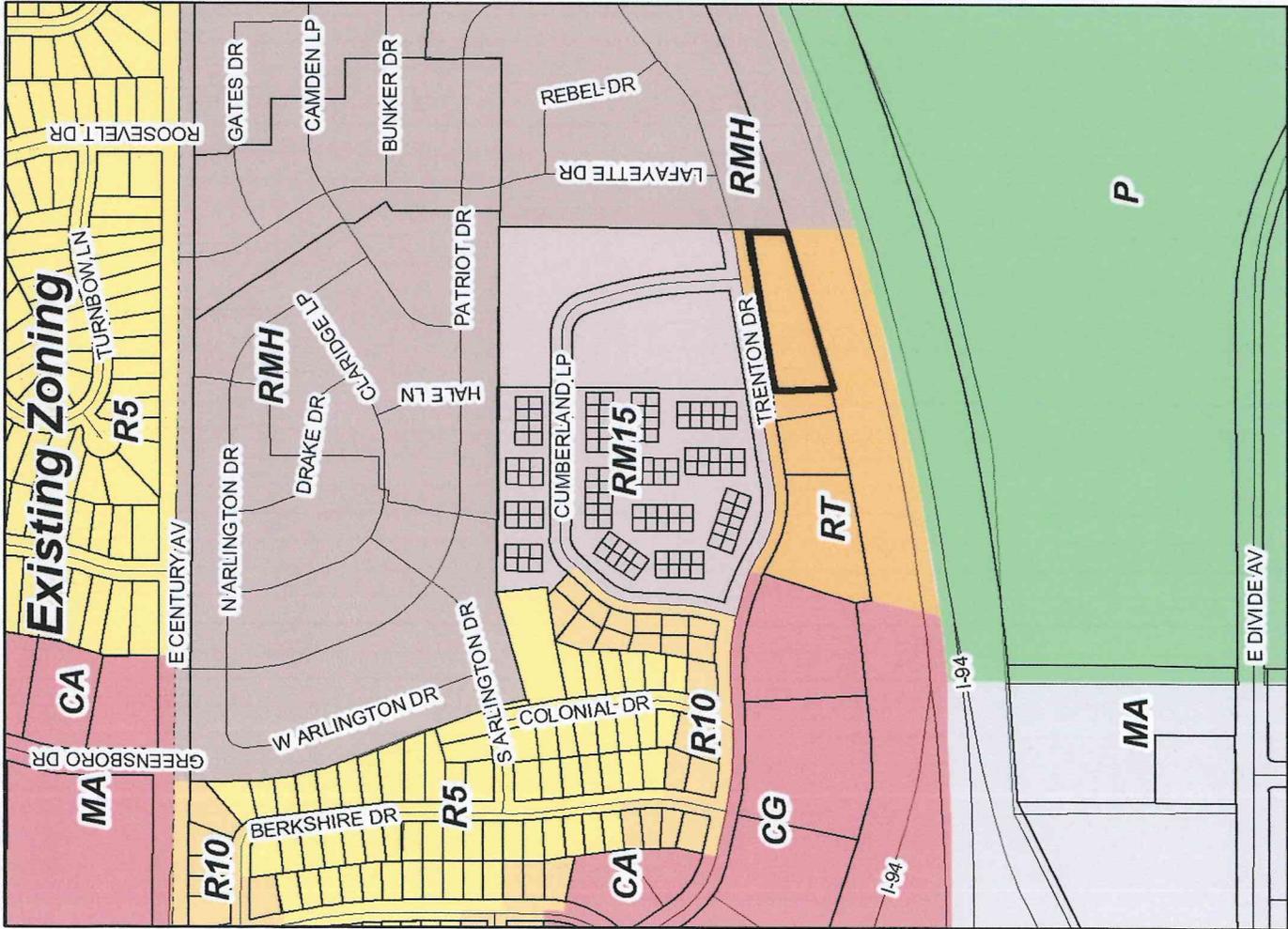


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Map was Updated/Created: December 5, 2013 (hib)

Source: City of Bismarck



Lot 4, Block 1, Trenton Addition - Zoning Change



**FINAL CONSIDERATION – ANNEXATION
PUBLIC HEARING – LAND USE PLAN AMENDMENT OF THE NW¼ OF SECTION
25, T139N-R80W/HAY CREEK, ZONING CHANGE (A, R5 & R10 TO RM15, RT &
CONDITIONAL CG) AND FINAL PLAT
TRENTON ADDITION**

Chairman Yeager called for the final consideration for the annexation and public hearing for the Land Use Plan amendment from the residential land use classification to the commercial land use classification for part of the NW¼ of Section 25, T139N-R80W/Hay Creek Township; the zoning change from the A-Agricultural, R5-Residential and R10-Residential zoning districts to the RM15-Residential, RT-Residential and Conditional CG-Commercial zoning districts; and final plat for Trenton Addition. The property is 138 lots in three blocks containing 28.82 acres and is located along an extension of Trenton Drive east of Centennial Road between I-94 and East Century Avenue (Tracts 1, 2 and 3 in the N½ of the NW¼ of Section 25, T139N-R80W/Hay Creek Township and a replat of Lots 1-6, Block 8, Centennial Park 4th Addition).

Ms. Lee provided an overview of the request and listed the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the subdivision at the time the property is developed.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of Title 14 of the City Code of Ordinances.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.
5. The storm water management plan for the final plat of Trenton Addition has not yet been approved by the City Engineer.

Ms. Lee then listed the following findings for the Land Use Plan amendment:

1. The proposed amendment to the Land Use Plan would not be compatible with adjacent land uses. In particular, the proposed amendment would extend the commercial land use classification approximately 2,200 feet east of Centennial Road into an area with existing low density uses along the north side of Trenton Drive.
2. The proposed Land Use Plan amendment does not reflect a change in conditions since the Land Use Plan was established, nor would it result in an improved Land Use Plan which better responds to the needs of the community.
3. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the Land Use Plan at the time the property is developed.

4. The proposed Land Use Plan amendment may adversely affect property in the vicinity. In particular, the extension of general commercial uses on the south side of Trenton Drive and the amount of traffic potentially generated by those uses would adversely affect the existing low-density residential development on the north side of Trenton Drive.
5. The proposed Land Use Plan amendment is not consistent with the other aspects of the master plan, other adopted plans, policies and planning practice.

Ms. Lee then listed the following findings for the zoning change:

1. The residential portions of the proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan). The commercial portion of the proposed zoning change would not be consistent with the Land Use Plan.
2. The residential portions of the proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include I-94 to the south, single-family residential and undeveloped R5, R10 and RM30 zoned property to the west, and Century Park manufactured home park to the north and east. The commercial portion of the zoning change would not be compatible with adjacent land uses.
3. The property would be annexed prior to development; therefore, the zoning change would not place an undue burden on public services and facilities.
4. The residential portions of the proposed zoning change would not adversely affect property in the vicinity; however, the commercial portion of the proposed zoning change may adversely affect property in the vicinity. In particular, the extension of general commercial uses on the south side of Trenton Drive approximately 2,200 feet east of Centennial Road and the amount of traffic potentially generated by those uses would adversely affect the existing low-density residential development on the north side of Trenton Drive.
5. The residential portions of the proposed zoning change are consistent with the general intent and purpose of the zoning ordinance; however, the commercial portion of the proposed zoning change is not consistent with the general intent and purpose of the zoning ordinance. In particular, the zoning ordinance discourages incompatible uses in close proximity to one another without the use of transitional zoning and/or landscape buffers.
6. The residential portions of the proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; however, the commercial portion of the proposed zoning change is not consistent with the master plan, other adopted plans, policies and accepted planning practice. In particular, given the fact that there is no longer a zoning transition between the single-family residential

area on the north side of Trenton Drive and the commercial area on the south side of Trenton Drive, expanding the existing commercial area further to the east is contrary to the concepts of transitional zoning and buffers.

Ms. Lee then listed 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 proposed subdivision is outside of the area included in the Fringe Area Road Master Plan.
4. The proposed subdivision would be compatible with adjacent land uses, provided the landscape buffer shown on the plat is installed in accordance with the provisions of Section 14-03-11 (Landscaping and Screening) in conjunction with site development. Adjacent land uses include I-94 to the south, single-family residential and undeveloped R5, R10 and RM30 zoned property to the west, and Century Park manufactured home park to the north and east.
5. The property would be annexed prior to development; therefore, the subdivision would not place an undue burden on public services and facilities.
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.
8. The proposed subdivision is consistent the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said based on the above findings, staff recommends continuing action on the annexation, the Land Use Plan amendment, the zoning change and final plat for Trenton Addition, until the storm water management plan for the final plat is approved by the City Engineer.

Chairman Yeager called for final consideration for the annexation and opened the public hearing for the Land Use Plan amendment from the residential land use classification to the commercial land use classification for part of the NW¼ of Section 25, T139N-R80W/Hay Creek Township; the zoning change from the A-Agricultural, R5-Residential and R10-Residential zoning districts to the RM15-Residential, RT-Residential and Conditional CG-Commercial zoning districts; and final plat for Trenton Addition.

Dave Patience, with Swenson Hagen & Co., explained that the delay with the storm water management plan is with the Federal Highway Administration because of the concern with how run off from the watershed can be dumped into the Interstate from the proposed plat. He went on

to say that an agreement can be made because Swenson, Hagen & Co. has to meet the requirements of the Federal Highway Administration and City Engineering, but it will take another week. Mr. Patience added that he would hate to see this plat delayed another month and miss the rest of the construction year and understands that it cannot be forwarded to the Board of City Commissioners until the storm water management plan is approved.

Commissioner Bullinger commented because the plat would be draining into the NDDOT right-of-way, the City must wait to approve the storm water management plan until the NDDOT has reviewed and approved the proposal. The Engineering Department does not have the Department of Transportation's approval at this time. He went on to say that the conceptual drawing provided by Swenson, Hagen & Co. showing several detention ponds to capture the runoff from the proposed development appears to meet the requirements.

Harley Swenson stated that he owns the eight lots that are west of Cumberland Drive and he had a long discussion with the Highway Department and was told that the City of Bismarck sets the rules and if the City of Bismarck approves a storm water management plan, the Highway Department will approve also it. (*Secretary's Note: After the meeting, clarification was provided by the NDDOT indicating that the NDDOT does in fact have to approve the proposal if flows into the NDDOT right-of-way are modified.*) Mr. Swenson said that if this plat is not approved, he will remove his lots from it so he can start building something this year, as his lots that are already platted. He concluded by saying he hopes the City Planning & Zoning Commission will approve the plat with the condition that the storm water manage plan be approved by the City Engineer.

Ms. Lee said that if the City Planning & Zoning Commission decides to approve the final plat with the condition that it will not be forwarded to the Board of City Commissioners until the storm water management plan has been approved by the City Engineer, then staff recommends approval of the annexation as presented; denial of the Land Use Plan amendment from the residential land use classification to the commercial land use classification for part of the NW¼ of Section 25, T139N-R80W/Hay Creek Township on the south side of Trenton Drive; approval of the zoning change from the A-Agricultural, R5-Residential and R10-Residential zoning districts to the RM15-Residential and RT-Residential zoning districts and denial of the Conditional CG-Commercial zoning district for the property south side of Trenton Drive; and approval of the final plat with the understanding the buffer yard of the northern and eastern edges of the plat is installed in conjunction development of the underlying Lot 4, Block 1 and Lots 1 & 2, Block 3, Trenton Addition.

Chairman Yeager closed the public hearing.

MOTION: Commissioner Armstrong made a motion to approve the annexation; deny the Land Use Plan Amendment request; approve the zoning change from the A-Agricultural, R5-Residential and R10-Residential zoning districts to the RM15-Residential and RT-Residential zoning districts; and approve the final plat titled Trenton Addition, with the condition that the storm water management plan for the final plat be approved by the City Engineer before any items are forwarded to the Board of City Commissioners. Commissioner Laning seconded the motion

with Commissioners Armstrong, Bullinger, Juhala, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion and Commissioner Schwartz voting against. The motion passed 9 to 1.

(The zoning change to the Conditional CG-Commercial zoning district for Lots 1-3, Block 1 was not approved as requested, but was approved as the RT-Residential zoning district.)

CITY OF BISMARCK Ordinance No. XXXX

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

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-10 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO OFF-STREET PARKING AND LOADING.

