

5. **Lot 1, Block 1, Koch Creek Subdivision – Zoning Change (A & PUD to RT & CG)**
 (Klee).....23
- Hay Creek Township*
- Staff recommendation: schedule a hearing* schedule a hearing table deny
6. **Floodplain District – Zoning Ordinance Text Amendment (Klee)**27
- Staff recommendation: schedule a hearing* schedule a hearing table deny
7. **DC & DF Districts – Zoning Ordinance Text Amendment (JT)**33
- Staff recommendation: schedule a hearing* schedule a hearing table deny

REGULAR AGENDA

FINAL CONSIDERATION/PUBLIC HEARINGS

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

8. **Part of the N ½ of the SE ¼ of Section 23, T139N-R80W/Hay Creek Township
 (being platted as Stonecrest 2nd Addition) – Annexation (G²)** 45
- Staff recommendation: approve* approve continue table deny
9. **Fernwood Subdivision (Klee)**
- Hay Creek Township*
- a. **Zoning Change (A to RR)**.....49
- Staff recommendation: approve* approve continue table deny
- b. **Final Plat**.....53
- Staff recommendation: approve* approve continue table deny
10. **Eagle Crest 3rd Addition (Klee)**
- a. **Annexation**61
- Staff recommendation: approve* approve continue table deny
- b. **Zoning Change (A & R5 to R5)**.....62
- Staff recommendation: approve* approve continue table deny
- c. **Final Plat**.....67
- Staff recommendation: approve* approve continue table deny

11. Horizon Heights 5th Addition (JT)

a. Annexation - part (Lots 8-16, Block 6, Lots 4-6, Block 7 and Lots 1-7, Block 8).....73

Staff recommendation: approve approve continue table deny

b. Zoning Change (A, RR & R5 to R5).....77

Staff recommendation: approve approve continue table deny

c. Final Plat.....81

Staff recommendation: approve approve continue table deny

12. Landscaping & Screening – Zoning Ordinance Text Amendment (JT)89

Staff recommendation: approve approve continue table deny

OTHER BUSINESS

13. Other

ADJOURNMENT

14. Adjourn. The next regular meeting date is scheduled for Wednesday, February 23, 2011.

Enclosure: Minutes of the December 15, 2010 meeting
 Major Building Permits Report for December 2010
 Building Permit Activity Report for December 2010

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

BACKGROUND:		
Title: Stonecrest Second Addition – Zoning Change (R10 to RMH, R10, RM30, and CG)		
Status: Planning Commission – Consideration	Date: January 26, 2011	
Owner(s): Liechty Homes, Inc.	Engineer: Toman Engineering Company	
Reason for Request: Plat, zone and annex property for residential and commercial development.		
Location: In northeast Bismarck, less than ½ mile north of Century Avenue on the west side of Centennial Avenue. (part of the N ½ of the SE ¼ of Section 23, T139N-R80W/ Hay Creek Township)		
Project Size: 37.61 acres	Number of Lots: 19 lots in 7 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Manufactured housing development with lots for twin homes, apartments, and commercial development	
Zoning: R10 - Residential	Zoning: RMH – Residential, R10-Residential, RM30-Residential, CG-Commercial	
Uses Allowed: Single and two-family residential	Uses Allowed: Single family residential, two family residential, multi-family residential, and commercial uses	
Maximum Density Allowed: 10 units per acre	Maximum Density Allowed: RMH = 7 units per acre, R10 = 10 units per acre, RM30 = 30 units per acre CG = 42 units per acre	
PROPERTY HISTORY:		
Zoned: 2001	Platted: N/A	Annexed: N/A
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> Blocks 2 and 3 of the proposed plat are longer than 900-feet. Per the Zoning Ordinance 14-09-05(3)(b): "Pedestrian walkways not less than twelve (12) feet wide may be required in blocks longer than nine hundred (900) feet where such crosswalks are deemed by the planning commission to be essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation, or other community facilities . . ." The applicant has requested that walkways not be required (see letter following the staff report on the proposed preliminary plat). 		
FINDINGS:		
<ol style="list-style-type: none"> The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as general commercial west of Centennial Road with urban residential to the west of that (Bismarck-Mandan Regional Land Use Plan). The proposed zoning change is compatible with adjacent land uses and would not adversely affect property in the vicinity. Adjacent land uses include single family dwellings and a church to the south; the KOA campground to the north; and undeveloped land to the east and west. 		

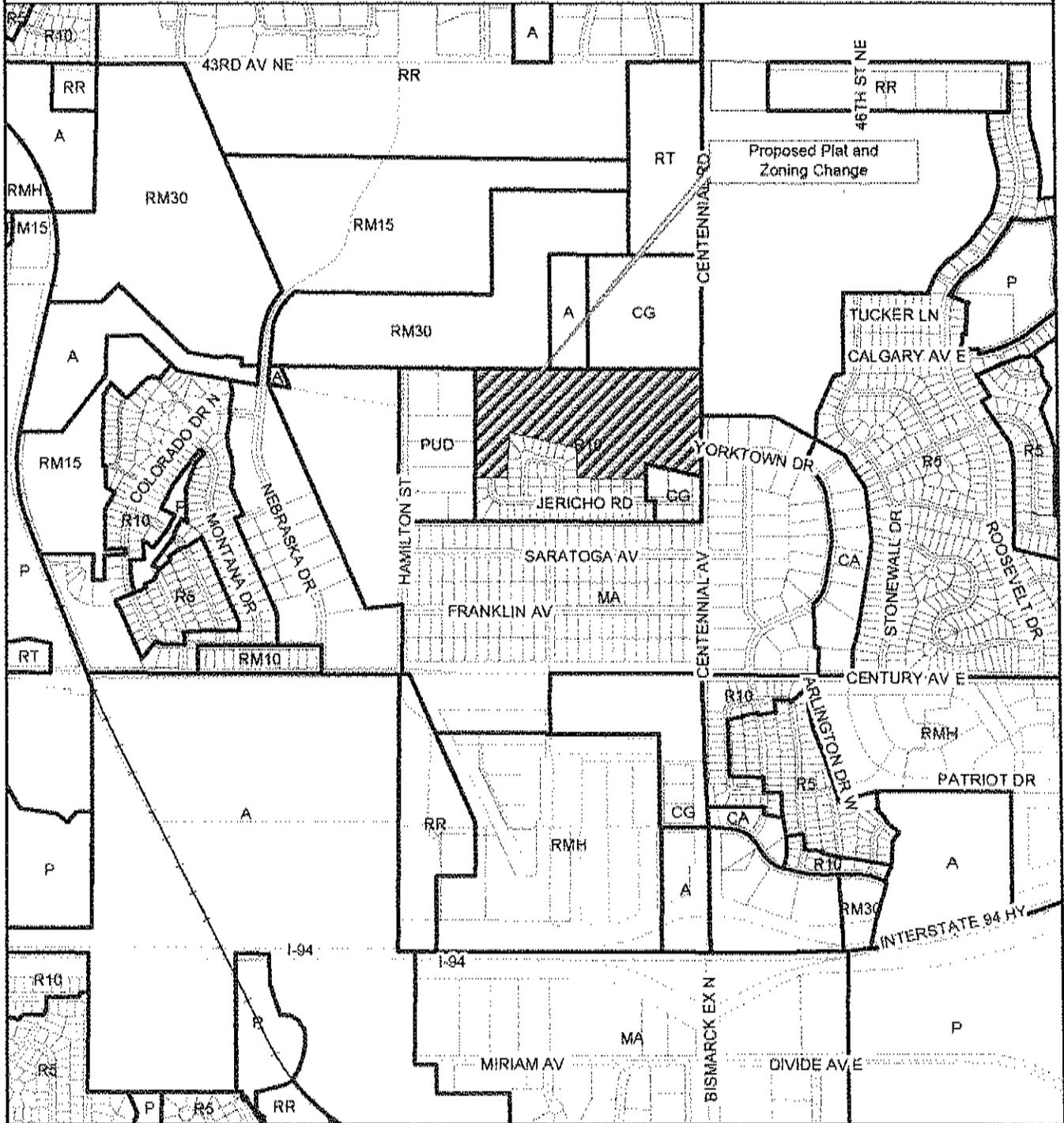
continued . . .

- 3. The subdivision proposed for this property will be annexed prior to development; therefore, the zoning change will not place an undue burden on public services and facilities.
- 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:

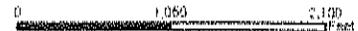
Based on the above findings, staff recommends scheduling a public hearing for the zoning change for Stonecrest Second Addition from R10-Residential to RMH-Residential, R10-Residential, RM30-Residential, and CG-Commercial - - with the understanding that a continuing discussion of pedestrian walkways will occur prior to submittal of the final plat.

Proposed Plat & Zoning Change from R10 to RMH, RM & CG Stonecrest Second Addition

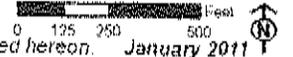
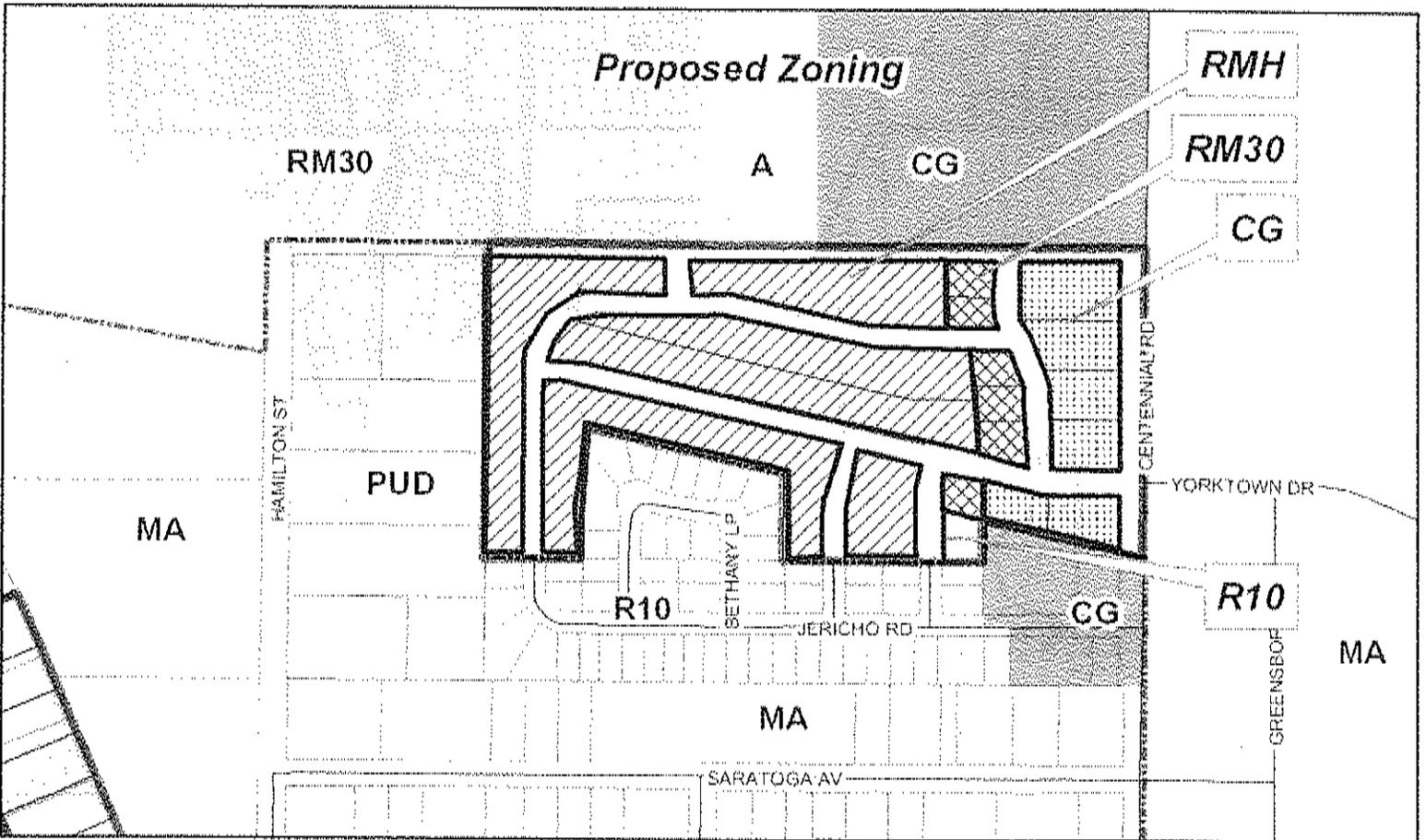
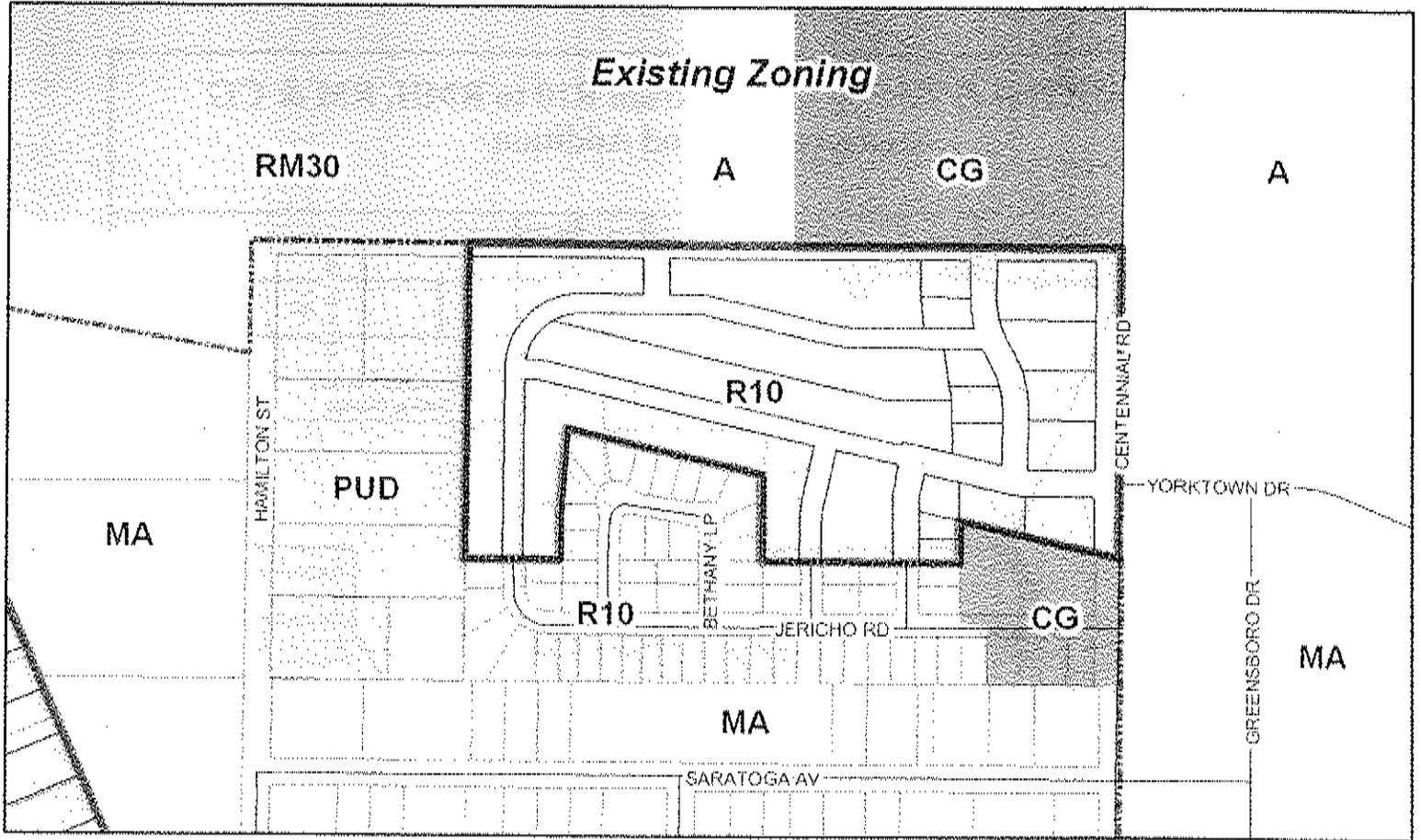


DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: December 26, 2010 (Nds)

Source: City of Bismarck.



Stonecrest Second Addition - Zoning Change (R10 to CG, RM30, R10 & RMH)



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

BACKGROUND:		
Title: Stonecrest Second Addition – Preliminary Plat		
Status: Planning Commission – Consideration	Date: January 26, 2011	
Owner(s): Liechty Homes, Inc.	Engineer: Toman Engineering Company	
Reason for Request: Plat, zone and annex property for residential and commercial development.		
Location: In northeast Bismarck, less than ½ mile north of Century Avenue on the west side of Centennial Avenue (part of the N ½ of the SE ¼ of Section 23, T139N-R80W/ Hay Creek Township)		
Project Size: 37.61 acres	Number of Lots: 19 lots in 7 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Manufactured housing development with lots for twin homes, apartments, and commercial development	
Zoning: R10 - Residential	Zoning: RMH – Residential, R10-Residential, RM30-Residential, CG-Commercial	
Uses Allowed: Single and two-family residential	Uses Allowed: Single family residential, two family residential, multi-family residential, and commercial uses	
Maximum Density Allowed: 10 units per acre	Maximum Density Allowed: RMH = 7 units per acre, R10 = 10 units per acre, RM30 = 30 units per acre, CG = 42 units per acre	
PROPERTY HISTORY:		
Zoned: 2001	Platted: N/A	Annexed: N/A
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> Blocks 2 and 3 of the proposed plat are longer than 900-feet. Per the Zoning Ordinance Section 14-09-05(3)(b): "Pedestrian walkways not less than twelve (12) feet wide may be required in blocks longer than nine hundred (900) feet where such crosswalks are deemed by the planning commission to be essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation, or other community facilities . . ." The applicant has requested walkways not be required (see attached letter). 		
FINDINGS:		
<ol style="list-style-type: none"> All technical requirements for tentative approval of a preliminary plat have been met. The proposed plat is compatible with adjacent land uses and would not adversely affect property in the vicinity. Adjacent land uses include single family dwellings and a church to the south; the KOA campground to the north; and undeveloped land to the east and west. 		

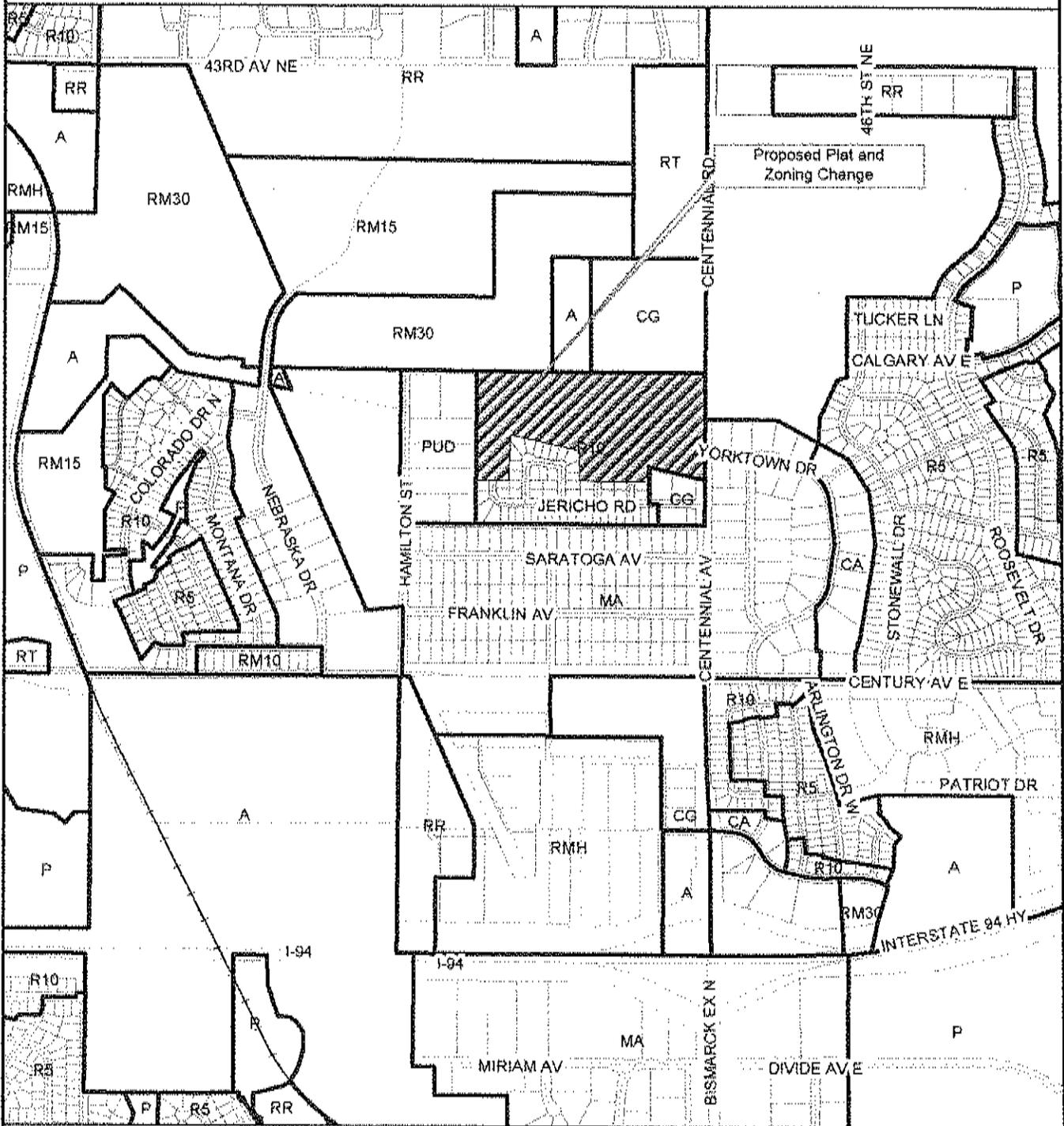
continued . . .

3. The proposed subdivision complies with the Fringe Area Road Master Plan. Adequate right-of-way will be dedicated for Calgary Avenue. Adequate right-of-way already exists along Centennial Road.
4. The proposed subdivision will be an urban subdivision with annexation requested; therefore, it would not place an undue burden on public services.
5. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.

RECOMMENDATION:

Based on the above findings, staff recommends tentative approval of the preliminary plat of Stonecrest Second Addition - - with the understanding that a continuing discussion of pedestrian walkways will occur prior to submittal of the final plat.

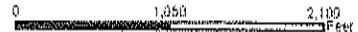
Proposed Plat & Zoning Change from R10 to RMH, RM & CG Stonecrest Second Addition



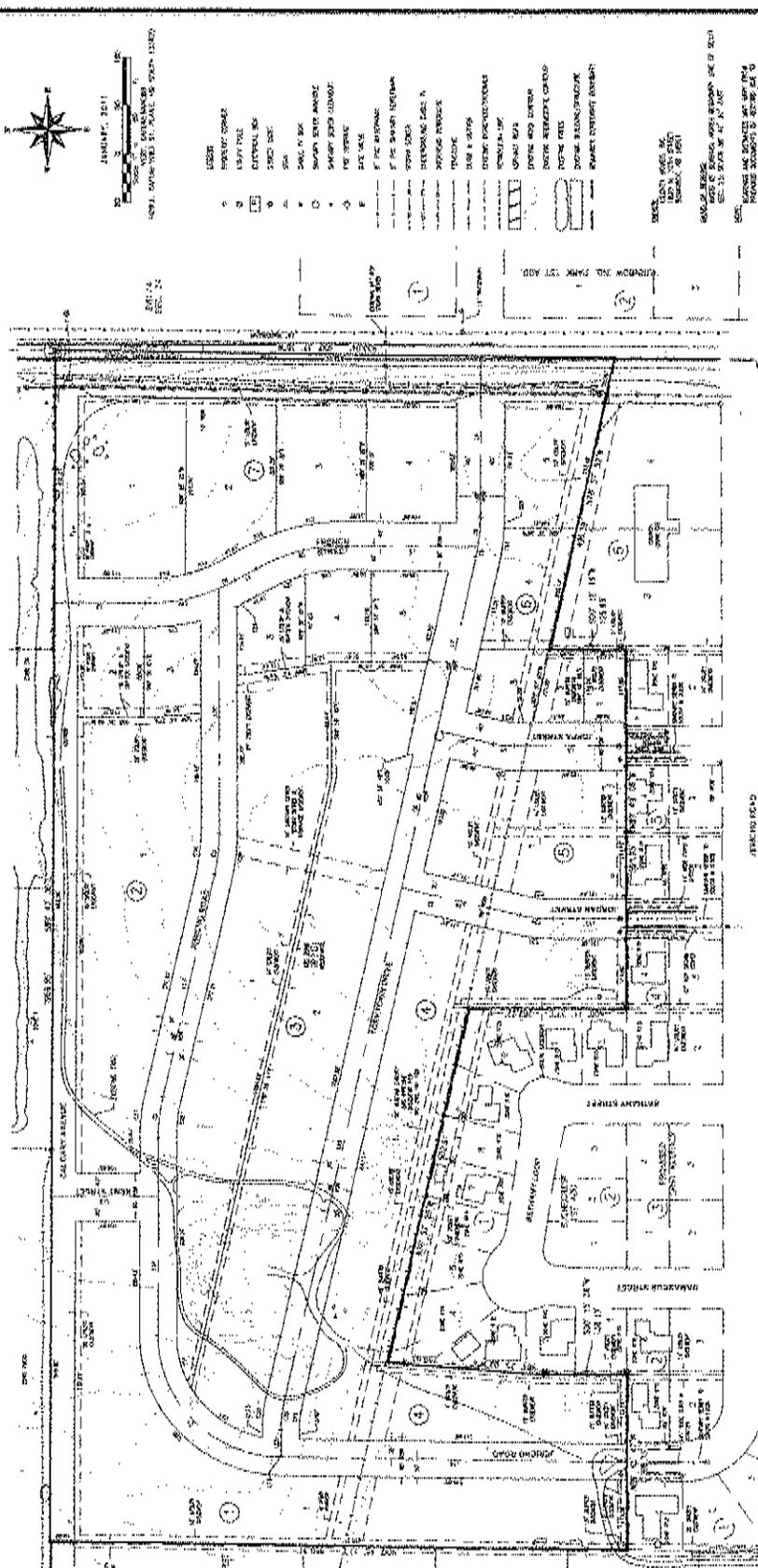
DISCLAIMER: This map is for representation use only and does not constitute a survey. No liability is assumed as to the accuracy of the data depicted herein.
Map was Updated/created December 20, 2010 (log)

Source: City of Bismarck

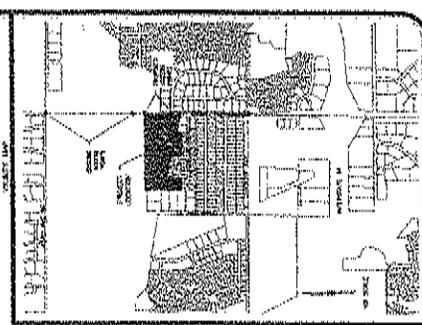
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PRELIMINARY PLAT OF STONECREST SECOND ADDITION OF BURLEIGH COUNTY, NORTH DAKOTA PART OF THE N1/2 OF THE SE1/4 OF SECTION 23, T139N-R60W



- LEGEND**
- 1 PROPERTY CORNER
 - 2 EXISTING FENCE
 - 3 EXISTING ROAD
 - 4 EXISTING DRAIN
 - 5 EXISTING UTILITY
 - 6 EXISTING EASEMENT
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LOT #	ACRES	AREA (SQ. FT.)	PERCENTAGE
1	0.12	6,600	1.2%
2	0.12	6,600	1.2%
3	0.12	6,600	1.2%
4	0.12	6,600	1.2%
5	0.12	6,600	1.2%
6	0.12	6,600	1.2%
7	0.12	6,600	1.2%
8	0.12	6,600	1.2%
9	0.12	6,600	1.2%
10	0.12	6,600	1.2%
11	0.12	6,600	1.2%
12	0.12	6,600	1.2%
TOTAL	1.44	81,360	100%

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11	0.12	6,600	1.2%
12	0.12	6,600	1.2%
TOTAL	1.44	81,360	100%

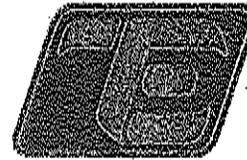
NOTES:
 1. THIS PLAT IS FOR THE SECOND ADDITION TO THE FIRST ADDITION.
 2. THE TOTAL AREA OF THIS PLAT IS 1.44 ACRES.
 3. THE TOTAL AREA OF THE FIRST ADDITION IS 1.44 ACRES.
 4. THE TOTAL AREA OF THE SECOND ADDITION IS 1.44 ACRES.
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 7. THE TOTAL AREA OF THE FIFTH ADDITION IS 1.44 ACRES.
 8. THE TOTAL AREA OF THE SIXTH ADDITION IS 1.44 ACRES.
 9. THE TOTAL AREA OF THE SEVENTH ADDITION IS 1.44 ACRES.
 10. THE TOTAL AREA OF THE EIGHTH ADDITION IS 1.44 ACRES.
 11. THE TOTAL AREA OF THE NINTH ADDITION IS 1.44 ACRES.
 12. THE TOTAL AREA OF THE TENTH ADDITION IS 1.44 ACRES.

LOT #	ACRES	AREA (SQ. FT.)	PERCENTAGE
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3	0.12	6,600	1.2%
4	0.12	6,600	1.2%
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11	0.12	6,600	1.2%
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TOTAL	1.44	81,360	100%



TDMAN ENGINEERING
 501 13TH STREET, SUITE 100
 BISMARCK, NORTH DAKOTA 58102
 (701) 771-1111

JAN 14 2011



January 14, 2011

Bismarck Planning & Dev.
Greg Greenquist
PO Box 5503
Bismarck, ND 58506-5503

RE: StoneCrest 2nd Addition
TECo #04293

Reference is made to the Plat Review Memorandum dated January 10, 2011 and the Plat Review Meeting held on January 10, 2011.

Attached is the re-submittal of the preliminary plat for StoneCrest 2nd Addition revised as per the memorandum and as discussed at the Plat Review Meeting with the exception of the pedestrian walkway.

The Bismarck Zoning Ordinance suggests walkways when city blocks are longer than 900 feet. In the StoneCrest 2nd Addition Plat, Blocks 2 and 3 are longer than the 900 feet. The average length of Block 2 is 903 feet and Block 3 is 1378 feet. The vertical elevation difference in Block 2 between Jericho Road to Calgary Avenue is 21 feet and in Block 3 from Yorktown to Jericho Road is 8 feet. The elevation difference in these areas makes it very non-desirable to construct a walkway without stairways.

We are requesting that this walkway not be required for the StoneCrest 2nd Addition Plat. Attached you will find a sheet indicating block lengths and distances between intersections.

If you have any questions please call.

Sincerely,

Harvey Schneider
TOMAN ENGINEERING CO.

Enc

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

BACKGROUND:		
Title: Edgewood Village Fourth Addition – Zoning Change (R10, RM15 & P to R10, RM15 & P)		
Status: Planning Commission – Consideration	Date: January 26, 2011	
Owner(s): Edgewood Village 2 nd Addition, LLLP	Engineer: Swenson, Hagen & Company	
Reason for Request: To commence with the fourth phase of the Edgewood Village residential development.		
Location: In northeast Bismarck, north of Century Avenue, between Colorado Drive and Nebraska Drive (a replat of Lots 9-22 & Lot 26, Block 3, and Lots 1-17, Block 4, Edgewood Village Second Addition and the adjoining Montana Drive, in part of the SW ¼ of Section 23, T139N-R80W/Hay Creek Township).		
Project Size: 14.2 acres	Number of Lots: 9 lots in 2 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Vacant/Undeveloped	Land Use: Single and two-family residential and a skilled care campus.	
Zoning: R10 – Residential RM15 – Residential P – Public	Zoning: R10 – Residential RM15 – Residential P – Public	
Uses Allowed: R10 – Single and two-family residential RM15 – Multi-family dwellings P – Public uses	Uses Allowed: R10-Single and two-family residential RM15 – Multi-family dwellings P – Public uses	
Maximum Density Allowed: R10 – 10 units per acre RM15 – 15 units per acre P – N/A	Maximum Density Allowed: R10 – 10 units per acre RM15 – 15 units per acre P – N/A	
PROPERTY HISTORY:		
Zoned: March 2008	Platted: March 2008	Annexed: March 2008
ADDITIONAL INFORMATION:		
1. Preliminary concept plans have been submitted for the proposed Lot 1, Block 1. The conceptual plans illustrate a skilled care campus building with parking and open spaces incorporated into the plans. Formal site plans have not been submitted for staff review at this time.		
FINDINGS:		
1. The proposed zoning change is consistent with the Land Use Plan which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan).		