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

Section 1. 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 to read as follows:

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

1. Off-street parking. Except as provided elsewhere in this section, 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 improvement or use, a site plan showing the required space designated as being reserved for off-street parking purposes to be provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided. Each required parking space shall be of an area at least nine (9) feet wide and eighteen (18) feet in length, in addition to the ingress and egress driveways required. All off-street parking spaces required and all driveways on private property leading to such parking areas shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock or gravel shall not be considered an acceptable surfacing material. All parking areas containing four (4)

or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement. The number of off-street parking spaces shall be provided on the basis of the following minimum requirements:

* * * * *

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

1) In a RT, CA, ~~CB,~~ CG, CR commercial and MA industrial district - Off-street parking shall be provided in an amount equivalent to one space for each two hundred (200) square feet of gross floor space area on the ground floor, plus one space for each three hundred (300) square feet of gross floor area in a basement or any story above the ground floor; except that a furniture store shall have one space for each six hundred square feet of gross floor area.

2) ~~In a CR commercial zone~~ In a CA, CG, CR commercial and MA industrial district for a multi-tenant shopping center with a minimum of 30,000 square feet of leasable area and a minimum of five tenants - Off-street parking shall be provided in an amount equivalent to ~~five~~ 5.0 spaces per ~~thousand~~ one space for each two hundred fifty (250) square feet of gross leasable area, provided the area of all assembly uses within the shopping center do not exceed twenty-five (25) percent of the total 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.

* * * * *

13. Mixed uses. In the case of mixed uses, except as provided for in subsection 1(h)(2) of this section for a multi-tenant shopping center, the total requirements for off-street parking and off-street loading space shall be the sum of the requirements of the various uses computed separately as specified in subsections 1 and 2 of this

section, and the off-street parking and off-street loading space for one use shall not be considered as providing the required off-street parking or off-street loading space for any other use.

* * * * *

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage and adoption.

CITY OF BISMARCK Ordinance No. 60XX

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

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-01-06, 14-06-03 and 14-07-02 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.) BY AMENDING THE SECTIONS RELATING APPEAL PROCESS OF THE COMMISSION, APPEAL PROCEDURE AND PROCEDURE.

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

Section 1. Amendment. Section 14-01-06 relating to Appeal Process of Commission (Planning and Zoning Commission) is hereby amended and re-enacted as follows:

14-01-06. Appeal Process of Commission. Any final decision of the city planning and zoning commission may be appealed to the city commission by either the aggrieved applicant or the applicant's agent or by any officer, department, board, or bureau of the city. Notice of appeal in writing shall be delivered to the office of the city administrator or other designated official to the community development department within 10 calendar days of the city planning and zoning commission's decision. A hearing shall be set before the city commission within 30 days of the receipt of the notice of appeal unless otherwise agreed by the applicant.

1. For an appeal from the denial of a zoning change ordinance or a zoning ordinance text amendment or for any item requiring a public hearing at the city commission, the hearing on appeal will only consider the question of whether or not to reverse the decision of the planning and zoning commission, introduce the ordinance, if necessary, and call for a public hearing on the zoning change ordinance, text amendment ordinance or other item requiring

a public hearing. At the hearing, only the aggrieved applicant or their representative, a person entitled to receive mailed written notice of the application or an officer, department, board or bureau of the city may argue for or against the appeal. No new evidence may be presented and the review is limited to the record as received from the planning and zoning commission and the arguments at the hearing.

2. After the hearing, the city commission shall decide the appeal on its merits and shall issue its written decision containing its findings and an appropriate order. The written decision shall be issued within 10 calendar days of the close of the hearing. If the City Commission decides to reverse the decision of the planning and zoning commission and call for a public hearing and second reading on the ordinance zoning change ordinance, the zoning ordinance text amendment, or any other item requiring a public hearing, a hearing will be set for a date that allows the public hearing to be appropriately noticed pursuant to the North Dakota Century Code and this code of ordinances. The written decision shall be issued within 10 days of the close of the hearing.

3. At the public hearing resulting from an appeal shall be conducted in accordance with Section 14-07-02(6-8)., each party may present evidence consisting of sworn testimony and exhibits introduced through sworn testimony, in any order deemed sufficient by the city commission so long as each party is given a full opportunity to be heard. After the hearing, the city commission shall decide the issue on its merits and shall issue its written decision containing its findings and an appropriate order. The written decision shall be issued within 10 days of the close of the hearing.

4. For all appeals from the denial of a request prior to a public hearing at the planning and zoning commission, the hearing on appeal will only consider whether or not to require a public hearing or further action at the planning and zoning commission and shall be conducted pursuant to paragraphs 1 and 2 of this section. The action of the city commission regarding the appeal is limited to denying the appeal and upholding the planning and zoning commission or reversing the planning and zoning commission and sending

the matter back to the planning and zoning commission for further action.

5. For all other appeals from a final decision of the planning and zoning commission for which the decision of the city commission will be final, the hearing shall be conducted according to Section 14-07-02(6-8).

A final decision of the city commission on an appeal from a decision of the planning and zoning commission may be appealed to the district court in the manner provided in NDCC Section 28-34-01.

*Reference: NDCC Sec. 40-47-01.1, Home Rule Charter for the City of Bismarck, Article 3, Section 11.
(Ord. 4486, 04-27-93; Ord. 4501, 04-27-93; Ord. 5446, 07-26-05)*

Section 2. Amendment. Section 14-06-03 relating to Appeal Procedure (Board of Adjustment) 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 aggrieved applicant, including 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 at the community development department, 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, that by reason of facts stated in the certificate a stay would, in his 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 to the appeal 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.

3. Appeal to the Board of City Commissioners. A decision of the board of adjustment may be appealed to the board of city commissioners by either the aggrieved applicant or by any officer, department, board, or bureau of the city by filing, within fifteen (15) calendar days after notice of the decision, with the office of the city auditor ~~auditor~~ administrator or the community development department, a notice of appeal pursuant to the provisions of section 40-47-11, NDCC. The board of city commissioners shall fix a time, within thirty days, for the hearing of the appeal and shall give due notice of the hearing to the parties. The appeal shall be decided within a reasonable time. Any party to the appeal may appear in person or by agent or by attorney at the hearing of the board of city commissioners on the appeal. The board of city commissioners may reverse or affirm the decision of the board of adjustment, in whole or in part, or may modify the order, decision or determination appealed.

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

Section 3. Amendment. Section 14-07-02 relating to Procedure is hereby amended and re-enacted as follows:

14-07-02. Procedure.

1. Initiation of Amendments. Amendments to the zoning ordinance shall be initiated only in the following manner:

- a. Amendments to the text of the ordinance and/or changes in the zoning boundaries or

classification of properties shown on the zoning map may be initiated by the board of city commissioners or the planning commission.

b. Amendments to the zoning boundaries or classification of property shown on the zoning map may be initiated by property owners of the land proposed to be rezoned, by the filing with the planning commission secretary of a zoning change application, which application shall be provided by the planning commission secretary, and accompanied by the applicable fee and all other materials and data required in said application.

2. Application for Amendment.

a. The zoning change application shall be completed and filed by all owners of the property proposed to be changed, or his/their designated agent.

b. The zoning change application shall be submitted to the Director of Community Development by the specified application deadline and on the proper form and shall not be accepted by the Director of Community Development unless and until all of the application requirements of this section have been fulfilled.

3. Preliminary Consideration by Planning Commission. The planning commission secretary, upon the satisfactory fulfillment of the zoning change application and requirements contained herein, shall schedule the requested amendment for a regular or special meeting of the planning commission, but in no event later than sixty (60) calendar days following the filing and acceptance of the application. The planning commission may approve and call for a public hearing on the request, deny the request or table the request for additional study.

4. Public Hearing by Planning and Zoning Commission. Following preliminary approval of a zoning change application, the Director of Community Development shall set a time and place for a public hearing thereon. Notice of the time and place of holding such public hearing shall be published in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive

weeks prior to the hearing. Not less than ten (10) days prior to the date of the scheduled public hearing, the City shall attempt to notify all known adjacent property owners within three hundred (300) feet of the proposed zoning change. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Burleigh County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The Planning and Zoning Commission may approve, approve subject to certain stated conditions being met, deny or table the application for further consideration and study.

5. Planning and Zoning Commission Recommendations. Following approval by the Planning and Zoning Commission after the public hearing, the Director of Community Development shall forward the proposed amendment to the Board of City Commissioners together with the Planning and Zoning Commission's recommendation and a report fully setting forth the reasons for such recommendation. If the Planning and Zoning Commission denies the request, the proposed amendment shall not be forwarded to the Board of City Commissioners unless appealed pursuant to Section 14-01-06.

6. Board of City Commissioners' Actions. Upon receipt of the Planning Commission's recommendation and report, the Board of City Commissioners shall consider the proposed amendment and, if they agree, schedule a public hearing on same within ninety (90) days following the time said recommendation and report were first received by the Secretary to the Board of City Commissioners. Notice of the time and place of holding such public hearing shall first be published in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive weeks prior to the hearing. At the public hearing, each party and other interested persons may present evidence or argument consisting of testimony and exhibits introduced through either sworn or unsworn testimony, as required by the city commission, in any order deemed sufficient by the city commission so long as all interested parties or persons are given a reasonable opportunity to be heard. All of the records of the proceeding before the planning and zoning commission are deemed to be part of the record for this public hearing. The record before the planning and zoning commission transmitted to the city commission

shall become part of the record of the public hearing. A hearing shall be granted to any person interested, and the time and place specified. Following the public hearing on the proposed amendment, the Board of City Commissioners may approve, approve subject to certain stated conditions being met, deny or table the application for further consideration and study by either staff or the planning and zoning commission.

7. Protest. If a protest petition against a change, supplement, modification, amendment or repeal of the zoning ordinance is filed and is signed by owners of twenty (20) per cent or more of the property immediately adjacent and within one hundred fifty (150) feet of the request, excluding street right-of-way widths, the amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the board of city commissioners~~7~~. Otherwise, said amendment shall not be approved or adopted without proceeding anew as in the case of a new amendment.

8. No amendments to the zoning ordinance shall be approved for a change in zoning classification different from the one applied for and contained in the public notice of hearing except that a downzoning may be approved. No amendments to the zoning ordinance shall be approved for a change in zoning classification ~~nor~~ for any land not included therein in the application and the public notice of the hearing without referring said change to the planning commission for its review and recommendations, and proceeding pursuant to subsections (2), (3) and (4) above, provided, however, that an amendment may be approved for only a portion of the area proposed for rezoning if the portion rezoned is accurately and sufficiently delimited in the approval action.

98. Withdrawal of Applications. Any application filed pursuant to subsection (b) of subsection (2) above may be withdrawn upon written request by the applicant any time prior to the submission of any public hearing notice for advertisement; provided, that the request for withdrawal shall be only with the consent of either the planning commission or the board of city commissioners, whichever body has advertised the hearing, or their respective secretaries.