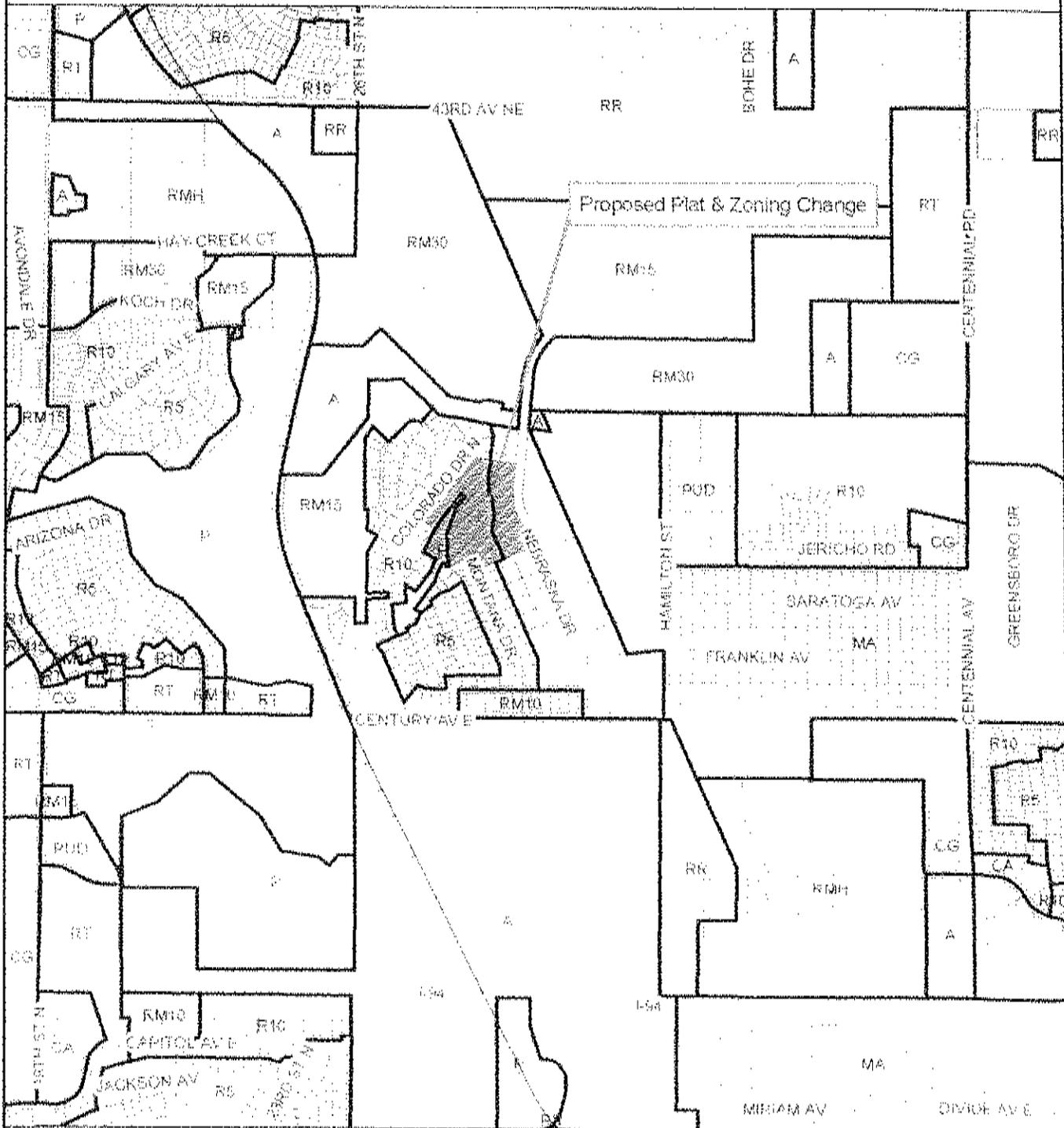
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2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developed single, two and multi-family subdivisions to the south, southeast and southwest, Edgewood Village to the west, undeveloped, single, two and multi-family zoning to the north and undeveloped multi-family zoned property to the east.
3. The property is already annexed; therefore the proposed zoning change would not place an undue burden on public services.
4. The proposed zoning change would not adversely affect property in the vicinity if the orientation and main entrance of the proposed building recognizes Nebraska Drive as the collector roadway.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

RECOMMENDATION:

Based on the above findings, staff recommends scheduling a public hearing for the zoning change for Edgewood Village Fourth Addition from R10-Residential, RM15-Residential and P-Public to R10-Residential, RM15-Residential and P-Public.

Proposed Plat & Zoning Change from RM15, R10 & P to RM15, R10 & P Edgewood Village Fourth Addition

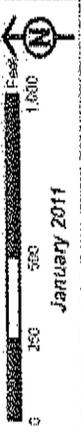
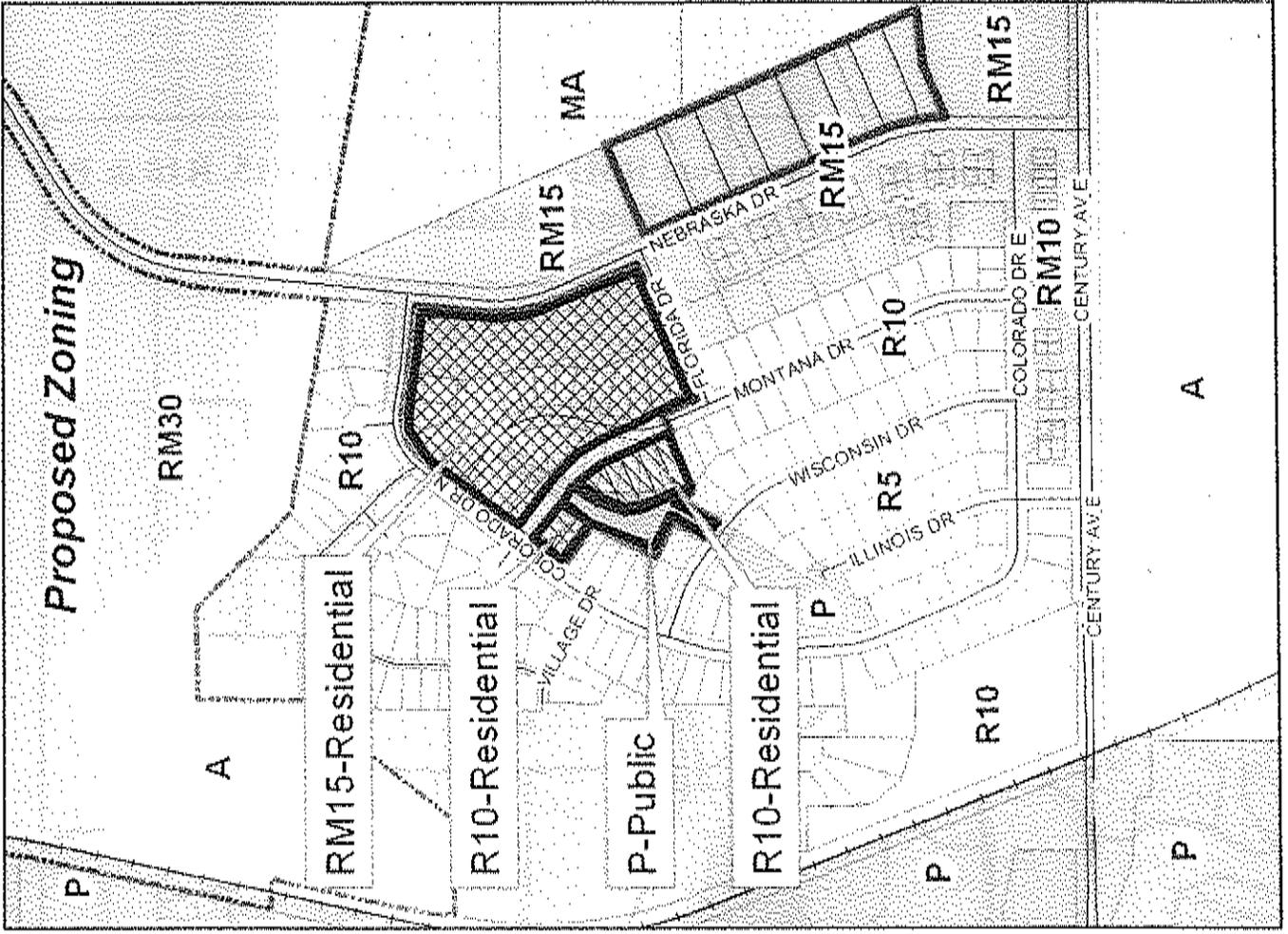
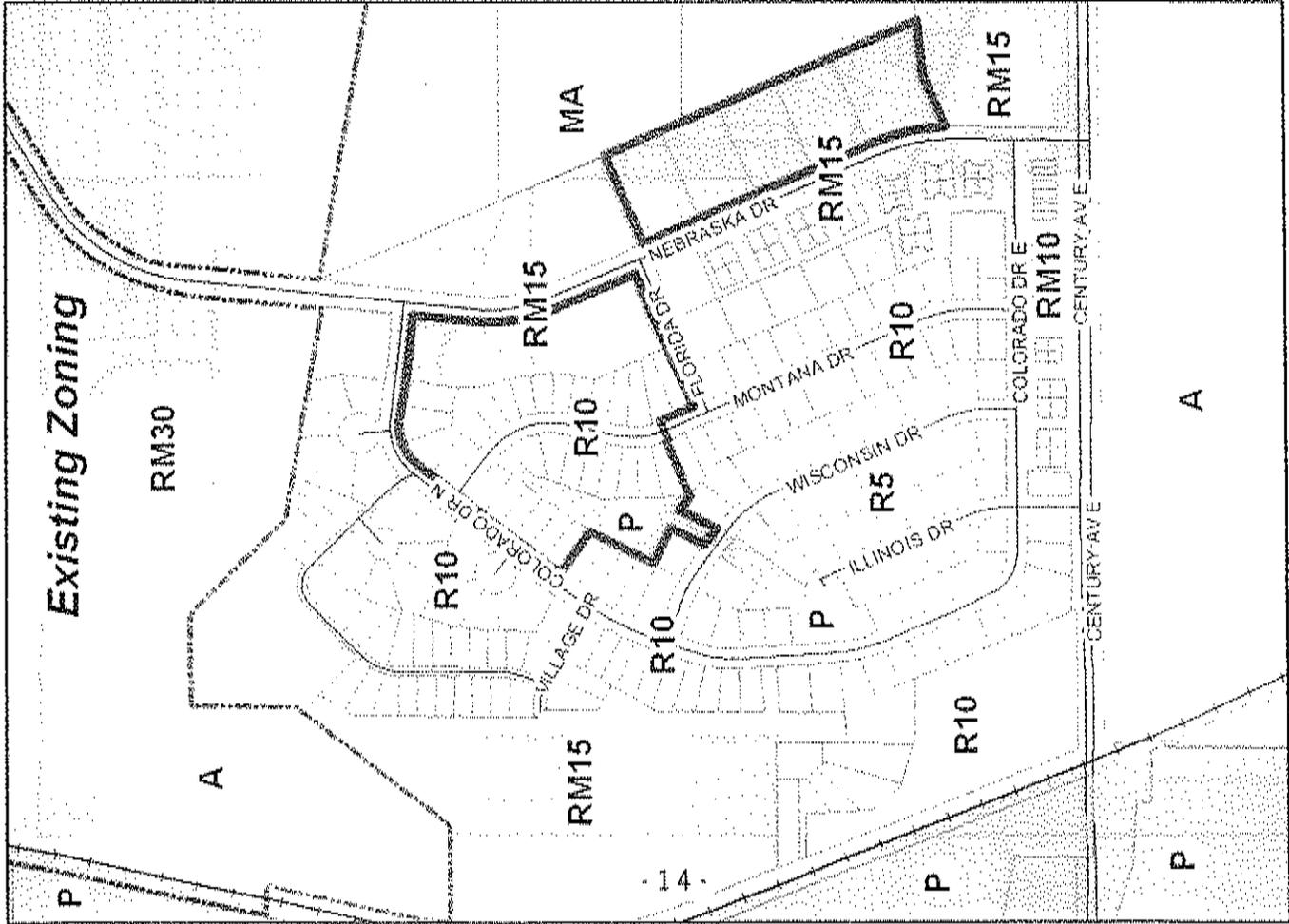


THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT REPRESENT A COMMITMENT BY THE CITY OF EDGEMOND. THE CITY OF EDGEMOND IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE CITY OF EDGEMOND IS NOT RESPONSIBLE FOR ANY DAMAGES, INCLUDING ATTORNEY'S FEES, ARISING FROM THE USE OF THIS MAP.

Scale: 1" = 100'

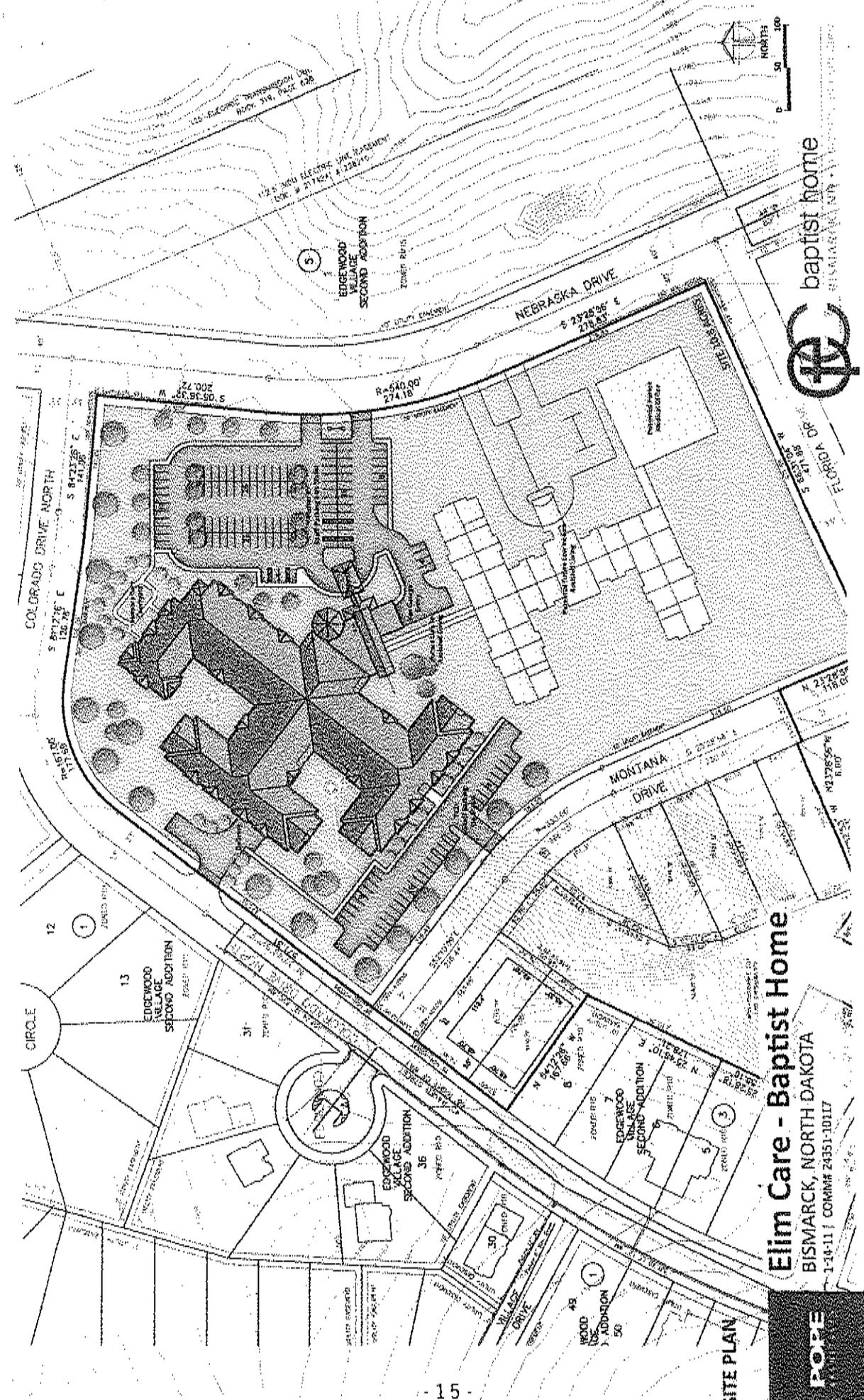


Edgewood Village Fourth Addition - Zoning Change (R10, RM15 & P to R10, RM15 & P)

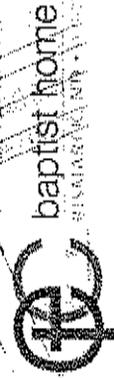


January 2011

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Elim Care - Baptist Home
 BISMARCK, NORTH DAKOTA
 1-14-11 | COMM# 24331-10117



SITE PLAN

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

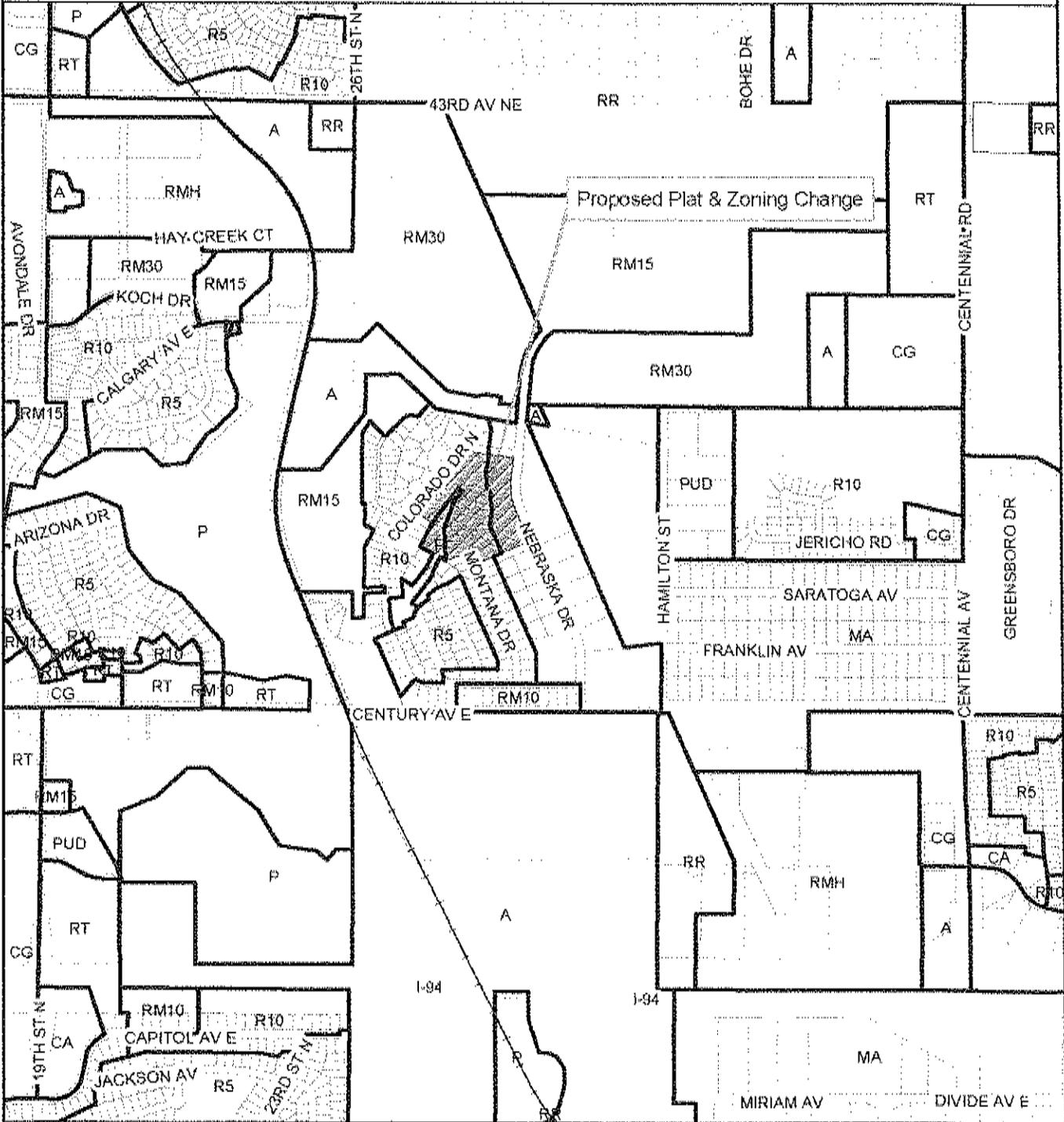
BACKGROUND:		
Title: Edgewood Village Fourth Addition – Preliminary Plat		
Status: Planning Commission – Consideration	Date: January 26, 2011	
Owner(s): Edgewood Village 2 nd Addition, LLLP	Engineer: Swenson, Hagen & Company	
Reason for Request: To commence with the fourth phase of the Edgewood Village residential development.		
Location: In northeast Bismarck, north of Century Avenue, between Colorado Drive and Nebraska Drive (a replat of Lots 9-22 & Lot 26, Block 3, and Lots 1-17, Block 4, Edgewood Village Second Addition and the adjoining Montana Drive, in part of the SW ¼ of Section 23, T139N-R80W/Hay Creek Township).		
Project Size: 14.2 acres	Number of Lots: 9 lots in 2 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Vacant/Undeveloped	Land Use: Single and two-family residential and a skilled care center.	
Zoning: R10 – Residential RM15 – Residential P – Public	Zoning: R10 – Residential RM15 – Residential P – Public	
Uses Allowed: R10 – Single and two-family residential RM15 – Multi-family dwellings P – Public uses	Uses Allowed: R10 – Single and two-family residential RM15 – Multi-family dwellings P – Public uses	
Maximum Density Allowed: R10 – 10 units per acre RM15 – 15 units per acre P – N/A	Maximum Density Allowed: R10 – 10 units per acre RM15 – 15 units per acre P – N/A	
PROPERTY HISTORY:		
Zoned: March 2008	Platted: March 2008	Annexed: March 2008
ADDITIONAL INFORMATION:		
1. Preliminary concept plans have been submitted for the proposed Lot 1, Block 1. The conceptual plans illustrate a skilled care campus building with parking and open spaces incorporated into the plans. Formal site plans have not been submitted for staff review at this time.		
FINDINGS:		
1. All technical requirements for consideration of a preliminary plat have been met.		
<i>continued...</i>		

2. The proposed subdivision generally conforms with the Fringe Area Road Master Plan, which identifies Nebraska Drive as the north-south collector roadway for Section 23.
3. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include developed single, two and multi-family subdivisions to the south, southeast and southwest, Edgewood Village to the west, undeveloped, single, two and multi-family zoning to the north and undeveloped multi-family zoned property to the east.
4. The property is already annexed; therefore, the proposed subdivision would not place an undue burden on public services.
5. The proposed subdivision would not adversely affect property in the vicinity if the orientation and main entrance of the proposed building recognizes Nebraska Drive as the collector roadway.
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

RECOMMENDATION:

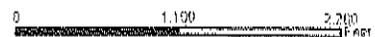
Based on the above findings, staff recommends tentative approval of the preliminary plat for Edgewood Village Fourth Addition.

Proposed Plat & Zoning Change from RM15, R10 & P to RM15, R10 & P Edgewood Village Fourth 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 depicted herein.
Map was updated/created December 28, 2010 (pug)

Source: City of Bismarck

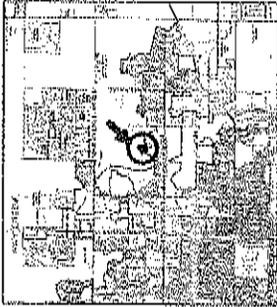
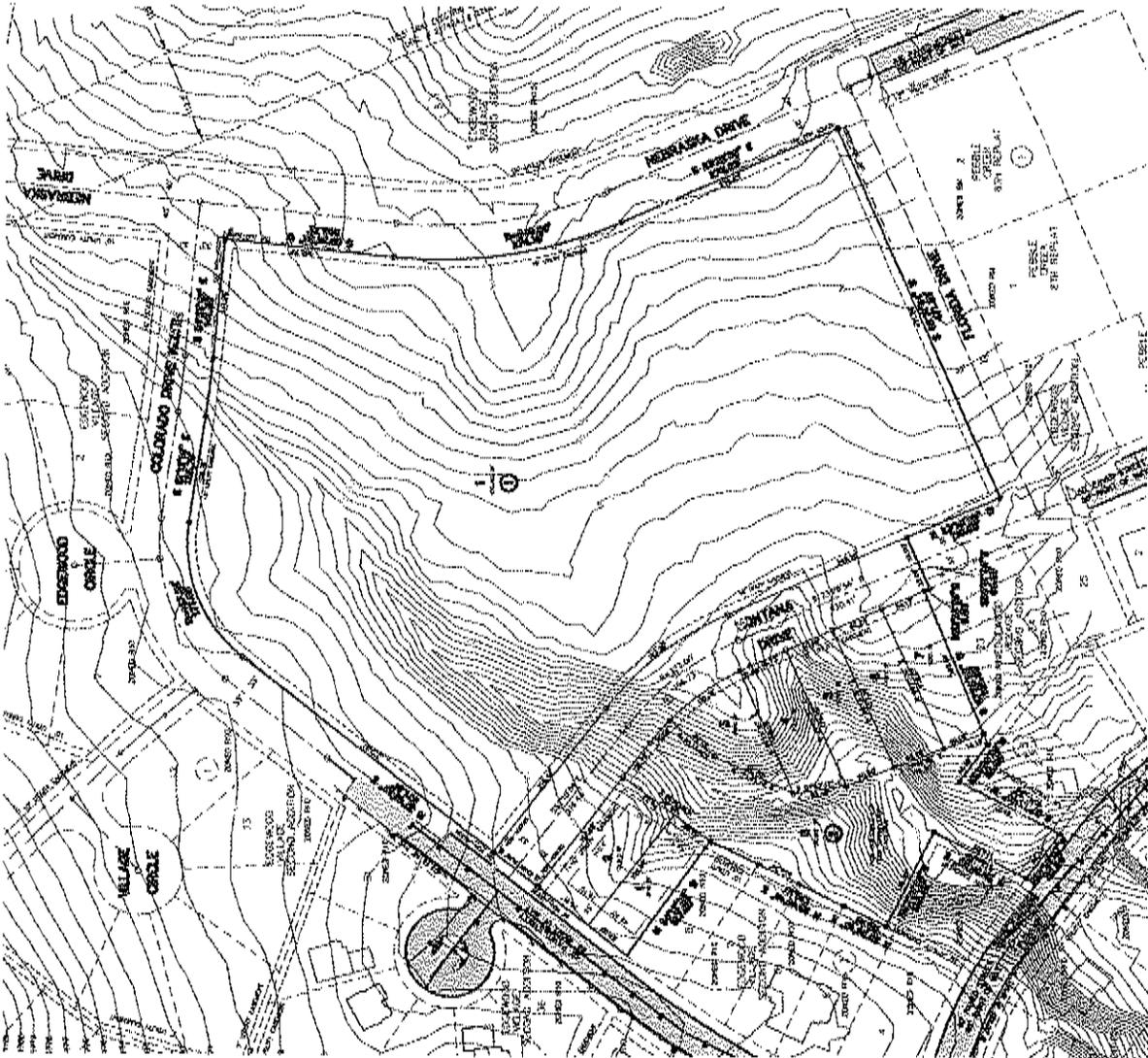


PRELIMINARY
EDGEWOOD VILLAGE FOURTH ADDITION

REPLAT OF LOTS 9 - 22 & LOT 26 BLOCK 3 AND LOTS 1 - 17 BLOCK 4 EDGEWOOD SECOND ADDITION AND THE ADJOINING MONTANA DRIVE

PART OF THE SW 1/4 SECTION 22, T. 139 N., R. 68 W.

BISMARCK, NORTH DAKOTA



LOCATION MAP

OWNER: EDGEWOOD VILLAGE SECOND ADDITION LLLP
 3124 COLORADO LAKE #102
 BISMARCK, NORTH DAKOTA
 58503
 TELE: (701) 791-1445

CURRENT ZONING: R10/RM/P
 PROPOSED ZONING: R10/RM/P
 RM LOT 1 BLOCK 1
 P LOT 1-7 BLOCK 2
 P LOT 8 BLOCK 2
 ACREAGE: 14.2 ACRES
 8 LOTS



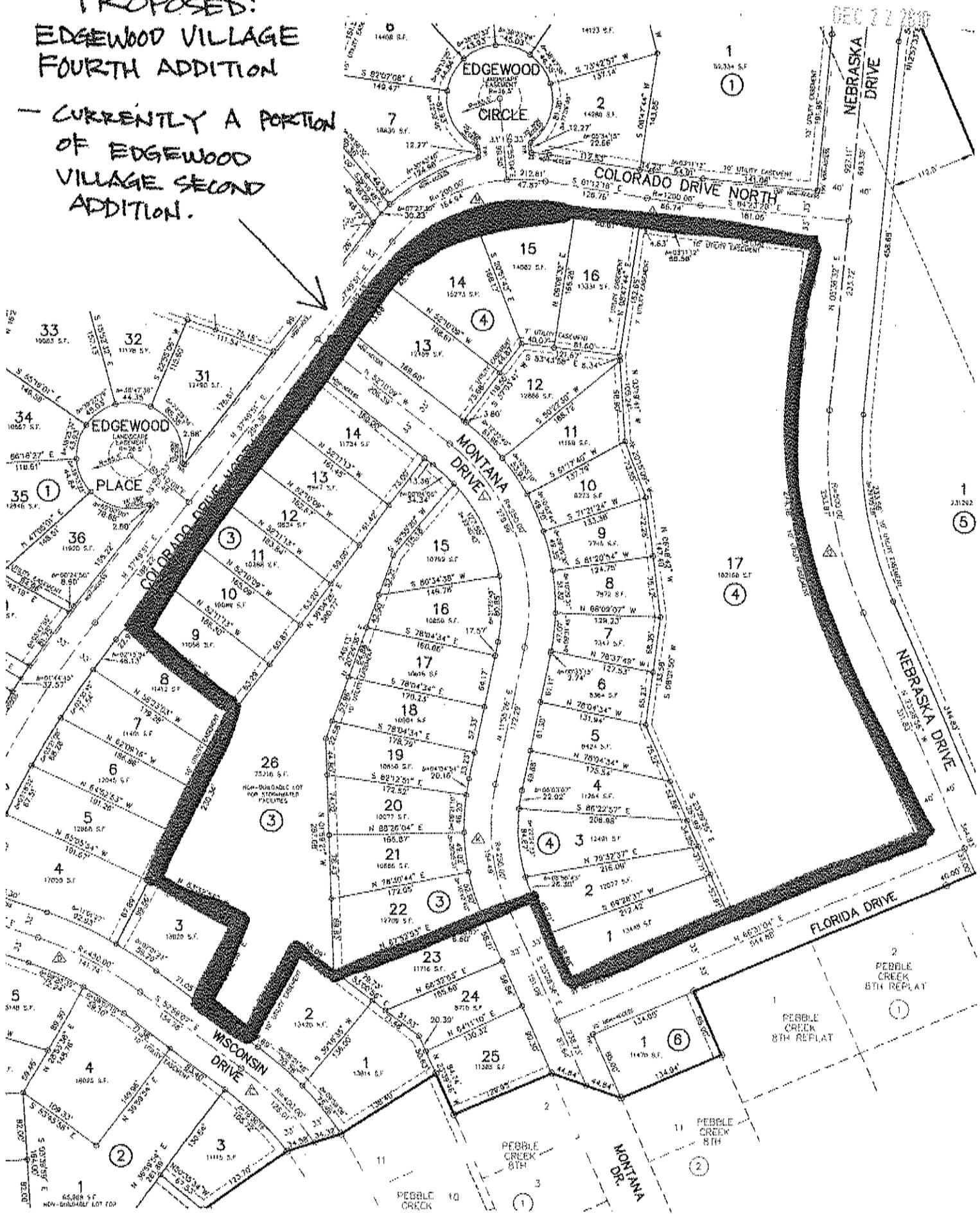
DATE: 11/15/07
 DRAWN BY: J. H. HARRIS
 CHECKED BY: J. H. HARRIS
 APPROVED BY: J. H. HARRIS



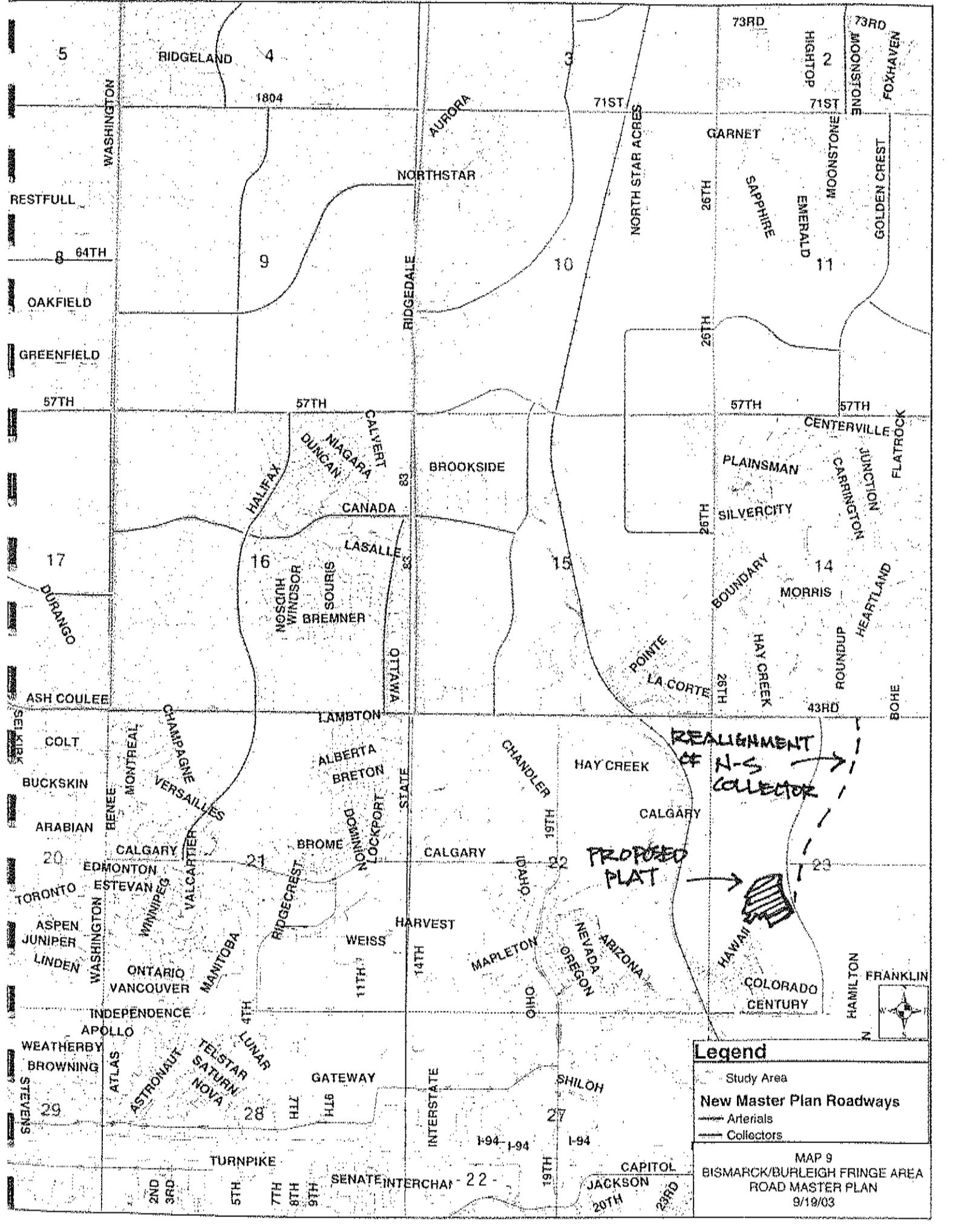
PRELIMINARY-NOT FOR CONSTRUCTION,
 RECORDING PURPOSES OR IMPLEMENTATION

PROPOSED: EDGEWOOD VILLAGE FOURTH ADDITION

CURRENTLY A PORTION
OF EDGEWOOD
VILLAGE SECOND
ADDITION.