(Ord. 4222, 1-03-89; Ord. 4298, 10-31-89; Ord. 4647, 12-06-94; Ord. 4946, 10-27-98; Ord. 5214, 11-12-02, Ord. 5218, 11-26-02; Ord. 5343, 06-22-04; Ord. 5728, 05-26-09)

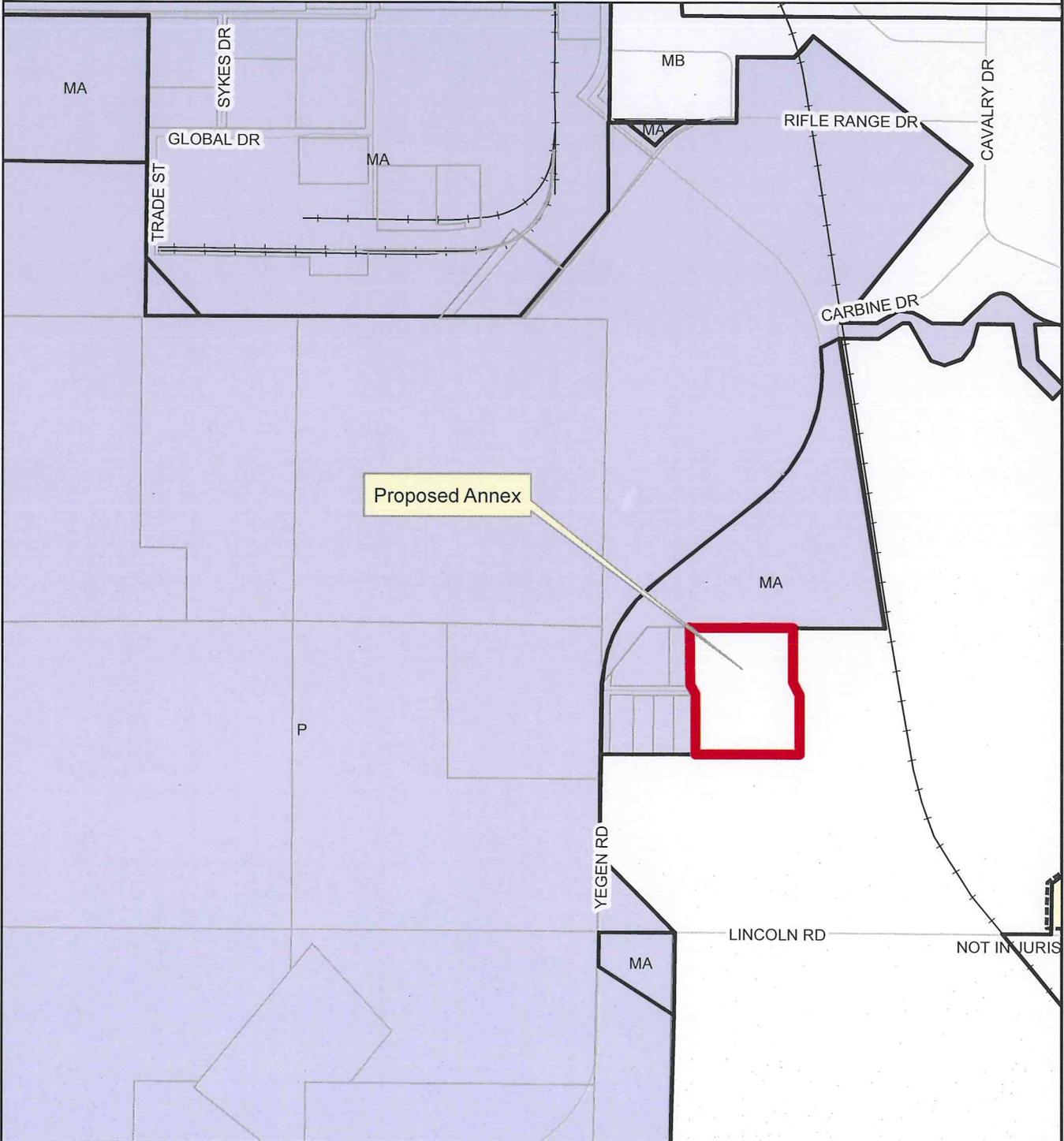
Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect following final passage and adoption.

**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

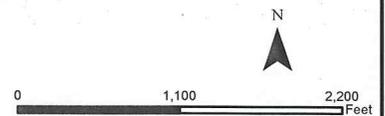
BACKGROUND:		
Title: Hamburg Industrial Park Second Addition – Annexation		
Status: Planning Commission – Final Consideration	Date: January 22, 2014	
Owner(s): Lance Hagen	Engineer: Houston Engineering Company	
Reason for Request: Plat, zone and annex property for second phase of an industrial development.		
Location: In east Bismarck, east of the Bismarck Airport along the east side of Yegen Road, north of the intersection with Lincoln Road (part of the NW¼ of the SW¼ of Section 13, T138N-R80W/Lincoln Township).		
Project Size: 13.2 acres	Number of Lots: 6 lots in 2 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Light industrial	
Zoning: A – Agricultural	Zoning: MA – Industrial	
Uses Allowed: Agriculture	Uses Allowed: Light industrial uses	
Maximum Density Allowed: One unit/40 acres	Maximum Density Allowed: N/A	
PROPERTY HISTORY:		
Zoned: N/A	Platted: N/A	Annexed: N/A
ADDITIONAL INFORMATION:		
1. The storm water management plan for the final plat has not yet been approved by the City Engineer.		
FINDINGS:		
1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation at the time the property is developed.		
2. The proposed annexation would not adversely affect property in the vicinity.		
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.		
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and 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 related annexation for Hamburg Industrial Park Second Addition.		
If the City Engineer approves the storm water management plan for the final plat prior to the public hearing, staff will change its recommendation to:		
Based on the above findings, staff recommends approval of annexation of Hamburg Industrial Park Second Addition.		

Proposed Annexation Hamburg Industrial 2nd 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: October 21, 2013 (hjb)

Source: City of Bismarck



**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: Hamburg Industrial Park Second Addition – Zoning Change (A to MA)		
Status: Planning Commission – Public Hearing	Date: January 22, 2014	
Owner(s): Lance Hagen	Engineer: Houston Engineering Company	
Reason for Request: Plat, zone and annex property for second phase of an industrial development.		
Location: In east Bismarck, east of the Bismarck Airport along the east side of Yegen Road, north of the intersection with Lincoln Road (part of the NW¼ of the SW¼ of Section 13, T138N-R80W/Lincoln Township).		
Project Size: 13.2 acres	Number of Lots: 6 lots in 2 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Light industrial	
Zoning: A – Agricultural	Zoning: MA – Industrial	
Uses Allowed: Agriculture	Uses Allowed: Light industrial uses	
Maximum Density Allowed: One unit/40 acres	Maximum Density Allowed: N/A	
PROPERTY HISTORY:		
Zoned: N/A	Platted: N/A	Annexed: N/A
ADDITIONAL INFORMATION:		
1. The storm water management plan for the final plat has not yet been approved by the City Engineer.		
FINDINGS:		
1. The proposed zoning change is consistent with the Land Use Plan, which identifies the future use of this area as industrial (Bismarck-Mandan Regional future Land Use Plan).		
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include undeveloped agricultural land to the east and south, agricultural and industrial uses to the north and the Bismarck Airport and the first phase of this development to the west.		
3. The subdivision proposed for this property would be annexed prior to development; therefore, it would not place an undue burden on public services and facilities.		
4. The proposed subdivision would not adversely affect the adjacent properties.		
5. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.		
6. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.		

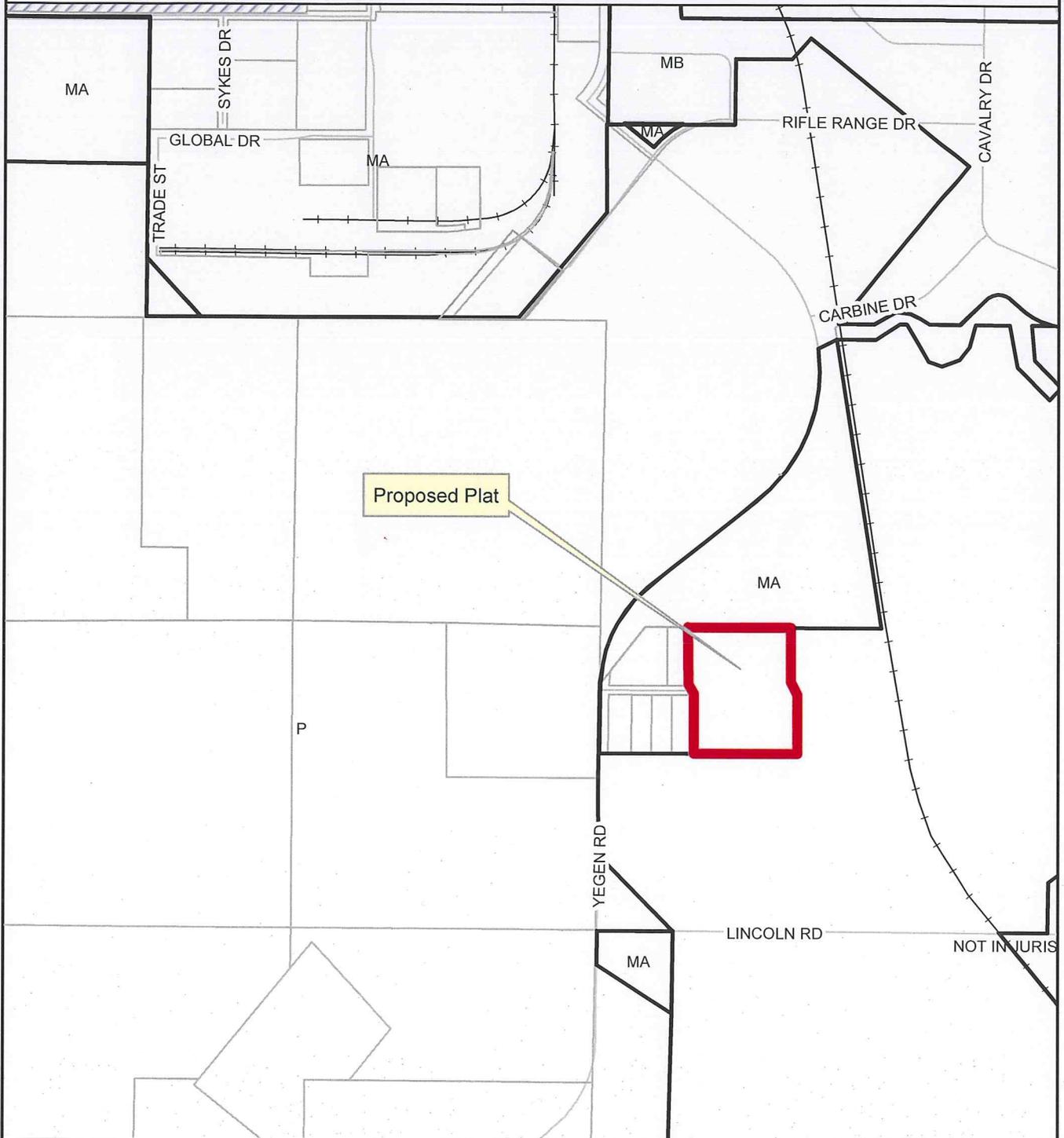
RECOMMENDATION:

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 related zoning change for Hamburg Industrial Park Second Addition.

If the City Engineer approves the storm water management plan for the final plat prior to the public hearing, staff will change its recommendation to:

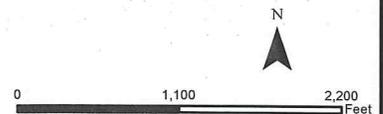
Based on the above findings, staff recommends approval of zoning change from the A – Agricultural zoning district to the MA – Industrial zoning district for Hamburg Industrial Park Second Addition.

Proposed Plat and Zoning Change (A to MA) Hamburg Industrial 2nd 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: October 21, 2013 (hnb)

Source: City of Bismarck



Hamburg Industrial Park Second Addition - Zoning Change



November 2012

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 COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: Hamburg Industrial Park Second Addition – Final Plat		
Status: Planning Commission – Public Hearing	Date: January 22, 2014	
Owner(s): Lance Hagen	Engineer: Houston Engineering Company	
Reason for Request: Plat, zone and annex property for second phase of an industrial development.		
Location: In east Bismarck, east of the Bismarck Airport along the east side of Yegen Road, north of the intersection with Lincoln Road (part of the NW¼ of the SW¼ of Section 13, T138N-R80W/Lincoln Township).		
Project Size: 13.2 acres	Number of Lots: 6 lots in 2 blocks	
EXISTING CONDITIONS:		
Land Use: Undeveloped	PROPOSED CONDITIONS:	
Zoning: A – Agricultural	Land Use: Light industrial	
Uses Allowed: Agriculture	Zoning: MA – Industrial	
Maximum Density Allowed: One unit/40 acres	Uses Allowed: Light industrial uses	
PROPERTY HISTORY:		
Zoned: N/A	Platted: N/A	Annexed: N/A
FINDINGS:		
<ol style="list-style-type: none"> 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 conforms to the Fringe Area Road Master Plan, which identifies Yegen Road as an arterial roadway. 4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include undeveloped agricultural land to the east and south, agricultural and industrial uses to the north and the Bismarck Airport and the first phase of this development to the 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 a cul-de-sac or hammerhead turn-around is provided at the east end of Hagen Drive. 6. The proposed subdivision would not adversely affect the adjacent properties. 7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations. 8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice. 		

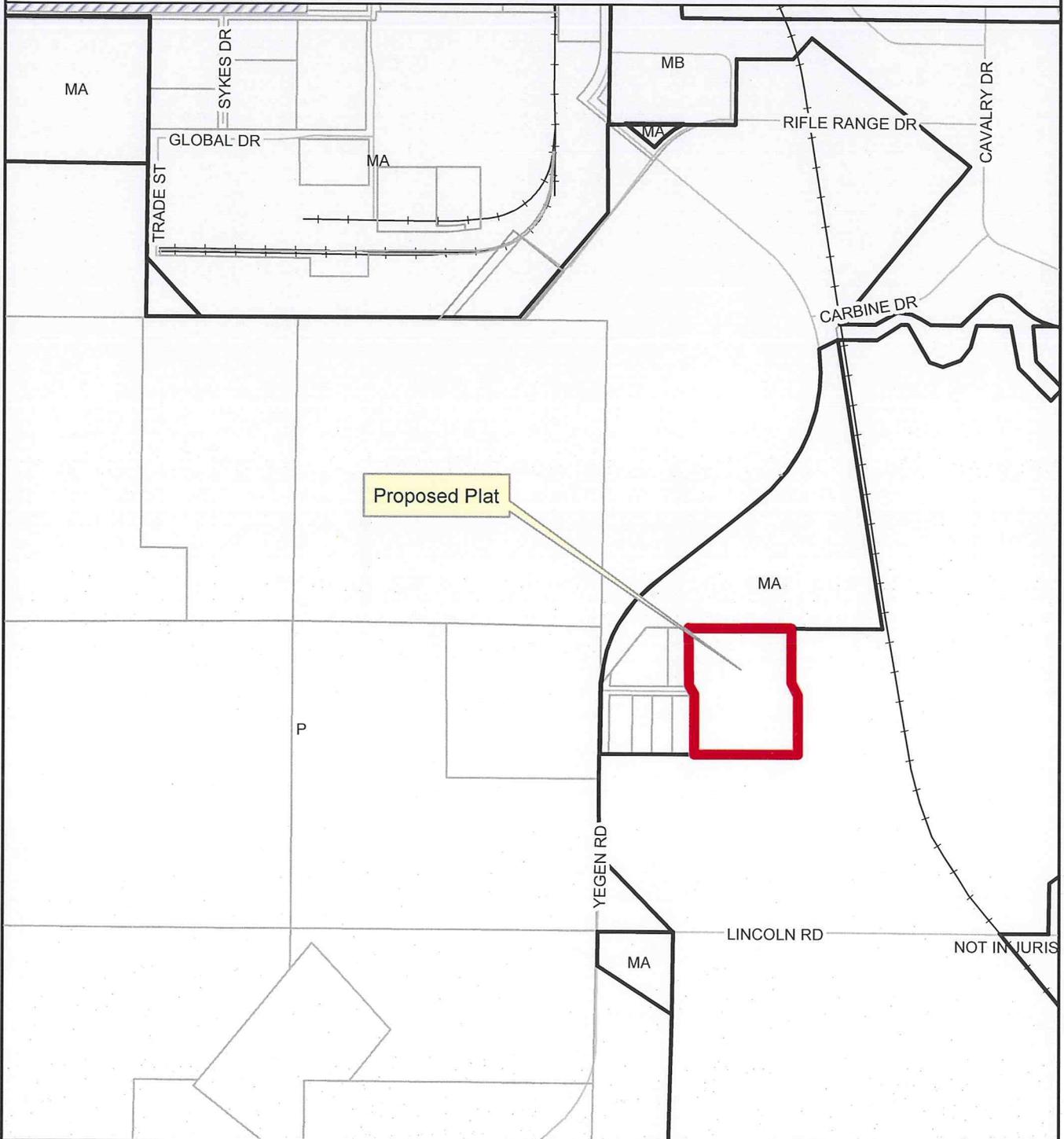
RECOMMENDATION:

Based on the above findings, staff recommends continuing action on the final plat for Hamburg Industrial Park Second Addition.

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

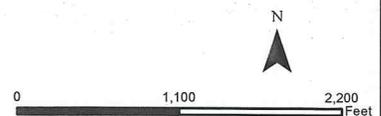
Based on the above findings, staff recommends approval of the final plat for Hamburg Industrial Park Second Addition, provided the required cul-de-sac or hammerhead turn-around at the east end of Hagen Drive is added to the boundary of the final plat or an off-site easement for the turn-around is obtained prior to recording the final plat.

Proposed Plat and Zoning Change (A to MA) Hamburg Industrial 2nd 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: October 21, 2013 (h1b)

Source: City of Bismarck



**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: Kamrose First Addition Replat – Minor Subdivision Final Plat		
Status: Planning Commission – Public Hearing	Date: January 22, 2014	
Owner(s): MK Home Builders, Inc.	Engineer: Swenson, Hagen & Co.	
Reason for Request: Replat the property to allow five 2-unit row houses (Lots 1-10) and a common lot (Lot 11) as a private driveway/access road.		
Location: In southwest Bismarck along the east side of South Washington Street and the north side of Burleigh Avenue (A replat of Lot 1, Block 1, Kamrose First Addition).		
Project Size: 1.91 acres	Number of Lots: 11 lots in 1 block	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Five 2-unit row houses	
Zoning: RM15 – Residential	Zoning: RM15 – Residential	
Uses Allowed: RM15 – Multi-family residential	Uses Allowed: RM15 – Multi-family residential	
Maximum Density Allowed: RM15 – 15 units/acre	Maximum Density Allowed: RM15 – 15 units/acre	
PROPERTY HISTORY:		
Zoned: 09/2013	Platted: 09/2013	Annexed: 06/2007
FINDINGS:		
<ol style="list-style-type: none"> 1. All technical requirements for approval of a minor subdivision final plat have been met. 2. The storm water management plan has not yet been approved by the City Engineer. 3. The property is already annexed; therefore, the proposed subdivision would not place an undue burden on public services and facilities. 4. The zoning for the proposed subdivision is not changing and would continue to be compatible with adjacent land uses. Adjacent land uses include developing single and two-family residential to the north and east, undeveloped multi-family zoned parcels to the south and established single-family residential to the west across South Washington Street. 5. The proposed subdivision would not adversely affect property in the vicinity. 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 the master plan, other adopted plans, policies and accepted planning practice. 		

RECOMMENDATION:

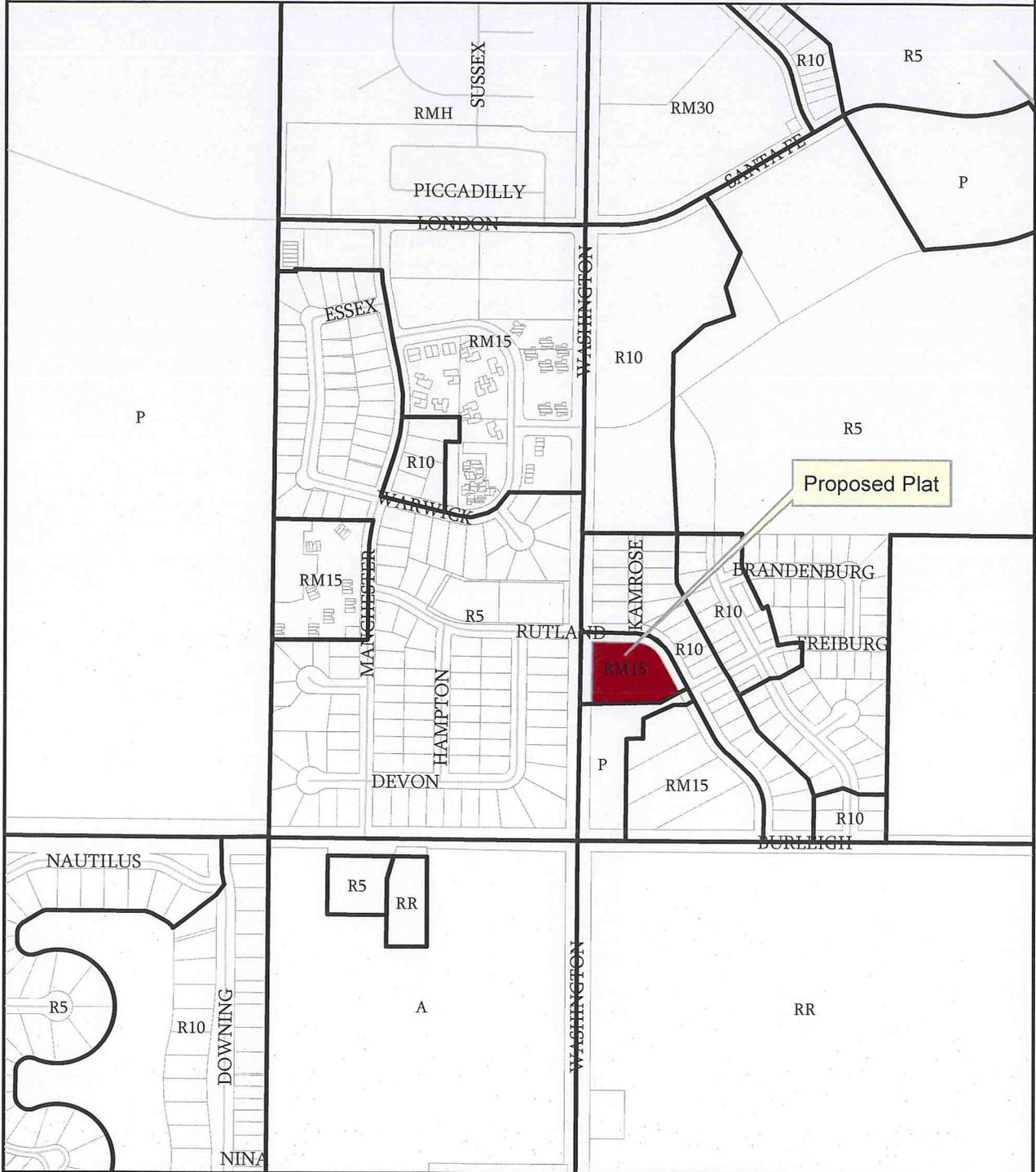
Based on the above findings, staff recommends continuing action on the minor subdivision final plat for Kamrose First Addition Replat.

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

Based on the above findings, staff recommends approval of the minor subdivision final plat for Kamrose Firs Addition Replat with the following condition:

1. Development of the site must generally conform to the site plan submitted with the application; any substantial deviation from the master plan would need to be reconsidered by the Planning & Zoning Commission before implementation.

Proposed Minor Plat Kamrose Addition First Replat



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Map was Updated/Created: December 23, 2013 (hb)