RECEIVED
DEC 27 1988



Legend

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

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



1 2ND 3RD 5TH 7TH 8TH 9TH TURNPIKE
SENATE INTERCHANG 22
19TH 20TH 23RD
CAPITOL JACKSON

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

BACKGROUND:		
Title: Lot 1, Block 1, Koch Creek Subdivision - Zoning Change (A & PUD to RT & CG)		
Status: Planning Commission - Consideration	Date: January 26, 2011	
Owner(s): Abaco North, LLC	Engineer: N/A	
Reason for Request: Rezone property to allow commercial and office uses on the property, including a church as a special use on the South 704.95 feet of the West 412.18 feet of this parcel.		
Location: Along the north side of ND Highway 1804 approximately ¼ mile west of US Highway 83.		
Project Size: 17.3 acres (entire plat)	Number of Lots: 1 lot in 1 block	
EXISTING CONDITIONS:		
Land Use: Commercial kennel & undeveloped land	PROPOSED CONDITIONS:	
Zoning: A - Agricultural PUD - Planned Unit Development	Land Use: Commercial and office uses, including a church Zoning: RT - Residential CG - Commercial	
Uses Allowed: A - Agriculture PUD - Uses as specified in the PUD (commercial kennel & ancillary uses)	Uses Allowed: RT - Office and residential, church as special use CG - General commercial uses	
Maximum Density Allowed: A - 1 unit/40 acres PUD - N/A	Maximum Density Allowed: RT - 30 units/acre CG - 42 units/acre	
PROPERTY HISTORY:		
Zoned: 02/08 (PUD portion)	Platted: 09/99	Annexed: N/A
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> 1. A special use permit to allow the operation of an animal shelter on the property was granted by Burleigh County in September 1999. 2. The plat of Koch Creek Subdivision was approved by Burleigh County around the same time. The zoning of the property remained as A - Agricultural because the only proposed use was the animal shelter, which was allowed as a special use in the A - Agricultural district. 3. The zoning of the South 704.95 feet of the West 412.18 feet of the lot was changed from A - Agricultural to PUD - Planned Unit Development in March 2008 to allow the reuse of the western portion of property for a similar but expanded use and establish standards for the expanded use. 		
FINDINGS:		
<ol style="list-style-type: none"> 1. The proposed zoning change would be consistent with the Land Use Plan, which identifies the future use of this area as mixed use (US Highway 83 Corridor Transportation Study). The Mixed Use 1 category includes a mix of horizontally-integrated residential with commercial and/or office uses. The Mixed Use 2 category includes a mix of horizontally-integrated commercial and office uses. 		

(continued)

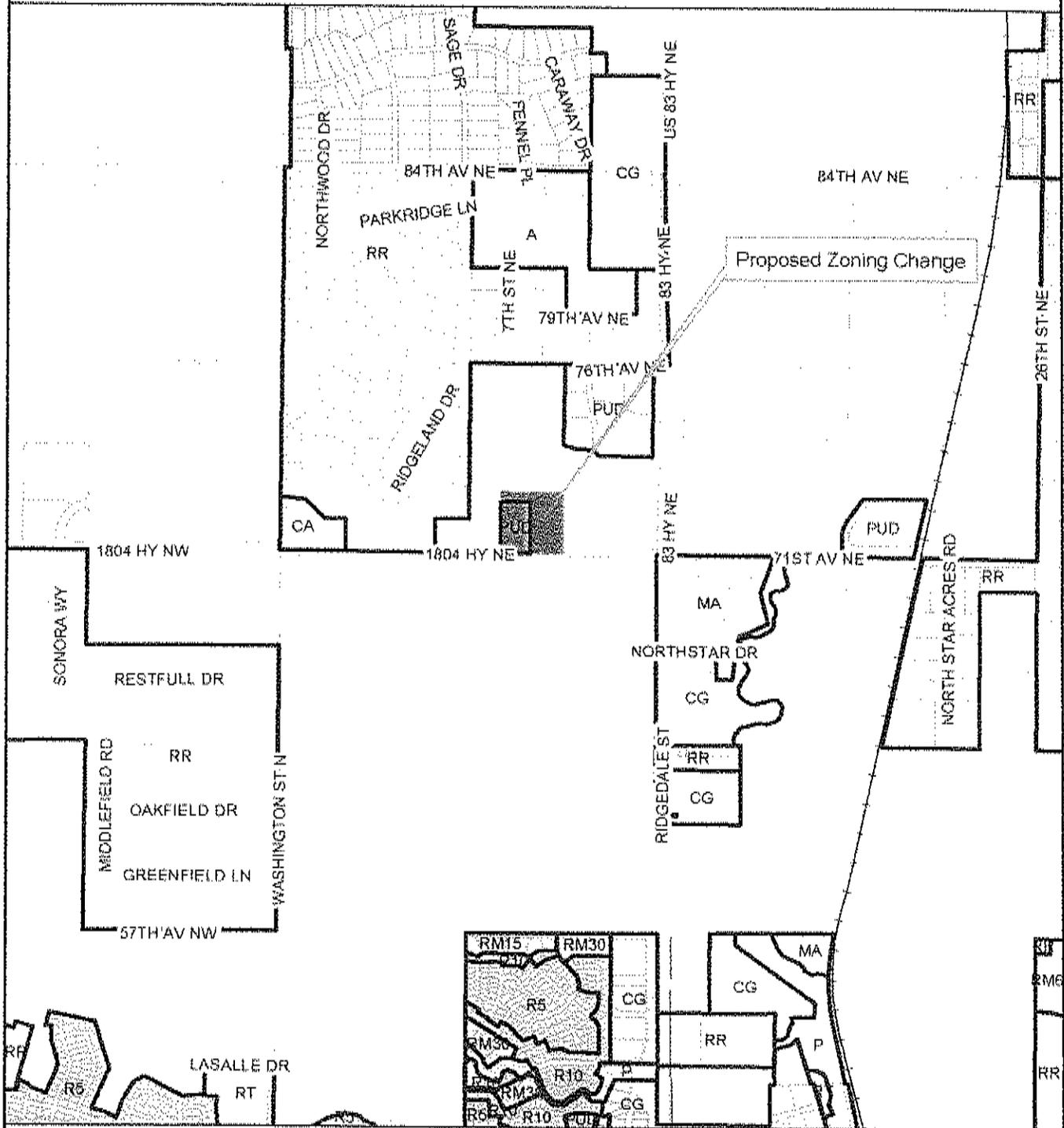
2. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established.
4. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include agricultural land to the south, a combination of agricultural and rural residential to the west and north, and a combination of agricultural and office/light industrial uses to the east.
5. The proposed zoning change may put an undue burden on public services. In particular, the higher intensity land uses allowed by the proposed zoning may create conflicts at the access point(s) on ND Highway 1804 and adversely impact traffic operations on that roadway. There are also concerns with access to this parcel and how it will relate to the overall roadway network needed to provide access to adjacent parcels. In addition, a storm water management plan was not required when this property was platted because the zoning remained A-Agricultural; such a plan would be required prior to further development of the property.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change as proposed is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

RECOMMENDATION:

Based on the above findings, staff recommends scheduling a public hearing on the zoning change for Lot 1, Block 1, Koch Creek Subdivision from A – Agricultural and PUD – Planned Unit Development to RT – Residential on the West 412.18 feet of the parcel and CG – Commercial on the remainder of the parcel.

Proposed Zoning Change from A and PUD to RT and CG

Lot 1, Block 1, Koch Creek Subdivision



DISCLAIMER: This map is for representation use only and does not represent a survey; no liability is assumed as to the accuracy of the data delineated herein. Map was Updated/Created: December 29, 2011 (kkg)

Source: City of Bismarck



Lot 1, Block 1, Koch Creek Subdivision - Zoning Change (A & PUD to RT & CG)



January 2011



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

CITY OF BISMARCK Ordinance No. XXXX

<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 14-02-03 and 14-04-19 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO DEFINITIONS AND THE FP FLOODPLAIN DISTRICT.

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

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

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

* * * * *

Nonconforming use: The use of a building or other structure or of a tract of land which does not conform to the use or regulations of this ~~article~~ title for the district in which it is located, either at the effective date of this ~~article~~ title, or as a result of subsequent amendments which may be incorporated into this ~~article~~ title.

Nonconforming structure: A structure which does not conform to the regulations of this title for the district in which it is located, either at the effective date of this title or as a result of subsequent amendments which may be incorporated into this title.

* * * * *

Section 2. Amendment. Section 14-04-19 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the FP Floodplain District is hereby amended and re-enacted to read as follows:

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

* * * * *

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

* * * * *

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this section.

* * * * *

"Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms.

* * * * *

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal

or exceed fifty percent (50%) of the market value as assessed of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value as assessed of the structure either: before the improvement or repair is started; or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

* * * * *

4. General provisions.

a. Jurisdiction. This section shall apply to all special flood hazard areas within the jurisdiction of the City of Bismarck, including all lands within the corporate limits of the City of Bismarck and the extraterritorial jurisdiction as provided for in Section 40-47-01.1 of the North Dakota Century Code, including areas specifically included in the jurisdiction of the City of Bismarck through agreement as approved by the Board of City Commissioners.

* * * * *

c. Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations, unless a valid building permit was in place prior to July 27, 2010, except as provided for

in subsection 6(b)(5) (additions to existing structures).

* * * * *

h. Non-conforming Status. Any structure constructed with the lowest floor elevated as required by the regulations in effect at the time of construction shall not be considered a non-conforming structure for the purposes of this section, provided the lowest floor of said structure is elevated on fill and/or a permanent foundation to at least one (1) foot above the base flood elevation.

* * * * *

6. Provisions for flood hazard reduction.

* * * * *

b. Specific standards. In all special flood hazard areas where base flood elevation data have been provided as set forth in subsection 4(b) (basis for establishing the special flood hazard areas) or subsection 5(d)(2) (use of other base flood data), the following provisions are required:

1. Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement and/or crawl space, elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation.

2. Nonresidential construction. Construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement and/or crawl space, elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed to at least two (2) feet above the base flood elevation, so

that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator as set forth in subsection 5(d)(3) (information to be obtained and maintained).

3. Manufactured homes.

a. Manufactured homes shall be anchored in accordance with subsection 6(a)(1) (anchoring).

b. All manufactured homes or those to be substantially improved shall be on a permanent foundation, have the lowest floor of the manufactured home elevated on fill and/or a permanent foundation to at least two (2) feet above the base flood elevation, and be securely anchored to an adequately anchored foundation system.

4. Attached garages, decks and landings providing primary access, and accessory buildings.

a. Garages attached to any residential structure, non-residential structure or manufactured home shall be subject to the same construction requirements as the residential structure, non-residential structure or manufactured home to which it is attached.

b. Decks and landings providing access to the primary entrance of a residential structure, non-residential structure or

manufactured home shall be subject to the same construction requirements as the residential structure, non-residential structure or manufactured home to which it provides access.

c. Accessory buildings over one hundred twenty (120) square feet in area for residential structures, non-residential structures and manufactured homes shall be subject to the same construction requirements as the residential structure, non-residential structure or manufactured home to which it is accessory.

5. Additions to existing structures.

a. Any addition to any existing residential structure, non-residential structure, manufactured home, garage, deck, landing or accessory building that is not deemed a substantial improvement may be constructed with the lowest floor at the same elevation as the existing structure, provided the lowest floor of the existing structure is elevated on fill and/or a permanent foundation to at least one (1) foot above the base flood elevation.

* * * * *

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

Section 4. Effective Date. This ordinance shall take effect 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, 14-04-21.1 AND 14-04-21.2 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO DOWNTOWN DISTRICTS, DC DOWNTOWN CORE DISTRICT AND DF DOWNTOWN FRINGE DISTRICT.

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 the Downtown Districts is hereby amended and re-enacted to read as follows:

14-04-21. Downtown Districts.

* * * * *

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

* * * * *

Use Table.

Proposed Use Category	Definition	Use Standards	District	
			DC	DF
Other				
<u>Demolition of Existing Buildings</u>		<u>X</u>	<u>SUP</u>	<u>SUP</u>

Section 2. Amendment. Section 14-04-21.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the DC Downtown Core District is hereby amended and re-enacted to read as follows:

1. Purpose. The purpose of the Downtown Core District is to preserve and enhance the mixed-use, pedestrian-oriented nature of the City's downtown area. The district allows a wide range of mutually supportive uses in order to enhance downtown Bismarck's role as a commercial, cultural, governmental, health/medical, entertainment and residential center. The district standards also facilitate the creation of a strong and distinctive sense of place through the inclusion of open space and public plazas. The use of design standards will maintain the historical integrity, enhance the quality of design, and preserve the human-scale development of downtown.

* * * * *

4. Design Standards. All development within the Downtown Core District is subject to the following design standards:

a. Intent. The intent of the design standards is to create and maintain a high visual quality and appearance for the Downtown Core District. The regulations are also intended to ensure that new buildings, building additions, façade alterations, building rehabilitations, and signage are compatible with the character of the Downtown Core District and fit into their surroundings. It is also the intent of these regulations to stimulate and protect public and private investment through the establishment of high standards with respect to architectural design, building materials, details, and appearance, and to support the preservation of historically significant buildings.

b. Review and Approval. ~~Compliance with these design standards shall be carried out in conjunction with the City's site plan review procedures.~~ All new buildings, building additions, façade alterations (both structural and non-structural), demolition of existing buildings, signage, streetscape installation or modification, fences, lighting and improvement within the public right-of-way within the Downtown Core District shall be subject to the City's downtown design review procedures. An administrative decision

by City staff regarding the design standards may be appealed to the City's Planning and Zoning Commission Renaissance Zone Authority and will be subject to the Commission's Authority's standard public hearing procedures. Any decision of the Renaissance Zone Authority regarding design standards may be appealed to the Board of City Commissioners pursuant to the process outlined in Section 14-06-03(3).

c. Remodeling of Historically Significant Buildings. Any building listed on the National Register of Historic Places, identified as being individually eligible for listing on the National Register or identified as contributing to the downtown Bismarck historic district in the Historic Architectural Inventory and Evaluation (2000) or any subsequent inventory and evaluation, or more than 50 years old is considered to be a historically significant building. Projects involving the remodeling, renovation or rehabilitation of existing historically significant buildings shall reflect the original architectural character of the building. The introduction of any new design elements must be consistent with the traditional features of the building. To the greatest degree practicable, rehabilitation of existing historically significant buildings shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation.

d. New Construction. Projects involving new construction shall consider the context of the site and be compatible with the general character of the downtown area. While new buildings are required to fit into their surroundings, the City will not require uniformity of design or dictate specific architectural styles. The overall context of the downtown area includes a variety of architectural styles and these regulations are intended to allow both flexibility and creativity in achieving compatible design solutions.

ee. Building Materials. For new construction, all walls visible from the street shall be primarily faced with architectural materials such as brick, stone, architectural concrete or pre-cast concrete panels, glass, exterior insulation finish insulation systems, or an equivalent or better. The use of plain surface concrete block shall be prohibited (i.e. the

surface must be dimensional). The use of typical residential exterior materials shall be prohibited (i.e. residential grade vinyl siding, residential grade steel siding, composite brick). Non-transparent mirrored or one-way glass with a reflectance greater than 40 percent (40%) shall be prohibited from covering more than 40 percent (40%) of the exterior walls.

All subsequent renovations, additions and related structures ~~constructed~~ undertaken after the construction of an original building shall be ~~constructed~~ finished with materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

For existing historically significant buildings, the sheathing or installation of another material over the façade or any wall visible from the street shall be prohibited unless deemed necessary to preserve the structural integrity of the building.

~~In order to maintain a sense of harmony within the area, the colors and materials used should generally be compatible with or complementary to those used for buildings on adjoining parcels.~~

F. Building Colors. In order to maintain a sense of harmony within the Downtown Core District, color schemes used shall complement the predominant hues of adjoining buildings. Color schemes should generally be simple, using the minimum number of colors necessary to accentuate architectural features. The use of extremely bright hues shall generally be limited to smaller accent features of the building. Color schemes which are designed to draw attention or which create a result that is difficult for people to ignore shall not be allowed. Repainting projects which do not substantially change the existing color scheme are not subject to the building color criteria.

eg. Height. The height of a new mid-block building shall be within one story/15 feet of any adjoining building. If a proposed mid-block development is between two existing buildings that vary more than three stories in height, the new

building shall be within one story/15 feet in height of either the taller or shorter building. The height of a new corner building may be higher than buildings on adjoining parcels, but should generally be within the average height of the buildings occupying the three adjacent corners of the intersection. It is not the intent of this provision to regulate the height of a new building which occupies one-quarter of a block or more as it relates to adjacent or adjoining buildings.

eh. Alignment. New infill development in the Downtown Core District shall maintain the zero setback and the alignment of adjoining facades at the property line.

fi. Width. New buildings shall reflect the existing characteristic rhythm of facades along the street. New construction on multiple lots, including parking ramps ~~that require two or more lots~~, should respect this pattern by designing the pattern of adjacent façade widths into the new facade.

gj. Horizontal Rhythms. New development shall maintain the alignment of building windows, cornices, and rooflines that dominate the block on which it will be constructed. Character and scale shall be compatible with surrounding structures through the use of materials, detailing and window placement. A clear visual division between the street level and upper floors shall also be maintained. Canopies and awnings consistent with the architectural style of the building are encouraged to accentuate the street level relationship between the building and streetscape and to provide protection ~~of~~ for pedestrians.

hk. Entrances. ~~Main entrances to buildings shall face and be clearly visible from the street, and be recessed to maintain a coherent pattern along the sidewalk and to define the entry point. The size, spacing, horizontal alignment and proportions of doors should reflect the predominant style along the block. Recessed entries that were part of the original building design shall be preserved. For new buildings, recessed entries shall be required when the property is located in an area where recessed entries are the predominate style.~~

~~i. Historic Preservation. Rehabilitation of existing historically significant buildings shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation to the greatest degree practicable.~~

jl. Display Windows. The original size, and shape and proportion of display all windows on existing historically significant buildings shall be preserved. For new non-residential buildings, a minimum of fifty percent (50%) of first floor facades fronting the street shall be windows, doors and other transparent elements. In order to preserve the character of existing historically significant buildings, it is not the intent of this provision to require windows to be installed where none existed in the original design. However, if the exterior of an existing historically significant building is being remodeled, renovated or rehabilitated, the size, shape and proportion of the original window openings shall be restored. Replacement windows shall generally conform with the style of the original windows used in the building, with wood or prefinished aluminum as the finish material.

km. Rooftop Equipment. Rooftop equipment shall be screened from ground level views with parapet walls or enclosures similar in form, material and detail to the primary structure.

ln. Vacant Buildings. Vacant and abandoned buildings shall be made to appear inhabited. Boarding up windows in vacant or abandoned buildings shall be prohibited.

mo. Demolition and Vacant Lots. Any demolition shall be in accordance with the provisions of Section 4-05-03 of the City Code of Ordinances. Any lots left vacant after demolition shall be treated to control fugitive dust. If the lot is to remain vacant for more than 180 days, said lot shall be landscaped. The lot shall be maintained and kept free of debris and litter.

np. Exposed Common Walls. If common walls are exposed due to demolition of adjoining buildings, the

walls shall be treated to ensure that the walls do not become a visual eyesore. The treatment may be temporary or permanent depending on the potential for redevelopment of adjoining parcels. Temporary alternative treatments include masonry paint or vines. Permanent alternative treatments include architectural treatment that is similar to the front façade of the building or stucco. The wall treatment shall be in place within 90 days of the date of demolition, unless a longer period is authorized at the time of approval of the demolition plans, and shall be the financial responsibility of the owner of the property upon which the demolished building was located.

eg. Work in Public Right-of-Way. Any work within the public right-of-way that relates to an identified streetscape element, as identified in the Streetscape Guidelines for Downtown Bismarck, ~~dated~~ (May 1995) or subsequent updates, shall be in accordance with the design elements identified by those guidelines and shall comply with the standards established by the City Engineer.

r. Landscaping and Screening. New construction and major remodeling, renovation or rehabilitation projects shall be subject to the requirements of Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening), including the installation of street trees if required.

* * * * *

Section 3. Amendment. Section 14-04-21.2 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the DF Downtown Fringe District is hereby amended and re-enacted to read as follows:

14-04-21.2 DF Downtown Fringe District.

1. Purpose. The purpose of the Downtown Fringe District is to strengthen and complement the City's downtown area by allowing uses not normally allowed in the Downtown Core District. The Downtown Fringe District also serves to provide a transitional area between the Downtown Core District and adjacent commercial and residential zoning districts. The uses allowed in this district usually require larger parcels and a greater emphasis on automobile access and parking

* * * * *

4. Design Standards. All development within the Downtown Fringe District is subject to the following design standards:

a. Intent. The intent of the design standards is to create and maintain a high visual quality and appearance for the Downtown Fringe District. The regulations are also intended to ensure that new buildings, building additions, façade alterations, building rehabilitations, and signage are compatible with the character of the Downtown Fringe District and fit into their surroundings. It is also the intent of these regulations to stimulate and protect public and private investment through the establishment of high standards with respect to architectural design, building materials, details, and appearance, and to support the preservation of historically significant buildings.

b. Review and Approval. ~~Compliance with these design standards shall be carried out in conjunction with the City's site plan review procedures.~~ All new buildings, building additions, façade alterations (both structural and non-structural) demolition of existing buildings, signage, streetscape installation or modification, fences, lighting and improvement within the public right-of-way within the Downtown Fringe District shall be subject to the City's downtown design review procedures. An administrative decision by City staff regarding the design standards may be appealed to the City's Planning and Zoning Commission Renaissance Zone Authority and will be subject to the Commission's Authority's standard public hearing procedures. Any decision of the Renaissance Zone Authority regarding design standards may be appealed to the Board of City Commissioners pursuant to the process outlined in Section 14-06-03.

c. Remodeling of Historically Significant Buildings. Any building listed on the National Register of Historic Places, identified as being individually eligible for listing on the National Register or identified as contributing to the downtown Bismarck historic district in the Historic

Architectural Inventory and Evaluation (2000) or any subsequent inventory and evaluation, or more than 50 years old is considered to be a historically significant building. Projects involving the remodeling, renovation or rehabilitation of existing historically significant buildings shall reflect the original architectural character of the building. The introduction of any new design elements must be consistent with the traditional features of the building. To the greatest degree practicable, rehabilitation of existing historically significant buildings shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation.

d. New Construction. Projects involving new construction shall consider the context of the site and be compatible with the general character of the downtown area. While new buildings are required to fit into their surroundings, the City will not require uniformity of design or dictate specific architectural styles. The overall context of the downtown area includes a variety of architectural styles and these regulations are intended to allow both flexibility and creativity in achieving compatible design solutions.

ee. Building Materials. For new non-residential and multi-family residential buildings containing more than 8 units, all walls visible from the street shall be primarily faced with architectural materials such as brick, stone, architectural concrete or pre-cast concrete panels, glass, exterior insulation finish systems, or an equivalent or better. The use of plain surface concrete block shall be prohibited (i.e. the surface must be dimensional). The use of typical residential exterior materials shall be prohibited (i.e. residential grade vinyl siding, residential grade steel siding, composite brick). Non-transparent mirrored or one-way glass with a reflectance greater than 40 percent (40%) shall be prohibited from covering more than 40 percent (40%) of the exterior walls.

For residential buildings containing eight (8) or fewer units, traditional typical residential building materials may be used.

All subsequent renovations, additions and related structures ~~constructed~~ undertaken after the construction of an original building shall be ~~constructed of~~ finished with materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

For existing historically significant buildings, the sheathing or installation of another material over the façade or any wall visible from the street shall be prohibited unless deemed necessary to preserve the structural integrity of the building.

f. Building Colors. In order to maintain a sense of harmony within the Downtown Fringe District, color schemes used shall complement the predominant hues of adjoining buildings. Color schemes should generally be simple, using the minimum number of colors necessary to accentuate architectural features. The use of extremely bright hues shall generally be limited to smaller accent features of the building. Color schemes which are designed to draw attention or which create a result that is difficult for people to ignore shall not be allowed. Repainting projects which do not substantially change the existing color scheme are not subject to the building color criteria.

eg. Height. The height of a new building should be within one story/15 feet of any buildings on adjoining parcels. It is not the intent of this provision to regulate the height of a building which occupies one-quarter of a block or more as it relates to buildings on adjoining parcels.

eh. Alignment. The setbacks and alignment of a new building should be similar to any buildings on adjoining parcels.

fi. Entrances. Main entrances to buildings shall face and be clearly visible from the street.

~~g. Historic Preservation. Rehabilitation of existing historically significant buildings shall be in accordance with the Secretary of the Interior's~~

~~Standards for Rehabilitation to the greatest degree practicable.~~

h_j. Rooftop Equipment. Rooftop equipment shall be screened from ground level views with parapet walls or enclosures similar in form, material and detail to the primary structure.

h_k. Vacant Buildings. Vacant and abandoned buildings shall be made to appear inhabited. Boarding up windows in vacant or abandoned buildings shall be prohibited.

h_l. Demolition and Vacant Lots. Any demolition shall be in accordance with the provisions of Section 4-05-03 of the City Code of Ordinances. Any lots left vacant after demolition shall be treated to ensure to control fugitive dust. If the lot is to remain vacant for more than 180 days, said lot shall be landscaped. The lot shall be maintained and kept free of debris and litter.

h_m. Exposed Common Walls. If common walls are exposed due to demolition of adjoining buildings, the walls shall be treated to ensure that the walls do not become a visual eyesore. The treatment may be temporary or permanent depending on the potential for redevelopment of adjoining parcels. Temporary alternative treatments include masonry paint or vines. Permanent alternative treatments include architectural treatment that is similar to the front façade of the building or stucco. The wall treatment shall be in place within 90 days of the date of demolition, unless a longer period is authorized at the time of approval of the demolition plans, and shall be the financial responsibility of the owner of the property upon which the demolished building was located.

h_n. Work in Public Right-of-Way. Any work within the public right-of-way that relates to an identified streetscape element, as identified in the Streetscape Guidelines for Downtown Bismarck, ~~dated (May 1995)~~ or subsequent updates, shall be in accordance with the design elements identified by those guidelines and shall comply with the standards established by the City Engineer.

o. Landscaping and Screening. New construction and major remodeling, renovation or rehabilitation projects shall be subject to the requirements of Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening), including the installation of street trees if required.

* * * * *

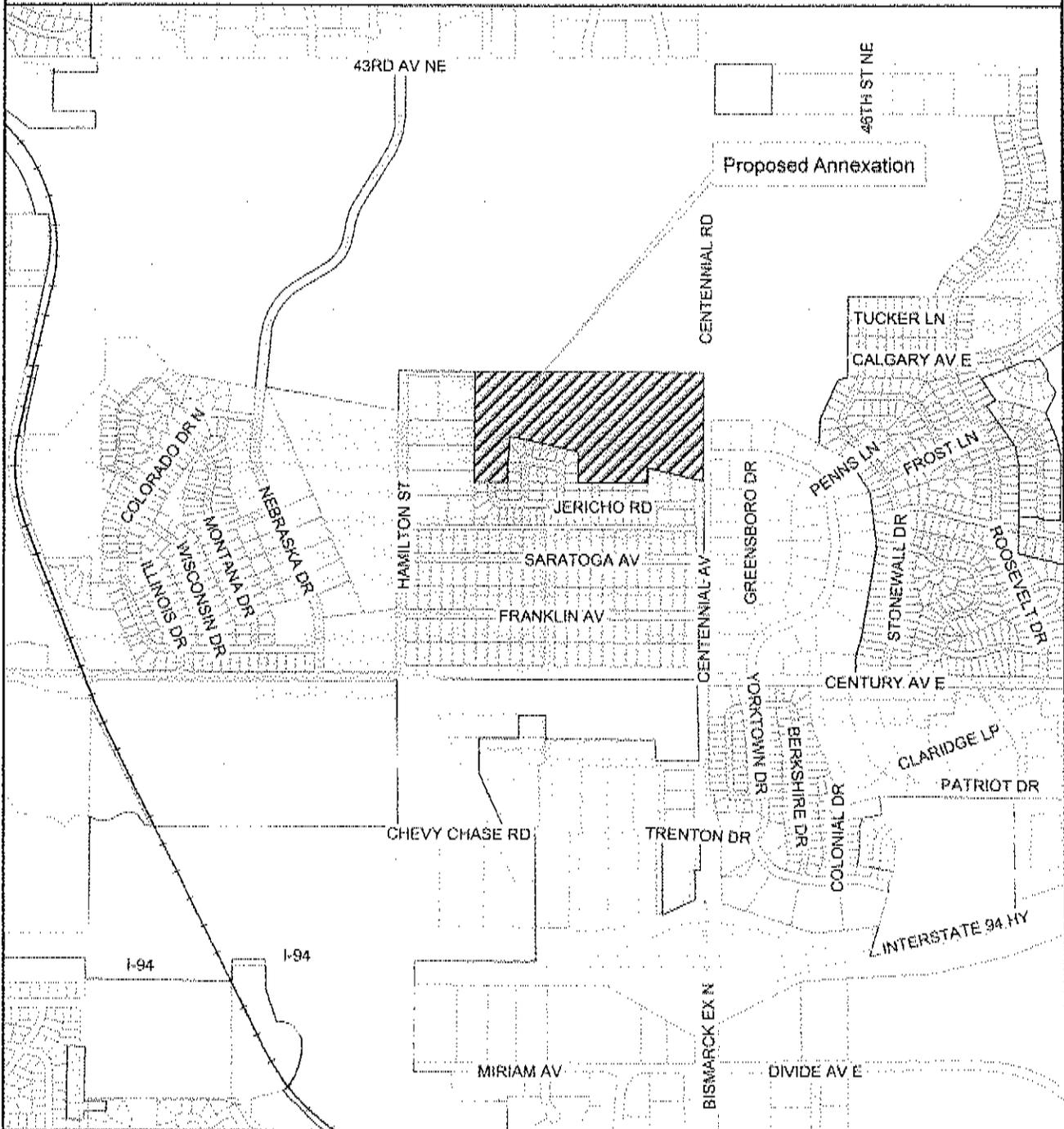
Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

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

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

BACKGROUND:		
Title: Part of the N½ of the SE¼ of Section 23, T139N-R80W/ Hay Creek Township (being platted as Stonecrest Second Addition) – Annexation		
Status: Planning Commission – Final Consideration	Date: January 26, 2011	
Owner(s): Liechty Homes, Inc.	Engineer: Toman Engineering Company	
Reason for Request: Plat, zone and annex property for residential and commercial development. The final consideration of this annexation precedes the plat and zoning change to accommodate a summer construction schedule.		
Location: In northeast Bismarck, less than ½ mile north of Century Avenue on the west side of Centennial Avenue (part of the N½ of the SE¼ of Section 23, T139N-R80W/ Hay Creek Township)		
Project Size: 37.61 acres	Number of Lots: 19 lots in 7 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Manufactured housing development with lots for twin homes, apartments, and commercial development	
Zoning: R10 – Residential	Zoning: RMH – Residential, R10-Residential, RM30-Residential, CG-Commercial	
Uses Allowed: Single and two family residential	Uses Allowed: Single family residential, two family residential, multi-family residential, and commercial uses	
Maximum Density Allowed: Ten units per acre	Maximum Density Allowed: RMH = 7 units per acre, R10 = 10 units per acre, RM30 = 30 units per acre, CG = 42 units per acre	
PROPERTY HISTORY:		
Zoned: 2001	Platted: N/A	Annexed: N/A
FINDINGS:		
<ol style="list-style-type: none"> 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 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. 		
RECOMMENDATION:		
Based on the above findings, staff recommends annexation of part of the N½ of the SE¼ of Section 23, T139N-R80W/ Hay Creek Township (being platted as Stonecrest Second Addition) as described by a metes and bounds legal description of the property containing 37.61 acres.		

Proposed Annexation Stonecrest Second 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 herein.
Map was Updated/Created: December 28, 2010 (kag)

Source: City of Bismarck

STONECREST SECOND ADDITION ANNEXATION DESCRIPTION

DEC 22 2010

A tract of land being a part of the N1/2 of the SE1/4 of Section 23, Township 139 North, Range 80 West of the 5th Principal Meridian, Burleigh County, North Dakota, being more particularly described as follows:

Beginning at the northeast corner of the SE1/4 of Section 23, T139N-R80W; thence South 00° 37' 38" West along the east boundary line of said SE1/4 a distance of 933.04 feet to the northeast corner of Promised Land Addition of the City of Bismarck, Burleigh County, North Dakota; thence along the north boundary line of said Promised Land Addition the following three (3) courses; thence North 76° 57' 52" West a distance of 495.39 feet; thence South 00° 12' 49" West a distance of 126.98 feet; thence North 89° 49' 06" West a distance of 591.95 feet to the southeast corner of Stonecrest First Addition of the City of Bismarck, Burleigh County, North Dakota; thence North 00° 11' 37" East along the east boundary line of said Stonecrest First Addition a distance of 262.22 feet to the northeast corner of said Stonecrest First Addition; thence North 76° 57' 26" West along the north boundary line of said Stonecrest First Addition a distance of 602.91 feet to the northwest corner of said Stonecrest First Addition; thence South 04° 25' 02" West along the west boundary line of said Stonecrest First Addition a distance of 259.03 feet; thence South 00° 15' 36" West continuing along said west boundary line a distance of 138.10 feet to the southwest corner of said Stonecrest First Addition, said point also being on the north boundary line of said Promised Land Addition; thence North 89° 43' 47" West along said north boundary line a distance of 288.75 feet to a point on the east boundary line of Hamilton's First Addition of the City of Bismarck, Burleigh County, North Dakota; thence North 00° 45' 17" East along said east boundary line a distance of 950.31 feet to the northeast corner of said Hamilton's First Addition, said point also being on the north boundary line of said SE1/4; thence South 89° 47' 30" East along said north boundary line a distance of 1968.55 feet to the Point of Beginning. Said tract of land containing 37.61 Acres, more or less.