Source: City of Bismarck

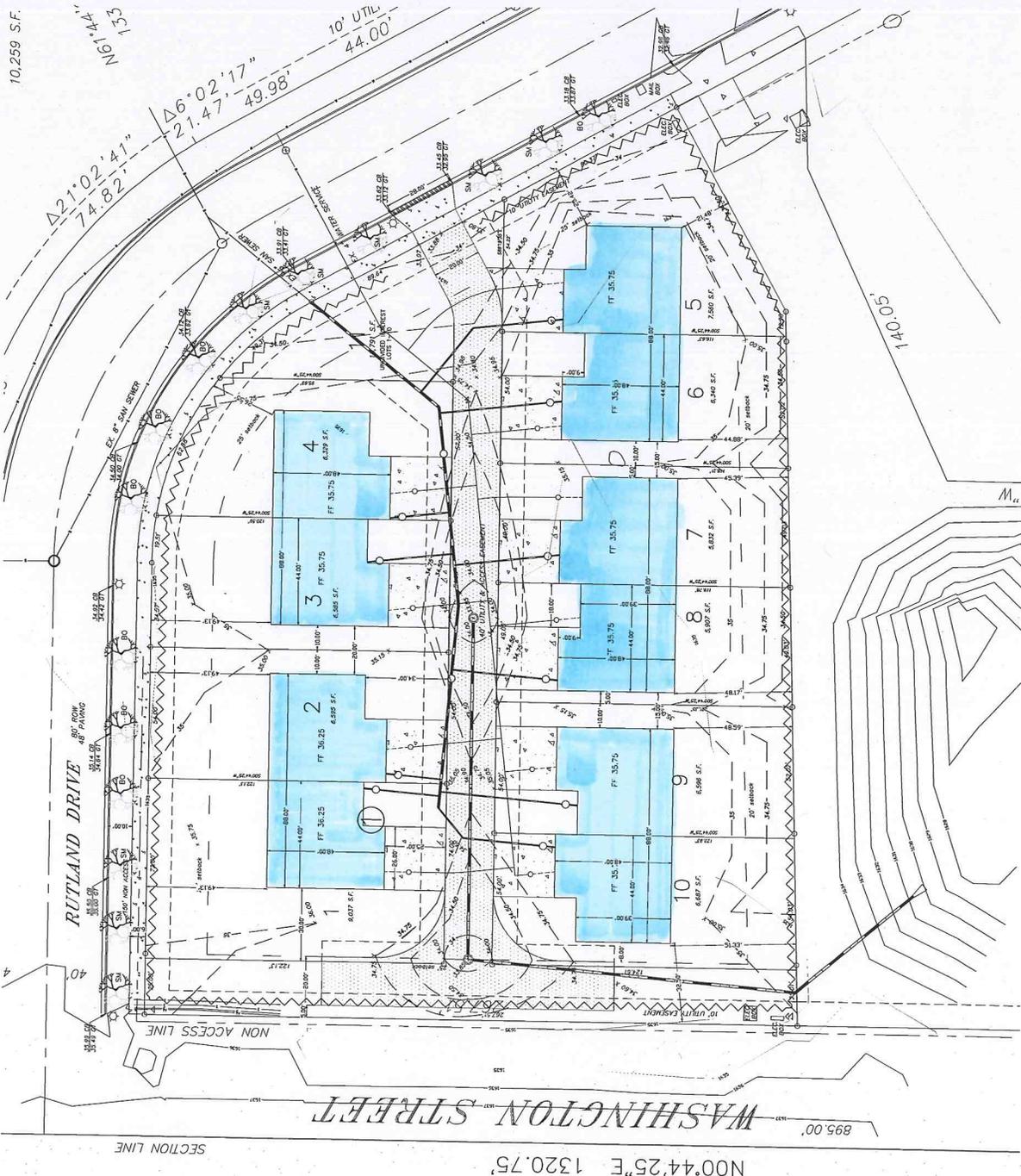


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DEC 2 2013

↑ NORTH

KAMROSE ADDITION FIRST REPEAT - MASTER PLAN



10,259 S.F.

$\Delta 21^{\circ}02'41''$
74.82'
133'

$\Delta 6^{\circ}02'17''$
21.47'
49.98'

10' UTIL.
44.00'

140.00'

WASHINGTON STREET

N00°44'25"E 1320.75'

SECTION LINE

**BISMARCK COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: Lots 1-2, Block 1, Hamilton's First Addition – Zoning Change (PUD to RM15)		
Status: Planning Commission – Public Hearing	Date: January 22, 2014	
Owner(s): Ron Knutson & Attas Boutrous (owners) Michael Baumgartner (applicant)	Engineer: Swenson, Hagen & Co.	
Reason for Request: Rezone the property to allow for a mix of four 12-unit multi-family residential dwellings and five twin homes.		
Location: In northeast Bismarck, along the south side of Calgary Avenue and the east side of Hamilton Street.		
Project Size: 4.96 acres	Number of Lots: 2 lots in 1 block	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Vacant/Undeveloped	Land Use: Four 12-unit multi-family dwellings & four twin homes	
Zoning: PUD – Planned Unit Development	Zoning: RM15 – Residential	
Uses Allowed: PUD – Limited industrial and service uses, wholesale and office uses.	Uses Allowed: RM15 – Multi-family dwellings including apartments, condos and townhouses	
Maximum Density Allowed: PUD – N/A	Maximum Density Allowed: RM15 – 15 units per acre	
PROPERTY HISTORY:		
Zoned: 05/2009	Platted: 05/2009	Annexed: 05/2009
ADDITIONAL INFORMATION:		
<p>1. Planning staff met with the applicant when the proposed project was brought forward. The initial request demonstrated multiple 12-unit apartment buildings and three twin homes on Lot 1; the proposal did not include the eastern lot, Lot 2. Planning staff informed the applicant that the project could not be supported as presented because of potential incompatible land uses on adjacent parcels to the east and south. Planning staff did suggest that the proposed project would be an adequate zoning transition from the west to the east if the project could include Lot 2. This would allow a zoning transition from multi-family dwellings on the west to two-family dwellings on the east. The existing land use to the east includes a single-family residential area would be separated from the multi-family and twin home uses by an existing 6-foot high, 50-foot wide landscaped berm which was installed during the summer of 2011. The additional lot, Lot 2, was later added to the zoning change request and the master plan was amended to include four, 3-story, 12-unit buildings and four twin homes. The proposed configuration of the twin homes has the potential for incompatible land uses. In particular, the undeveloped lot (Lot 3) directly to the south is zoned PUD with limited industrial and service uses, along with wholesale and office uses permitted. There would be some physical separation between the twin homes proposed for the southern portion of Lots 1 & 2 due to an underground pipeline easement; however, the necessary buffer yard between Lots 1-2 and Lot 3 could not be constructed per ordinance requirements because of the pipeline easement. The appropriate landscape buffer between industrial uses and twin homes would be a 50-foot wide, six-foot tall landscaped berm.</p> <p align="right"><i>(continued)</i></p>		

2. The eastern boundary of the property currently has a 6-foot high, 50-foot wide earthen berm with trees and shrubs that were planted in conjunction with the initial development of the PUD. The landscaped berm is a requirement of the current PUD – Planned Unit Development zoning district to help buffer the single-family residential area to the east. The requirements of the Landscaping and Screening Ordinance states, that “The owner, or successors in interest, or agent, if any, shall be responsible for regular maintenance of all landscaping in good condition in a way that presents a healthy, neat and orderly appearance. All landscaping must be maintained free from disease, pests, weeds and litter. This maintenance must include weeding, watering, fertilizing, pruning, mowing, edging, mulching and other maintenance, as needed and in accordance with acceptable horticultural practices. Dead plants must be promptly removed and replaced within the next growing season.” (14-03-11)(11)(c).

FINDINGS:

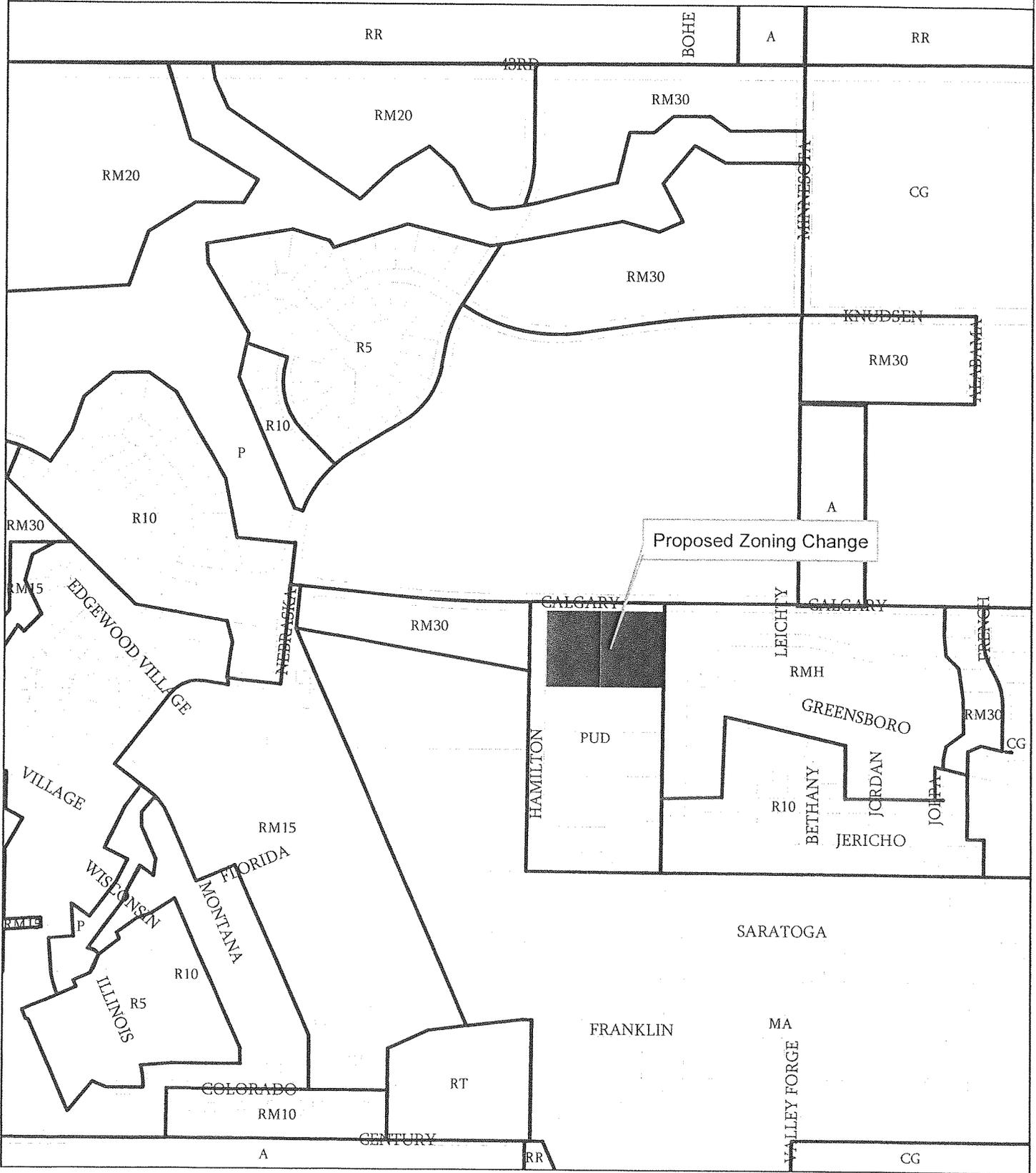
1. The proposed zoning change would not be entirely consistent with the Land Use Plan (Bismarck-Mandan Regional Future Land Use Plan), which was amended to allow industrial land uses prior to the zoning change of the parcel in 2009. However, because this amendment would move the boundary between land use classifications less than 600 feet, it would be considered a minor amendment and would be approved administratively in conjunction with the zoning change.
2. The proposed zoning change would be generally compatible with adjacent land uses. Adjacent land uses include Legacy High School to the north, multi-family residential to the west, undeveloped limited industrial and service uses to the south and single-family dwellings to the east which is buffered by a 6-foot high, 50-foot wide earthen berm with trees and shrubs installed atop the berm.
3. The property is already annexed; therefore, the proposed zoning change would not place an undue burden on public services.
4. The proposed zoning would not have an adverse impact on property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

RECOMMENDATION:

Based on the above findings, staff recommends approval of the zoning change from the PUD – Planned Unit Development zoning district to the RM15 – Residential zoning district for Lots 1-2, Block 1, Hamilton’s First Addition with the following conditions:

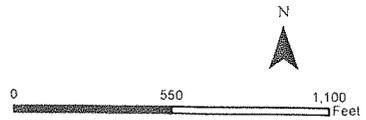
1. Development of the site must generally conform to the site plan submitted with the application and is limited to four (4) 12-unit apartment buildings and four (4) twin homes located along the easternmost portion of the property.
2. The maximum height of any building is 35 feet.
3. Lots 1 & 2, Block 1, Hamilton’s First Addition must be combined as one parcel through the City’s lot modification process.
4. The twin homes must remain as part of the overall development and cannot be split off in the future and sold as individual lots.

Proposed Zoning Change (PUD to RM15) Lots 1-2, Block 1, Hamilton's 1st Addition

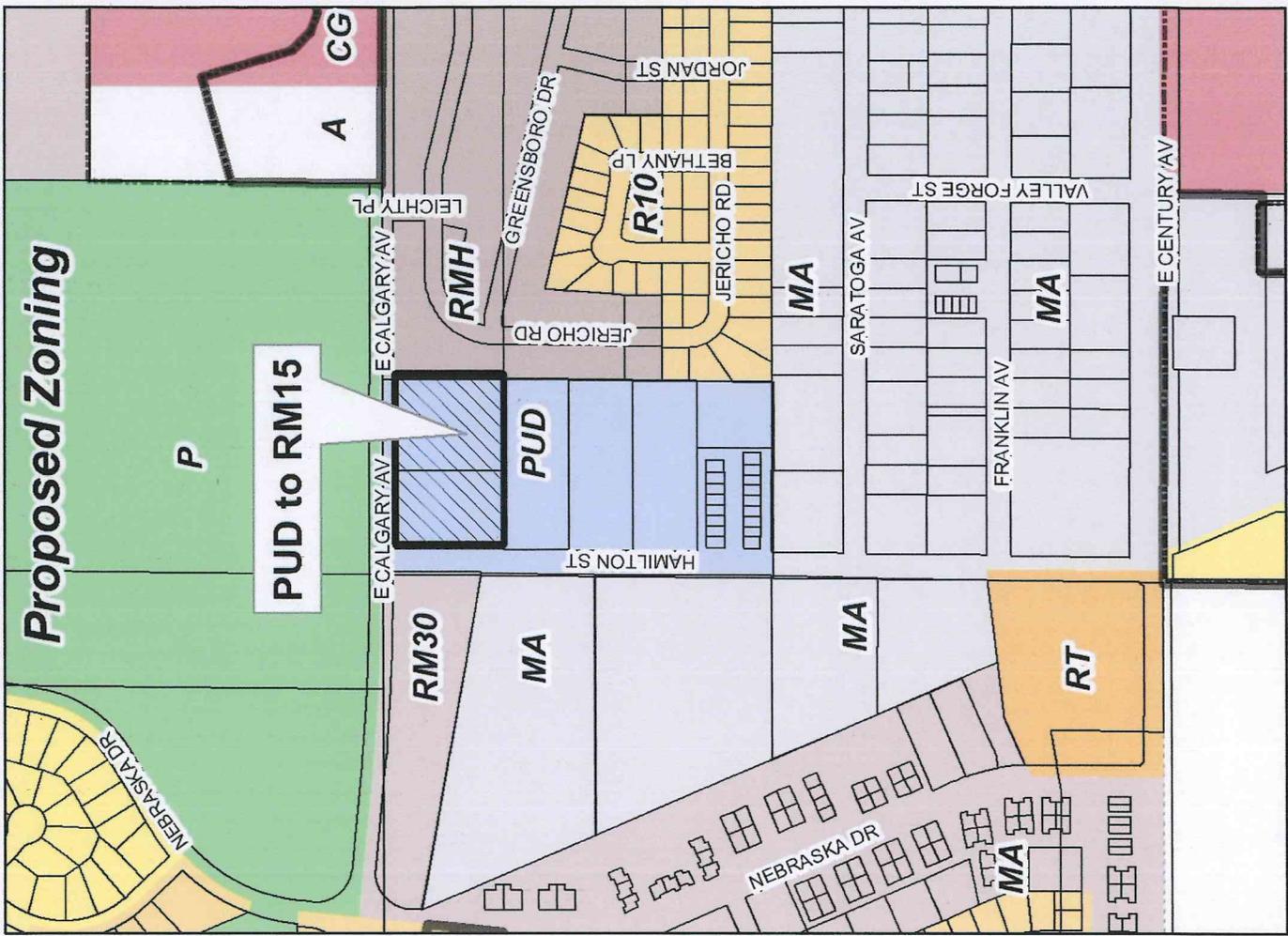
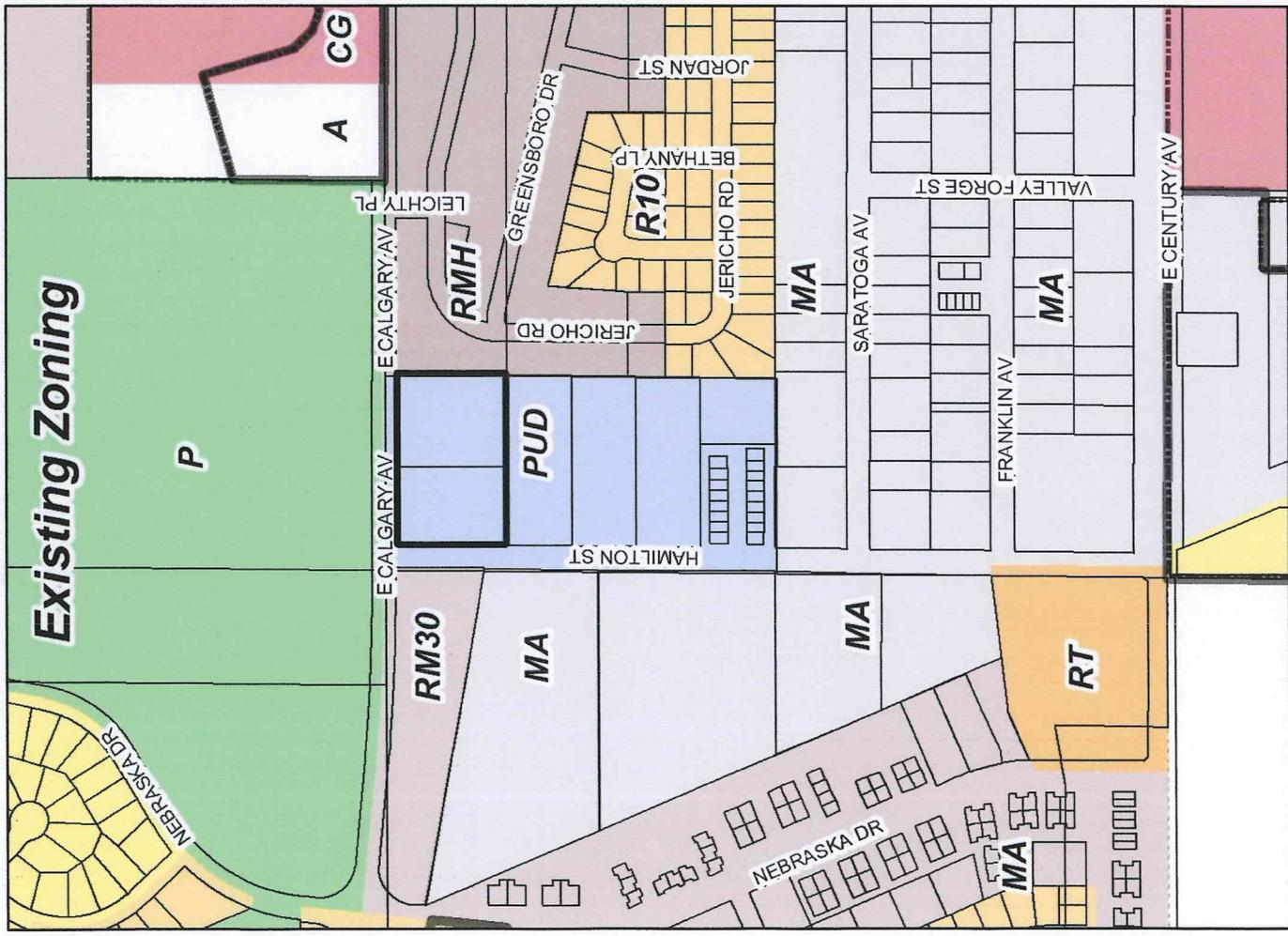


DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: November 18, 2013 (hib)

Source: City of Bismarck



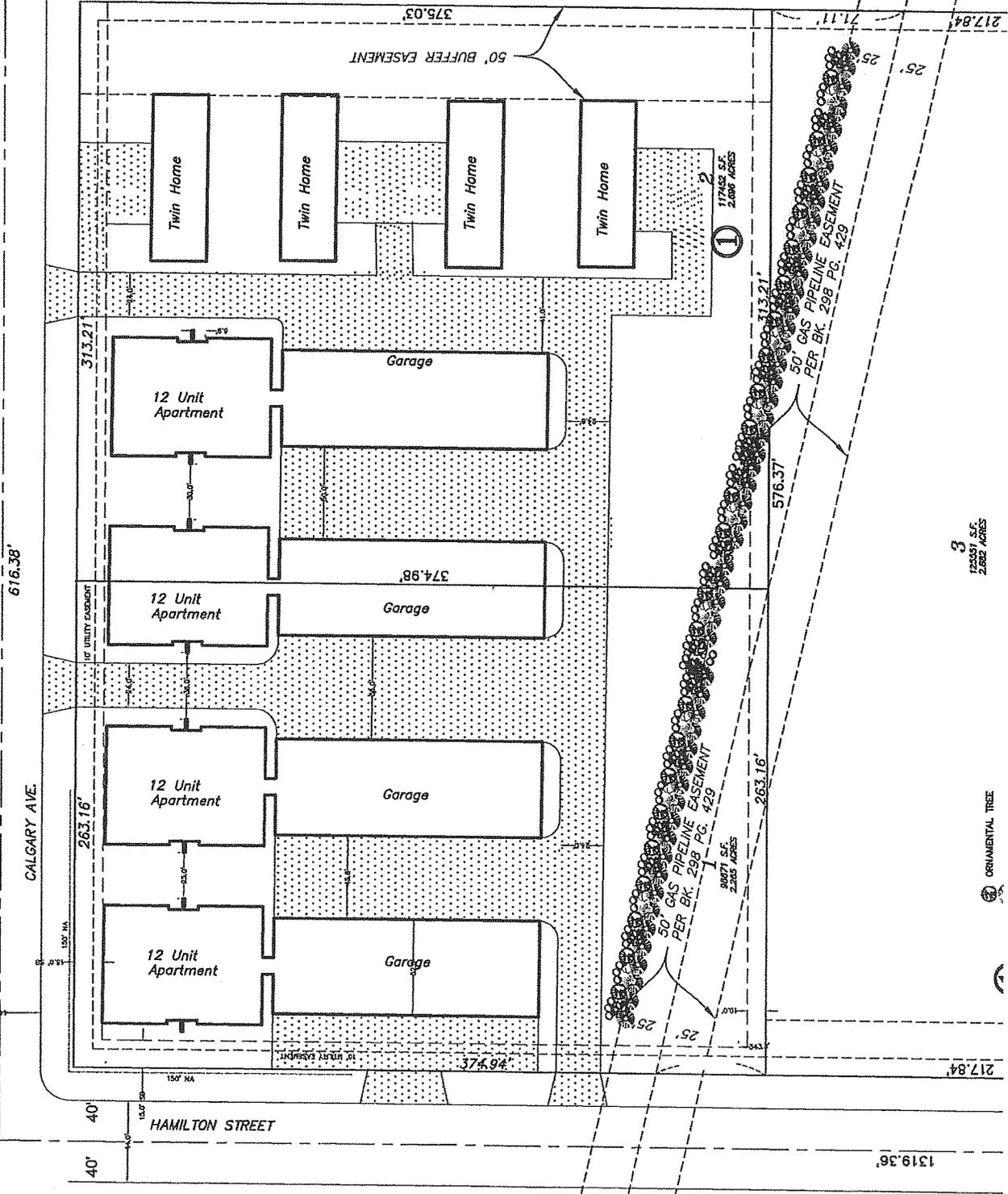
Lots 1-2, Block 1, Hamilton's First Addition - Zoning Change



Feet
0 250 500 1,000
December 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.