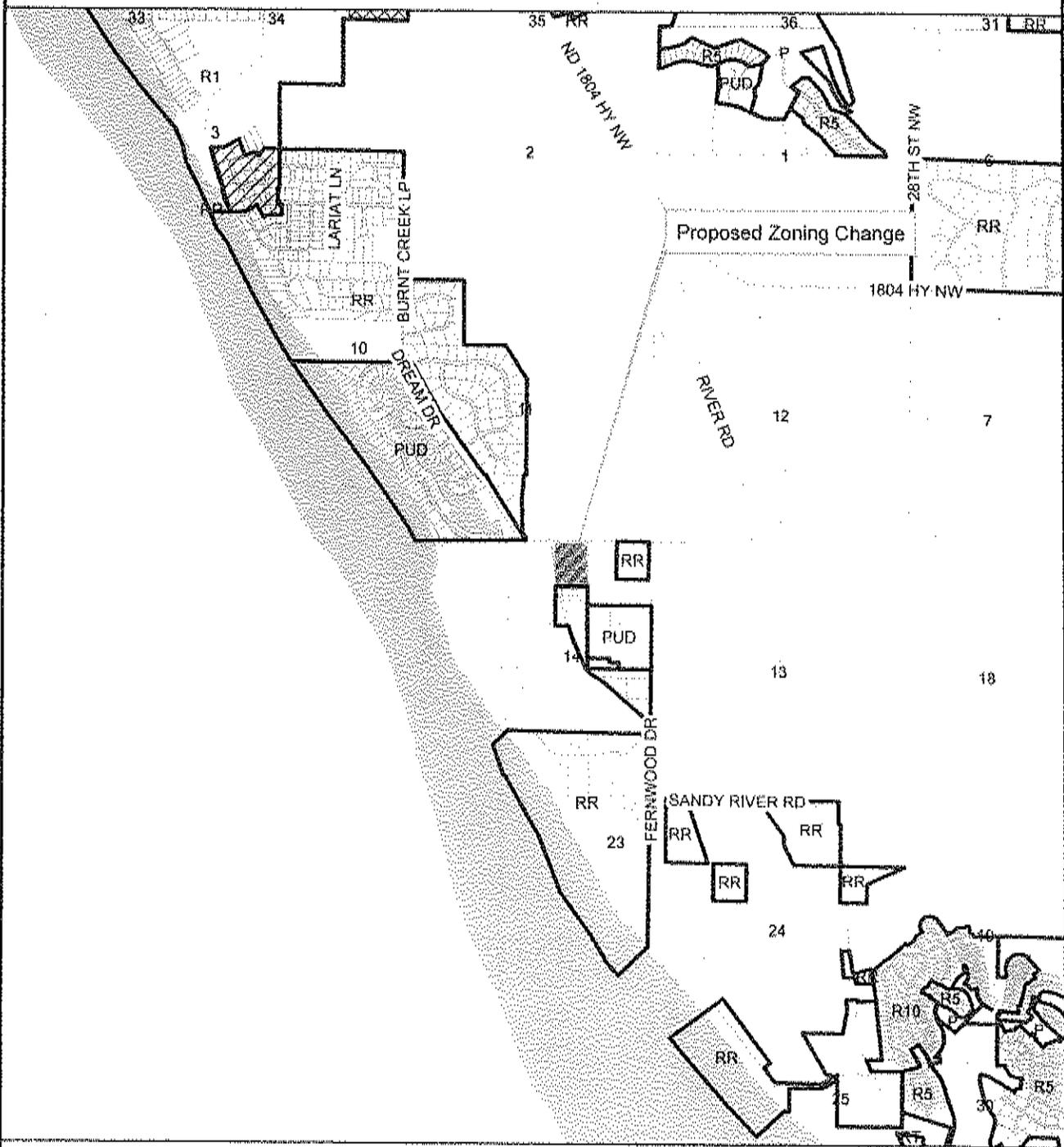
**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:	
Title: Fernwood Subdivision – Zoning Change (A to RR)	
Status: Planning Commission – Public Hearing	Date: January 26, 2011
Owner(s): Amanda Paulson Living Trust – Lots 1-2 Robert Robinson & Paul Robinson – Lots 3-4 Emil & Geralyn Kirschenmann – Lots 5- 6	Engineer: Swenson Hagen & Co.
Reason for Request: Plat and rezone partially developed property for purpose of creating additional parcels.	
Location: Along the east side of Fernwood Drive at the intersection with the southern east-west portion of Burnt Creek Loop (part of the E½ of the NW¼ of the NE¼ of Section 14, T139N-R81W/ West Hay Creek Township, including a replat of the North 30.00 feet of Lot 1, Block 1, Hanson Subdivision).	
Project Size: 14.42 acres	Number of Lots: 6 lots in 1 block
EXISTING CONDITIONS:	PROPOSED CONDITIONS:
Land Use: Rural residential	Land Use: Rural residential
Zoning: A – Agriculture	Zoning: RR – Residential
Uses Allowed: Agriculture	Uses Allowed: Rural residential & limited agriculture
Maximum Density Allowed: One unit per 40 acres	Maximum Density Allowed: One unit per 65,000 square feet
PROPERTY HISTORY:	
Zoned: N/A	Platted: N/A
FINDINGS:	
<ol style="list-style-type: none"> 1. The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan). 2. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include a combination of rural residential and agricultural. 3. The property included in the proposed subdivision is partially developed, has access via Fernwood Drive and Burnt Creek Loop and is served by South Central Regional Water District; therefore, the proposed zoning change will not place an undue burden on public services. 4. The proposed zoning change would not adversely affect property in the vicinity. 5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance. 6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice. 	

RECOMMENDATION:

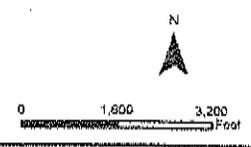
Based on the above findings, staff recommends approval of the zoning change for Fernwood Subdivision from A – Agricultural to RR – Residential.

Proposed Zoning Change (A to RR) Fernwood Subdivision

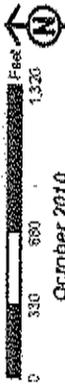
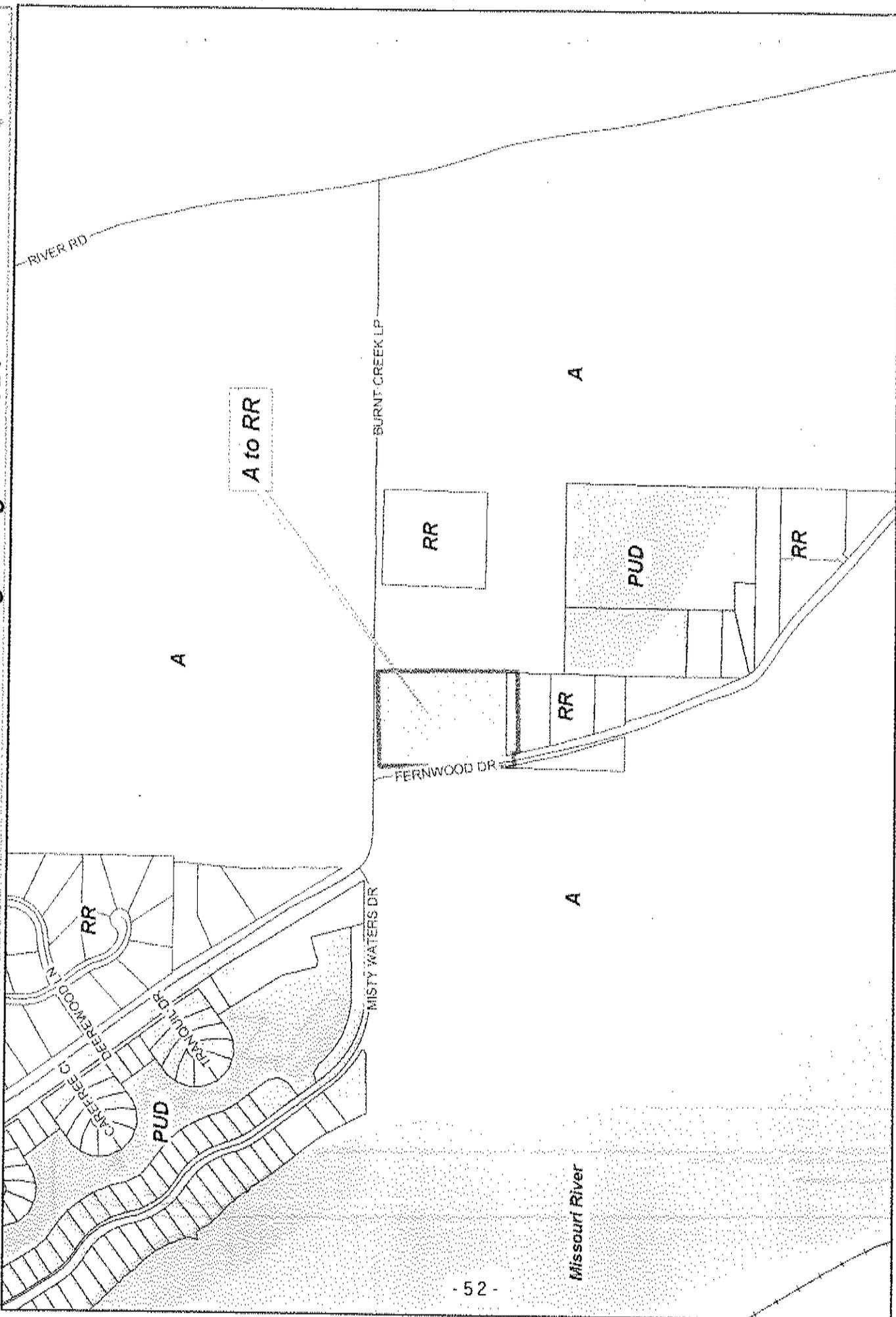


DISCLAIMER: This map is for representation only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.
Map was Updated/Created: September 29, 2010 (kag)

Source: City of Blairack



Fernwood Subdivision - Zoning Change - A to RR



October 2010

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

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

BACKGROUND:	
Title: Fernwood Subdivision – Final Plat	
Status: Planning Commission – Public Hearing	Date: January 26, 2011
Owner(s): Amanda Paulson Living Trust – Lots 1-2 Robert Robinson & Paul Robinson – Lots 3-4 Emil & Geralyn Kirschenmann – Lots 5- 6	Engineer: Swenson Hagen & Co.
Reason for Request: Plat and rezone partially developed property for purpose of creating additional parcels.	
Location: Along the east side of Fernwood Drive at the intersection with the southern east-west portion of Burnt Creek Loop (part of the E½ of the NW¼ of the NE¼ of Section 14, T139N-R81W/ West Hay Creek Township, including a replat of the North 30.00 feet of Lot 1, Block 1, Hanson Subdivision).	
Project Size: 14.42 acres	Number of Lots: 6 lots in 1 block
EXISTING CONDITIONS:	
Land Use: Rural residential	PROPOSED CONDITIONS:
Zoning: A – Agriculture	Land Use: Rural residential
Uses Allowed: Agriculture	Zoning: RR – Residential
Uses Allowed: Agriculture	Uses Allowed: Rural residential & limited agriculture
Maximum Density Allowed: One unit per 40 acres	Maximum Density Allowed: One unit per 65,000 square feet
PROPERTY HISTORY:	
Zoned: N/A	Platted: N/A
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> 1. The Hay Creek Township Board of Supervisors has recommended approval of the proposed subdivision, with comments (see attached). 2. This property is located within the Urban Service Area Boundary (USAB) and is subject to ghost platting. The applicants have requested a waiver of the ghost platting requirement because Lots 2 and 3 are four (4) feet below the current base flood elevation and are unlikely to become urban lots in the future. 3. The City Engineer has approved the a request from South Central Regional Water District to provide service to the subdivision, with the understanding that the following plat note is included on the mylar: "The water service agreement between the City of Bismarck and South Central Regional Water District will allow the provision of water service to Fernwood Subdivision for a period of ten years and subsequent to that time, the City may, upon a one year notice, require South Central Regional Water District to discontinue water service if City water service is available." 4. The amount of right-of-way dedicated for both Burnt Creek Loop and Fernwood Drive is acceptable as shown. 	

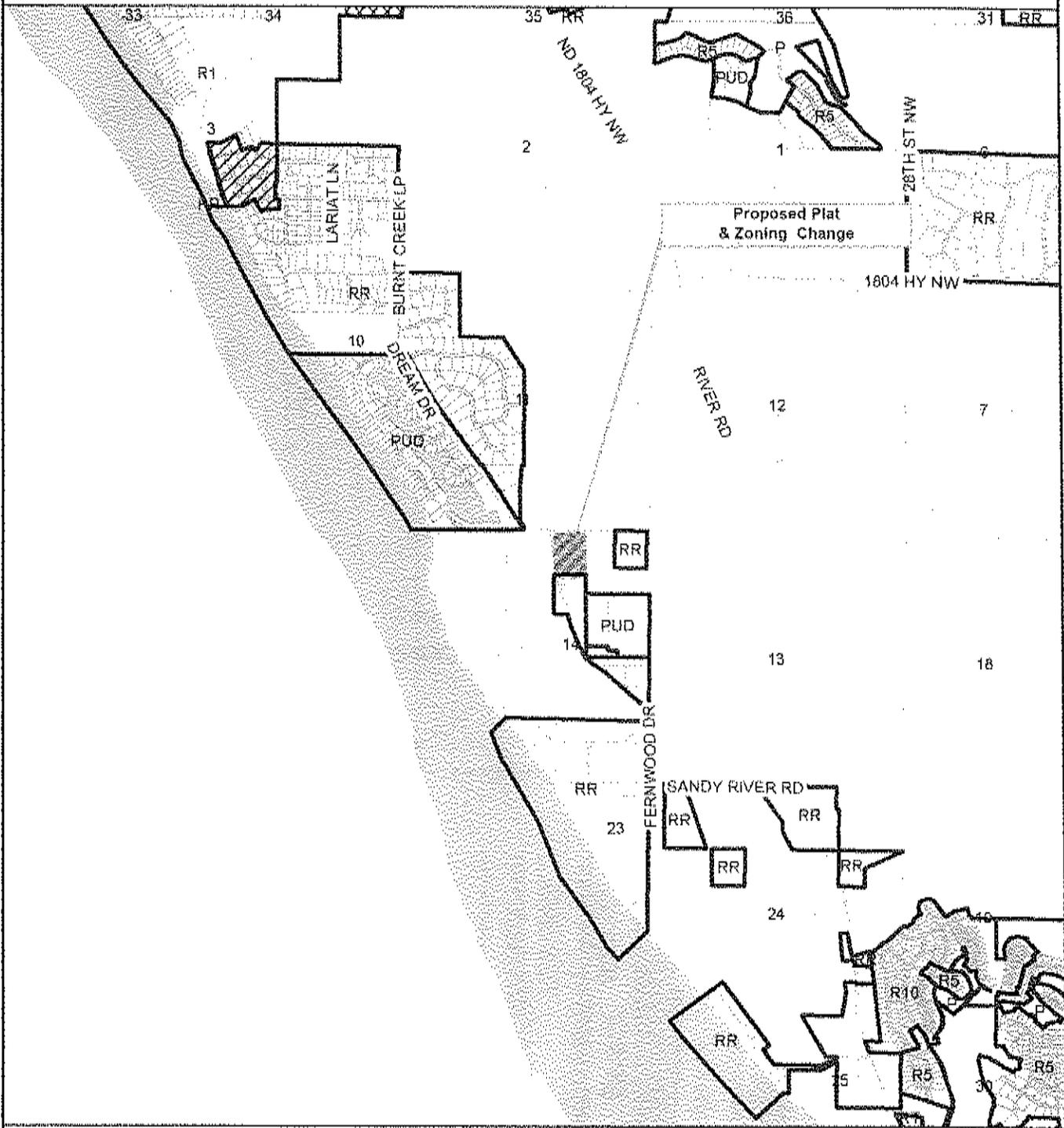
FINDINGS:

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.
3. The proposed subdivision is in general conformance with the Fringe Area Road Master Plan, which identifies both Fernwood Drive and Burnt Creek Loop as arterials.
4. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include a combination of rural residential and agricultural.
5. The property included in the proposed subdivision is partially developed, has access via Fernwood Drive and Burnt Creek Loop and is served by South Central Regional Water District; therefore, the proposed subdivision will 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.

RECOMMENDATION:

Based on the above findings, staff recommends approval of the final plat for Fernwood Subdivision and granting a waiver of the ghost platting requirements.

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



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon. Map was updated/created: September 28, 2010 (rdg)

Source: City of Bismarck



0 1,000 2,000 Feet

RESOLUTION

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

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

PLEASE SEE ATTACHED COMMENTS

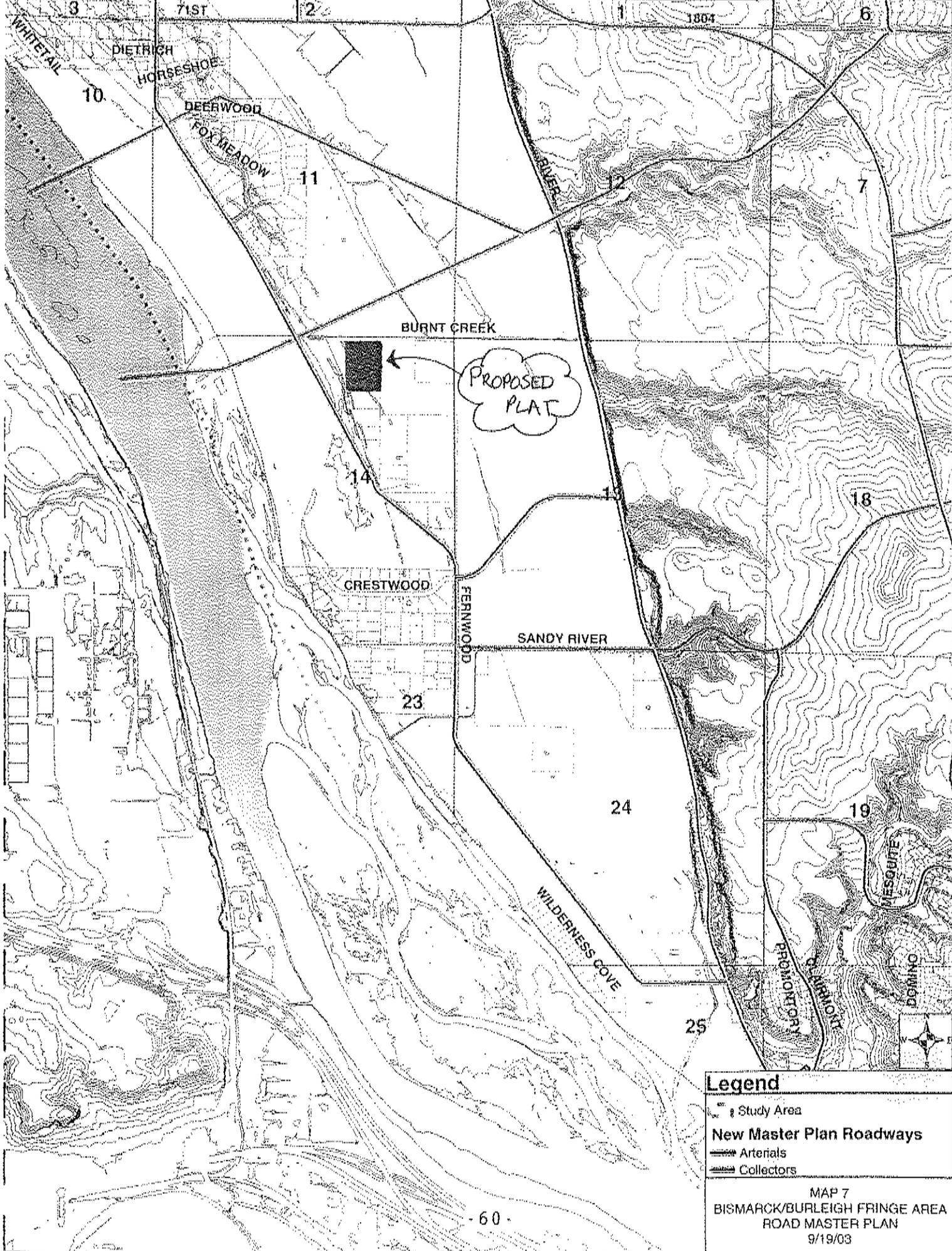
[Signature]
CHAIRMAN, TOWNSHIP BOARD

[Signature]
ATTEST: TOWNSHIP CLERK

*PLEASE RETURN WITHIN 60 DAYS OF
DATE OF THIS LETTER BY CERTIFIED MAIL.