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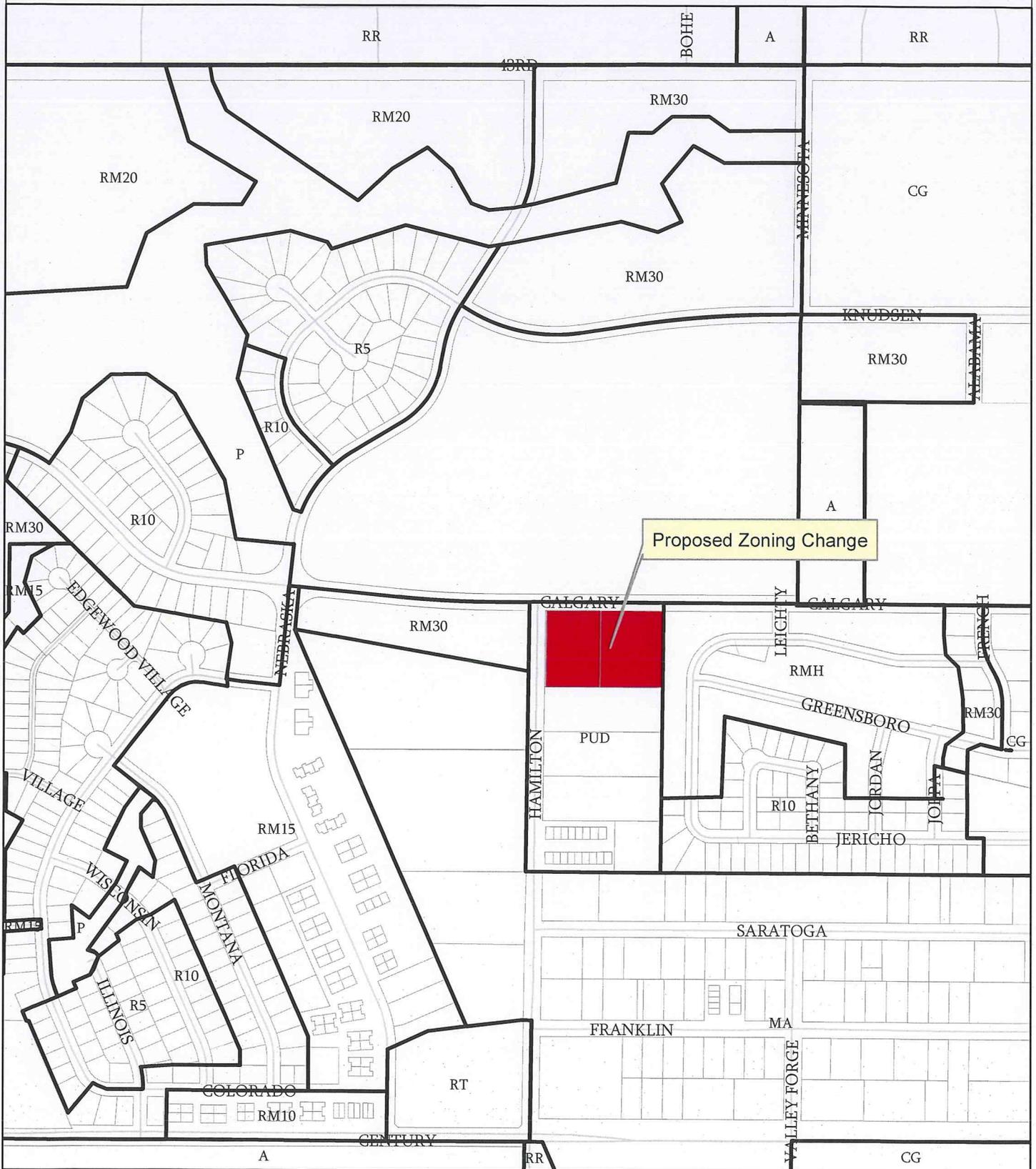
JAN 14 2014



3
125351 S.F.
2.882 ACRES

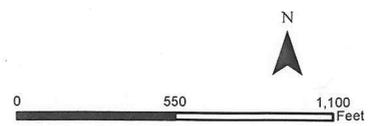
ORNAMENTAL TREE

Proposed Zoning Change (PUD to RM15) Lots 1-2, Block 1, Hamilton's 1st 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: November 18, 2013 (hlb)

Source: City of Bismarck



CITY OF BISMARCK

Ordinance No. XXXX

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

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-03-11 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO CERTIFICATION REQUIREMENTS OF THE LANDSCAPING AND SCREENING ORDINANCE.

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

Section 1. Amendment. Section 14-03-11 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the Landscaping and Screening requirements is hereby amended and re-enacted to read as follows:

* * * * *

11. *Installation, Maintenance, Replacement, Inspection and Enforcement.*

a. Installation of Street Trees. The City Forester shall determine the time for installation of street trees.

Installation of Other Required Landscaping. All other landscaping and buffer yards required by this subsection shall be healthy and in-place as soon as grading or construction has been completed to eliminate or reduce wind and/or water erosion. When landscaping cannot be completed in conjunction with site development due to seasonal constraints, the plant material shall be installed at the beginning of the next growing season, unless otherwise approved by the Director of Community Development and the City Forester.

- b. Maintenance and Replacement. The owner, or successors in interest, or agent, if any, shall be responsible for regular maintenance of all landscaping in good condition in a way that presents a healthy, neat and orderly appearance. All landscaping must be maintained free from disease, pests, weeds and litter. This maintenance must include weeding, watering, fertilizing, pruning, mowing, edging, mulching and other maintenance, as needed and in accordance with acceptable horticultural practices. Dead plants must be promptly removed and replaced within the next growing season. Trees located along fire department access routes, as identified on an approved site plan, must be pruned as needed to maintain a vertical clearance height of no less than fourteen (14) feet.
- c. Inspection and Enforcement. All landscaping shall be subject to periodic inspection by the City Forester. Landscaping that is not installed, maintained or replaced as needed to comply with the approved landscape plan shall be considered a violation of this Section and shall be subject to the enforcement provisions Chapter 13-02-14.
12. Certification. Certification by ~~the~~ a registered professional landscape architect, ~~the~~ a registered professional engineer or ~~the~~ a landscape designer that prepared the landscape plans, in accordance with requirements of this section, is required upon installation of all required plant material. Such certification shall confirm that the landscape materials have been installed in accordance with the landscape plan approved by the Community Development Department - Planning Division and the Public Works Department - Forestry Division. The certification shall address the installation of approved species, quantities and locations as shown on the approved landscape plan. Any deviation from the approved landscape plans shall be noted in the certification. Noted deviations must also address how the modifications satisfy the intent of the Landscaping and Screening Ordinance.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage and adoption.

CITY OF BISMARCK

Ordinance No. XXXX

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

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-04-21 and 14-04-21.4 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO DOWNTOWN DISTRICTS AND USE STANDARDS.

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

Section 1. Amendment. Section 14-04-21 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Downtown Districts is hereby amended and re-enacted to read as follows:

14-04-21. Downtown Districts.

1. Districts Established. The following downtown zoning districts are hereby established: DC Downtown Core District and DF Downtown Fringe District.

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

a. Use Categories. All of the categories listed in the use table are explained in detail in Section 14-04-21.3. The second column of the use table contains an abbreviated explanation of the respective use category. If there is a conflict between the abbreviated explanation and the full explanation in Section 14-04-21.3, the provisions of Section 14-04-21.3 shall prevail.

b. Use Standards. An "X" in the third column of the use table indicates that the use is subject to use-specific standards. These standards are listed alphabetically in Section 14-04-21.4.

c. **Uses Permitted By Right.** A "P" indicates that a use category is allowed by right in the respective zoning district. These permitted uses are subject to all other applicable provisions of this chapter.

d. **Special Uses.** An "SUP" indicates that the use is allowed only if reviewed and approved as a Special Use, in accordance with the Special Use provisions in Section 14-03-08, and is subject to all other applicable regulations in this chapter.

e. **Uses Not Allowed.** An "---" indicates that the use is not allowed in the respective zoning district.

Use Table.

Use Category	Definition	Use Standards	District	
			DC	DF
***	***	***	*	*
Commercial Uses				
* * *	* * *	* * *	*	*
<u>Demolition of Buildings and Structures</u>	<u>Removal or demolition of buildings and structures.</u>	X	SUP	SUP
* * *	* * *	* * *	*	*

Section 2. Amendment. Section 14-04-21.4 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Use Standards for the Downtown Districts is hereby amended and re-enacted to read as follows:

14-04-21.4 Use Standards.

* * * * *

2. Demolition of Existing Buildings and Structures

a. A special use permit is required prior to the demolition of any building or structure classified as historically significant or as a contributing structure in the Historical Architectural Inventory and Evaluation of

Downtown Bismarck, North Dakota within the DC - Downtown Core or DF - Downtown Fringe zoning districts, unless the building has been significantly damaged beyond repair or condemned by the Building Official. A special use permit is also required prior to the demolition of any building or structure for the creation of an off-street parking facility or structure within the DC - Downtown Core or DF - Downtown Fringe zoning districts. When requesting a special use permit to demolish a building or structure within the DC - Downtown Core or DF - Downtown Fringe zoning districts, the owner/applicant must provide the following information:

- i. The historical significance or contributing status of the building.
 - ii. Current assessed value of the building.
 - iii. Current use of the building.
 - iv. Current building condition assessment.
 - v. Intended re-use of the property.
 - vi. Site plan for re-use of the property.
 - vii. Demonstration of financial need.
- b. Any new off-street surface parking lot developed shall not be located directly adjacent to a public right-of-way except when located directly adjacent to a public alley.
- eb. Any new off-street surface parking lot must comply with the Landscaping and Screening Ordinance and the Downtown Streetscape Standards.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage and adoption.

**CITY PLANNING & ZONING COMMISSION
MEETING MINUTES
December 18, 2013**

The Bismarck Planning & Zoning Commission met on December 18, 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, Mike Donahue, Vernon Laning, Mike Schwartz, Lisa Waldoch, John Warford and Wayne Yeager.

Commissioners Doug Lee and Ken Selzler were absent.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Jason Tomanek – Planner, Jenny Wollmuth – Planner, Hilary Balzum – Community Development Office Assistant and Charlie Whitman – City Attorney.

Others present were Taylor Rosh, Jason Haskins, Jenn Astle, Kent Orvik, Mike Fazekas, Casey Leingang, Jarett Kessler, Don Reuter, Tess Imhoff, Joann Millner and Wade Felton.

MINUTES

Chairman Yeager called for consideration of the minutes of the November 20, 2013 meeting.

MOTION: Commissioner Bullinger made a motion to approve the minutes of the November 20, 2013 meeting as received. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Schwartz, Waldoch, Warford and Yeager voting in favor of the motion.

CONSIDERATION

- A. SATTLER SUNRISE 10TH ADDITION – ZONING CHANGE AND PRELIMINARY PLAT**
- B. LOTS 1 & 2, BLOCK 1, HAMILTON’S FIRST ADDITION – ZONING CHANGE**
- C. LANDSCAPING AND SCREENING – ZONING ORDINANCE TEXT AMENDMENT**
- D. DOWNTOWN DISTRICTS – ZONING ORDINANCE TEXT AMENDMENT**

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

- A. Sattler Sunrise 10th Addition – Zoning Change and Preliminary Plat
- B. Lots 1 & 2, Block 1, Hamilton’s First Addition – Zoning Change
- C. Landscaping and Screening – Zoning Ordinance Text Amendment
- D. Downtown Districts – Zoning Ordinance Text Amendment

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

PUBLIC HEARING – FINAL PLAT – FAZEKAS SUBDIVISION

Chairman Yeager called for the continued public hearing on the final plat for Fazekas Subdivision. The proposed plat is two lots in one block on 3.128 acres and is located southeast of Bismarck, west of England Street and south of Scout Street.

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

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer with written concurrence from the County Engineer.
3. The proposed subdivision is generally consistent with the Fringe Area Road Master Plan for this area, which identifies England Street as a north-south arterial roadway.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include rural residential to the north, south, east and west.
5. The subdivision proposed for the property would be served by South Central Regional Water District and would have access to England Street via an existing private roadway; therefore, the proposed subdivision would not place an undue burden on public services.
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.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice

Ms. Wollmuth stated that based on these findings, staff recommends approval of the final plat for Fazekas Subdivision, including the granting of a waiver from ghost platting requirements.

Commissioner Laning asked for a brief description of ghost platting. Ms. Wollmuth said for those areas located in the Urban Service Area Boundary, a ghost plat shows how the rural

residential lots could be further subdivided into urban residential lots upon annexation and provision of municipal services.

Chairman Yeager opened the public hearing.

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

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the final plat for Fazekas Subdivision, including the granting of a waiver from ghost platting requirements. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Schwartz, Waldoch, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE –
LOT 7, BLOCK 41, NOTHERN PACIFIC 2ND ADDITION**

Chairman Yeager called for the public hearing on the zoning change from the RM30 – Residential zoning district to the RT – Residential zoning district on Lot 7, Block 41, Northern Pacific 2nd Addition. The property is located in central Bismarck, at the northeast intersection of North 5th Street and East Avenue B.

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

1. The proposed zoning change is located within the developed portion of the community and is outside the boundaries of the Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include the Veterans Memorial Public Library to the south across East Avenue B, a multi-family residence / yoga studio to the west across North 5th Street, an apartment complex to the north and parking lot to the east.
3. The property is annexed and is served by municipal services; therefore, it 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 and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on these findings, staff recommends approval of the zoning change for Lot 7, Block 41, Northern Pacific 2nd Addition.

Chairman Yeager opened the public hearing.

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

MOTION: Based on the findings contained in the staff report, Commissioner Armstrong made a motion to approve the zoning change from the RM30 – Residential zoning district to the RT – Residential zoning district on Lot 7, Block 41, Northern Pacific 2nd Addition. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Schwartz, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE – LOTS 1-3, BLOCK 1, SONNET HEIGHTS SUBDIVISION

Chairman Yeager called for the public hearing for a zoning change from the RM15-Residential zoning district to the RM20-Residential zoning district for Lots 1-3, Block 1, Sonnet Heights Subdivision.

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

1. The proposed zoning is consistent with the Land Use Plan, which identifies this area as residential (land use portion of the US Highway 83 Transportation Corridor Study).
2. The proposed zoning change would be not compatible with adjacent land uses. In particular, the proposed bulk and density of 20 units per acre is not compatible with the single and two-family residential uses located south of Lot 3 and south across Niagara Drive. Adjacent land uses include a combination of single and two-family homes to the south, undeveloped multi-family residentially zoned property (RM15) to the east and undeveloped agricultural land to the west and north.
3. The property is already annexed; therefore, the proposed zoning change would not place an undue burden on public services, provided 57th Avenue NE is constructed and paved prior to development.
4. The proposed zoning change may adversely affect property in the vicinity. In particular, the single and two-family homes located south of the proposed zoning change may be adversely affected by higher density development located adjacent to Lot 3 and across Niagara Drive to the south.
5. The proposed zoning change is not consistent with the general intent and purpose of the zoning ordinance. The zoning ordinance discourages incompatible land uses in close proximity to one another without the use of transitional zoning. In particular, the property to the south of the proposed zoning change is zoned R10 – Residential and is being developed as single and two-family homes. A single-family dwelling was

constructed in July 2013 on the lot to the south of Lot 3, adjacent to the proposed zoning change.

6. The proposed zoning change is not consistent with the master plan, other adopted plans, policies and accepted planning practice. In particular, increasing the density to from 15 units per acre to 20 units per acre is contrary to the concepts of transitional zoning, given the fact that there would no longer be a zoning transition between the higher density multi-family and the single and two-family residential homes to the south.

Ms. Wollmuth said based on these findings, staff recommends denial of the zoning change from the RM15-Residential zoning district to the RM20-Residential zoning district on Lots 1-3, Block 1, Sonnet Heights Subdivision.

Ms. Wollmuth distributed comments from Jacelyn Brown and Berna Vetter received via e-mail, attached as Exhibits A and B.

Commissioner Atkinson asked if the zoning directly south of the proposed change is R10-Residential. Ms. Wollmuth said it is Superior Drive and then R10-Residential zoning directly adjacent; however a single family dwelling has been constructed there.

Commissioner Waldoch asked if it is known when 57th Avenue NE will be completely finished. Commissioner Bullinger said Burleigh County graded it recently with the intention of having it completely done in a year.

Chairman Yeager opened the public hearing.

Taylor Rosh said this same proposal was presented a year ago and it was denied. He said the only person who supported it was the developer. He said traffic is already increasing in the area and with the amount of small children in the neighborhood, he is very concerned about their safety. He said Mr. Felton claims their concerns are unfounded but he does not live there himself and only wants the proposed apartment complex to turn a profit.

Jason Haskins said his concerns are similar to those of Mr. Rosh. He also feels there is not enough of a buffer between the zoning districts to bring in a high capacity apartment building.

Casey Langdon said he has concerns of too much traffic, property values decreasing and the safety of the children in the area. He said he feels the developer can buy more appropriately zoned land elsewhere.

Mr. Felton said the zoning change that he proposed a year ago was for RM30-Residential zoning with the understanding that RM20-Residential zoning would be an option. He said the current RM15-Residential zoning will allow 33 rental units and RM20-Residential could be with the condition of only allowing 36 units, as it is his desire to construct a 36-unit apartment building. He said regardless of the zoning, a multi-family dwelling will be built with either 33 or 36 units.

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

MOTION: Based on the findings contained in the staff report, Commissioner Donahue made a motion to deny the zoning change from the RM15-Residential zoning district to the RM20-Residential zoning district for Lot 1-3, Block 1, Sonnet Heights Subdivision. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Schwartz, Waldoch, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT –
LOTS 4-6, BLOCK 1, EDGEWOOD VILLAGE 7TH ADDITION.**

Chairman Yeager called for the public hearing for a special use permit for a child care center to be located on Lots 4-6, Block 1, Edgewood Village 7th Addition. The property is located in northeast Bismarck, along the west side of Nebraska Drive and south side of Knudsen Loop.

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

1. A child care center is allowed as a special use in the R10 – Residential zoning district, provided specific conditions are met. The proposed child care center meets the provisions outlined in Section 14-03-08(4)(q) of the City Code of Ordinances.
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 provided the play area is setback 20 feet from the property line and a buffer yard is installed per city requirements.
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. The use would not cause a negative cumulative 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 streets and provide for appropriate on-site circulation of traffic; in particular, adequate off-street parking would be provided.

Ms. Wollmuth said based on these findings, staff recommends approval of the special use permit to operate a child care center on Lots 4-6, Block 1, Edgewood Village 7th Addition, with the following conditions:

1. The construction and operation of the child care center must meet all applicable requirements for such a use in the R10 – Residential zoning district.
2. Development of the site must generally conform to the site plan submitted with the application.

Chairman Yeager opened the public hearing.

Ms. Wollmuth distributed comments from Nathan Jones and Linda Gerhardt received via e-mail, attached as Exhibits C and D.

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

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the special use permit to operate a child care center on Lots 4-6, Block 1, Sonnet Heights Subdivision, with the following conditions: 1) The construction and operation of the day care center must meet all applicable requirements for such a use in the R10 – Residential zoning district. as highlighted in the staff report and 2) Development of the site must generally conform to the site plan submitted with the application. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Schwartz, Waldoch, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT –
LOT 1, BLOCK 2, HAY CREEK COMMERCIAL PARK ADDITION**

Chairman Yeager called for the public hearing for a special use permit for a drive-through window to be located on Lot 1, Block 2, Hay Creek Commercial Park Addition. The property is located in north Bismarck, along the south side of East LaSalle Drive and the east side of US Highway 83.

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 CG – Commercial 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).
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.

Ms. Wollmuth said based on these findings, staff recommends approval of the special use permit for a drive-through window to be located on Lot 1, Block 2, Hay Creek Commercial Park Addition with the following conditions:

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

Chairman Yeager opened the public hearing. There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Atkinson made a motion to approve the special use permit for a drive-through window to be located on Lot 1, Block 2, Hay Creek Commercial Park Addition, with the following conditions: 1) The construction and operation of the drive-through window must meet all applicable requirements for such a use in the CG – Commercial zoning district and 2) Development of the site must generally conform to the site plan submitted with the application. Commissioner Laning seconded the motion and the request was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Schwartz, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – ZONING ADMINISTRATOR REFERENCES/MULTIPLE SECTIONS OF TITLE 14

Chairman Yeager called for the public hearing on a zoning ordinance text amendment relating to Zoning Administrator/Multiple Sections of Title 14.

Mr. Hokenstad explained that the amendment differentiates between Zoning Official and Building Official references and clarifies responsibilities. He said with the amount of

permitting being done recently, a definitive Zoning Administrator position is needed and will allow the Building Official time to focus on permitting and building requirements.

Commissioner Laning said he recognizes how busy the permitting business has been lately, but he wonders if the creation of a position is relevant in the event that business slows down drastically.

Mr. Hokenstad explained that no new staff would be hired and that these changes will apply to the existing staff members.

Chairman Yeager opened the public hearing. There being no comments, Chairman Yeager closed the public hearing.

MOTION: Commissioner Warford made a motion to approve the Zoning Ordinance Text Amendment relating to Zoning Administrator References/Multiple Sections of Title 14. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Schwartz, Waldoch, Warford and Yeager voting in favor of the motion.

OTHER BUSINESS

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:33 p.m. to meet again on January 22, 2014.

Respectfully submitted,

Hilary Balzum
Recording Secretary

Wayne Lee Yeager
Chairman

Community Development

From: Jacelyn Brown [REDACTED]@com>
Sent: Wednesday, December 18, 2013 11:29 AM
To: cobplan@nd.gov
Subject: proposal

Good morning! I am writing to let the city know that I am very against this proposal. We have an up and coming neighborhood in Sonnet Heights and we do not need a very large apartment building in the area. I realize that the 20 units might be there no matter what, but the city should NOT change the allotment to 36 units. That regulation was there for a reason and it should not be changed. We have very small children and had to use every penny we had to buy our house and we want the best neighborhood for them to grow up in. Thank you for the opportunity to be heard.

Sincerely,

Jacelyn Brown

Wollmuth, Jenny L.

From: Lee, Kim L.
Sent: Wednesday, December 18, 2013 4:39 PM
To: Wollmuth, Jenny L.
Subject: FW: Sonnet Heights

From: Berna Vetter [mailto:bernavetter@nd.gov]
Sent: Wednesday, December 18, 2013 4:27 PM
To: klee@nd.gov; cobplan@nd.gov
Subject: Sonnet Heights

Bismarck Planning & Zoning Commission:

This is Berna with Joe Vetter Const. I will not be able to attend tonight's meeting, but I would like to let you know that I **strongly oppose** this zoning change. I think a 36 unit apt. building is too large for this area and will not be good for the neighborhood. Please keep the residential area's nice places for families to be proud of their area, and do not have to look at a big apt. complex.

The developer new this was zoned for RM15 and should leave it as it is. I think it is only fair to the families living in this area. Please oppose this zoning change and keep Bismarck neighborhood's nice without big apt. complex's.

Thank You!

Berna Vetter

Community Development

From: Nathan Jones [REDACTED]
Sent: Wednesday, December 11, 2013 4:22 PM
To: cobplan@nd.gov
Subject: Edgewood Village proposal

This letter is intended for the public hearing regarding the proposal of Legacy Single Family Lots and Tess Imhoff. Tollberg Homes is a builder of single family homes in Edgewood 6th Addition and we own a number of lots and models in the neighborhood. We are supportive of granting the special use permit for the purpose of the child care center. Countless surveys are telling us that the trend is towards having more "walkable" communities. I believe that having child care within walking distance of our homes makes them more marketable and would be an asset not just to our neighborhood; but for Bismarck as well. Thank you for consideration of this matter.

Nathan Jones
Chief Operations Officer
Tollberg Homes
(651)208-0500 cell
(763)205-2037 office
www.tollberghomes.com

Community Development

From: george gerhardt [REDACTED]
Sent: Wednesday, December 18, 2013 6:59 AM
To: cobplan@nd.gov
Subject: Child Care Center in Edgewood 7th addition

To Whom It May Concern:

I would come to the meeting this evening but I have another commitment.

I am writing in reference to the child care facility in Edgewood 7th Addition. We are moving to Edgewood Village in a patio home in the spring. At the present we have a daycare across the street from us and is one of the reasons to be moving. It seems no one let us know at the time that a daycare was going to be opening in the Grandview addition or there would have been opposition against it.

When they first moved in they had bus loads of kids come for carnivals and had bake sale in the driveway. I had called different offices with the city and state and was always referred to another department and never got an answer. Finally we had to go to Burleigh County Social Services and get something some answers and have something done. They put up the fence that they were suppose to and did a lot of changes, BUT STILL NOT UP TO PAR. Because as long as there is not a constant check on them they do what they want. We know they have done updates and never got building permits and also have more kids that permitted. Not to long ago one of the neighbors found out that she is doing a preschool which I am sure is not legal. This use to be a nice house and now lawn is not kept up and sometimes not cut for weeks. I am sure this is not all day cares.

So who is to say after this day care starts running that after a while it will not be the same.

I feel that a day care should not be in a residential area, there are areas where they can open them. I feel that there is not a enough personnel to keep checking on the day care to make sure that they are up to code. Like we were never notified about one coming into our neighborhood. The value of your house has got to go down when you have this across the street from your home because of the traffic and the upkeep of the homes in the neighborhood.

This needs to be looked into instead of having to call the fire department who issues the license as I was told and never hearing from them, because I am sure they do not want to deal with it and getting a run around from everyone at the city level and the state level. We finally went to social services and to get them to check into this. I do not want another neighborhood go through what we are going through with this across the street from us.

These are new neighborhoods and I am sure there is a covenant and when there are made up they should be followed. If you want to open a business then you need to go to where you can open this business. Not buy the lot and then try to change the rules to fit your needs.

I feel if the city officials vote for this then they need to move next door or across the street from one or let them put one in their neighborhood.