ATTACHED COMMENTS

1. The developers have realigned the lot lines so there are no interior roads in the subdivision.
2. Lots 3 & 4 will have only one joint access to Fernwood drive. Lots 5 and 6 to have one joint access to Fernwood Drive.
3. Lot 2 plan to have access to Burnt Creek Loop.
4. Final plot will need to show that all lots will have utility easements for proper access.
5. Lot 2 will have a 100 foot ROW and lot 1 will have a 75 foot ROW along Burnt Creek Loop. The reduced ROW for Lot 1 is because of the current location of an existing dwelling.
6. A proper Storm water Plan needs to be developed and indicated.
7. Township will concur with proposed plan assuming the previous comments are implemented.



Legend

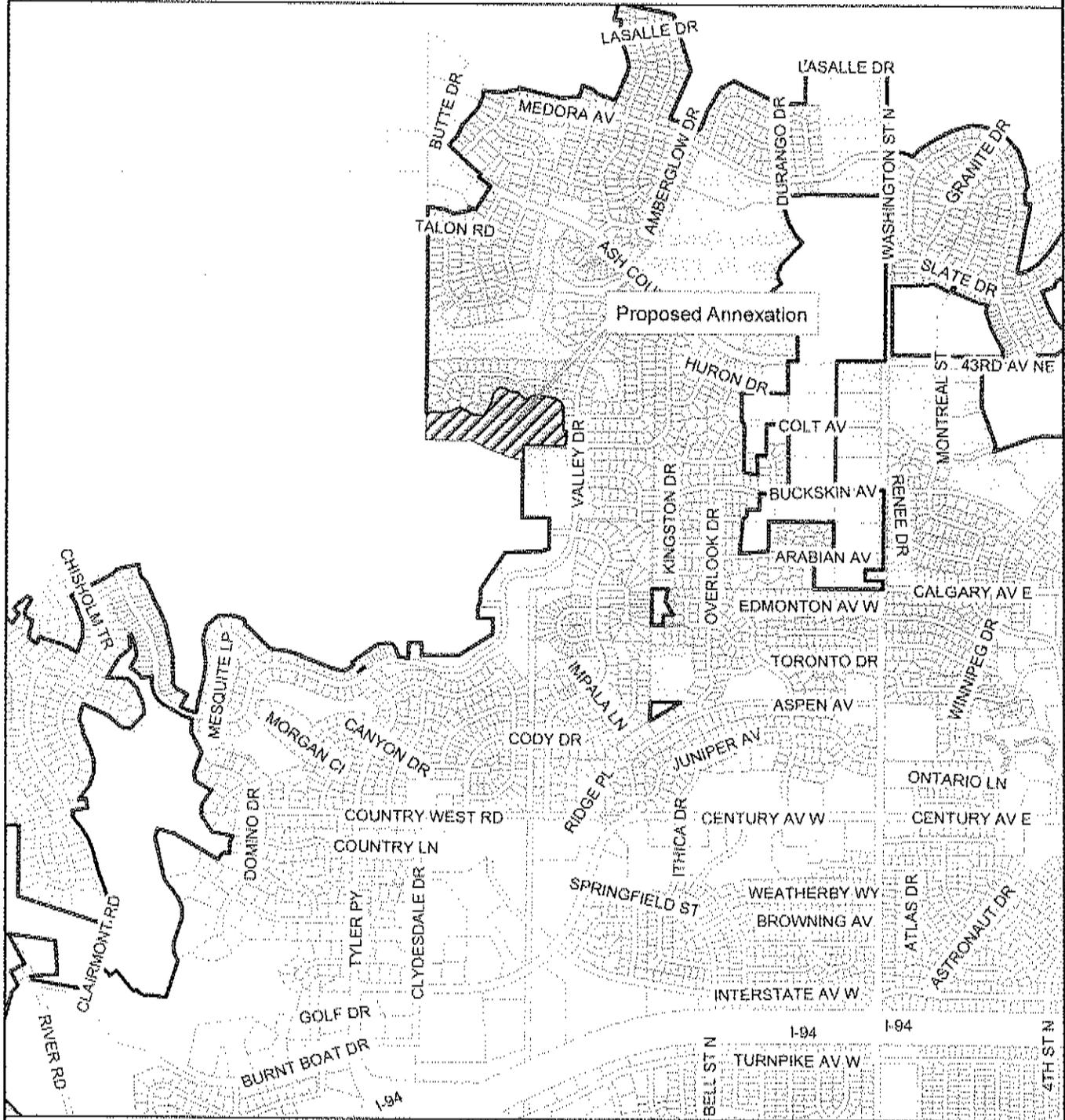
- Study Area
- New Master Plan Roadways**
 - Arterials
 - Collectors

MAP 7
 BISMARCK/BURLEIGH FRINGE AREA
 ROAD MASTER PLAN
 9/19/03

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

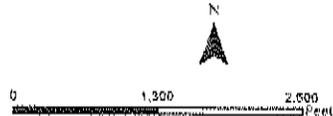
BACKGROUND:		
Title: Eagle Crest Third Addition – Annexation		
Status: Planning Commission – Final Consideration	Date: January 26, 2011	
Owner(s): Knutson Properties, LLP	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat, zone and annex property for single-family residential development.		
Location: Along the west side of Valley Drive between High Creek Road and Mustang Drive (part of Tract 2-A in the NW ¼ of Section 20, T139N-R80W/Hay Creek Township).		
Project Size: 17.75 acres	Number of Lots: 36 lots in 4 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Single-family residential	
Zoning: A – Agricultural R5 – Residential	Zoning: R5 – Residential	
Uses Allowed: A – Agriculture R5 – Single-family residential	Uses Allowed: R5 – Single-family residential	
Maximum Density Allowed: A – One unit/40 acres R5 – 5 units/acre	Maximum Density Allowed: R5 – 5 units/acre	
PROPERTY HISTORY:		
Zoned: Part – 06/00 (A to R5)	Platted: N/A	Annexed: N/A
FINDINGS:		
<ol style="list-style-type: none"> 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 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. 		
RECOMMENDATION:		
Based on the above findings, staff recommends annexation of Eagle Crest Third Addition (Lots 1-12, Block 1; Lots 1-11, Block 2; Lots 1-4, Block 3; and Lots 1-9, Block 4).		

Proposed Annexation Eagle Crest Third 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 herein.
Map was Updated/Created: January 18, 2011 (kie)

Source: City of Bamrock



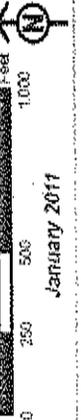
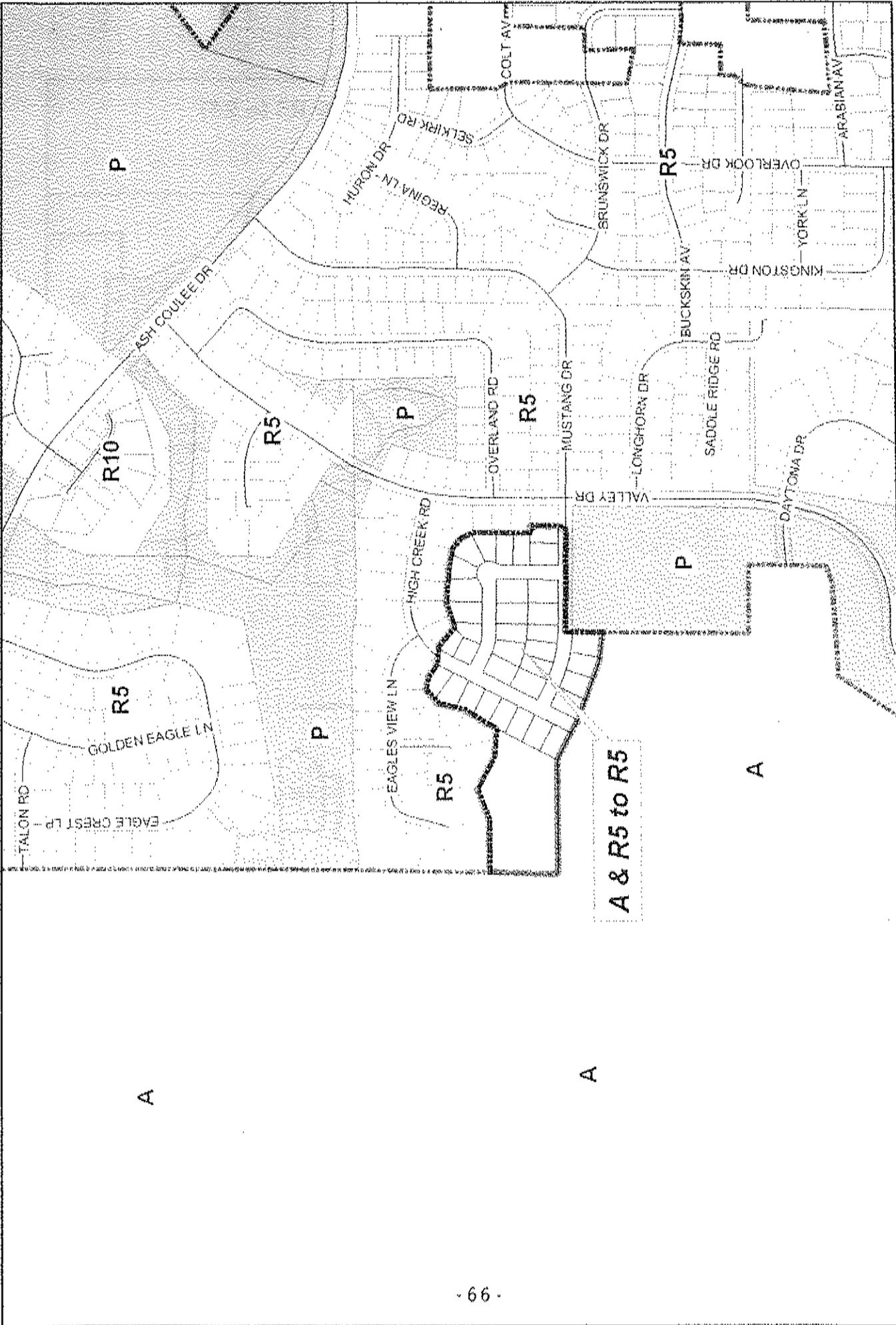
**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: Eagle Crest Third Addition -- Zoning Change (A & R5 to R5)		
Status: Planning Commission -- Public Hearing	Date: January 26, 2011	
Owner(s): Knutson Properties, LLP	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat, zone and annex property for single-family residential development.		
Location: Along the west side of Valley Drive between High Creek Road and Mustang Drive (part of Tract 2-A in the NW ¼ of Section 20, T139N-R80W/Hay Creek Township)		
Project Size: 17.75 acres	Number of Lots: 36 lots in 4 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Single-family residential	
Zoning: A -- Agricultural R5 -- Residential	Zoning: R5 -- Residential	
Uses Allowed: A -- Agriculture R5 -- Single-family residential	Uses Allowed: R5 -- Single-family residential	
Maximum Density Allowed: A -- One unit/40 acres R5 -- 5 units/acre	Maximum Density Allowed: R5 -- 5 units/acre	
PROPERTY HISTORY:		
Zoned: Part -- 06/00 (A to R5)	Platted: N/A	Annexed: N/A
FINDINGS:		
<ol style="list-style-type: none"> The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan). The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include single family residential to the north and west, a park to the southeast and undeveloped property to the southwest and west. The subdivision proposed for this property will be annexed prior to development; therefore, the zoning change will not place an undue burden on public services and facilities. The proposed zoning change would not adversely affect property in the vicinity. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance. 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 R5 -- Residential to R5 -- Residential for Eagle Crest Third Addition.

Eagle Crest Third Addition - Zoning Change (A & R5 to R5)



January 2011

Bismarck City Limits

Pending Subdivisions

Legend

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

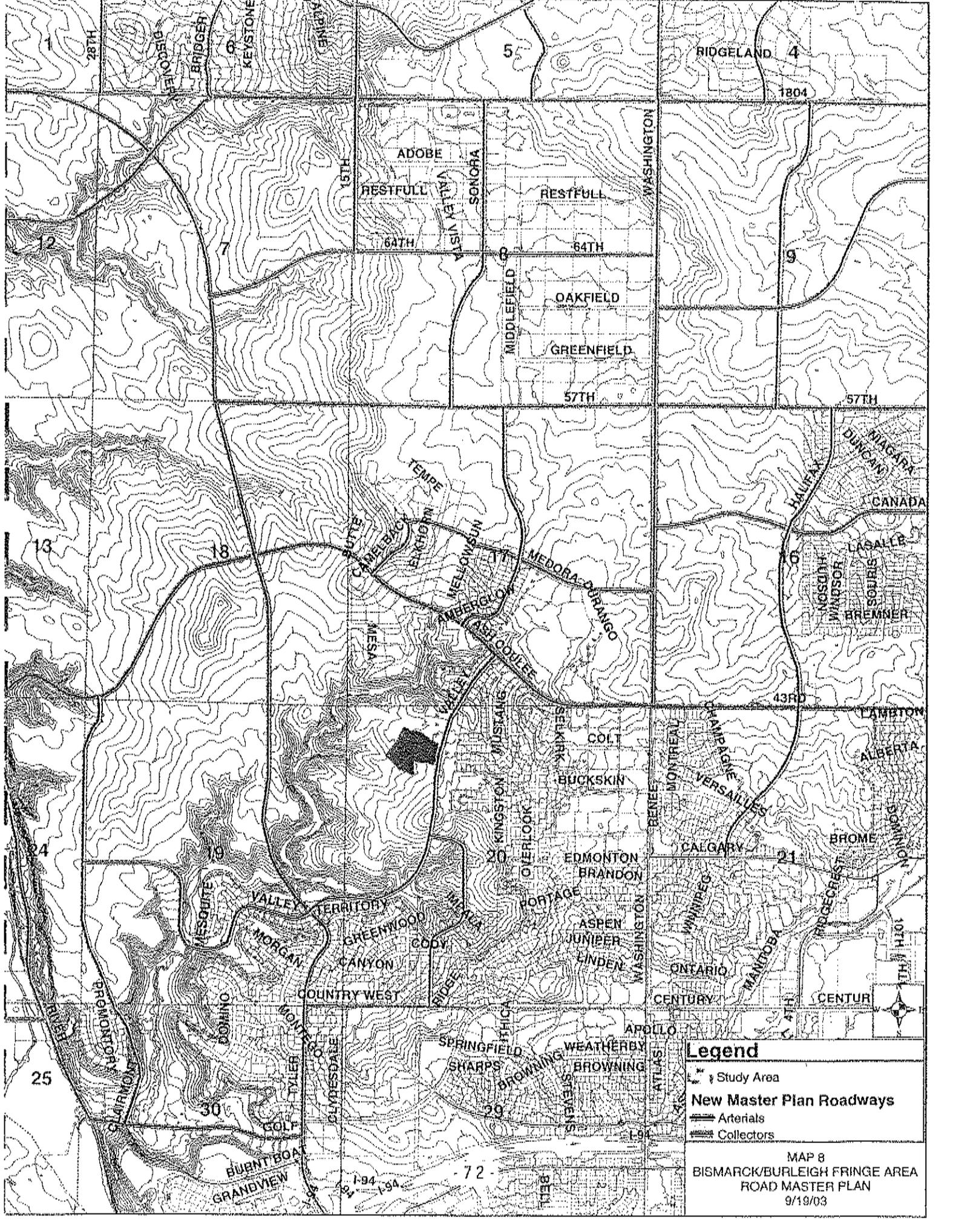
**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: Eagle Crest Third Addition – Final Plat		
Status: Planning Commission – Public Hearing	Date: January 26, 2011	
Owner(s): Knutson Properties, LLP	Engineer: Swenson, Hagen & Co.	
Reason for Request: Plat and zone property for single-family residential development.		
Location: Along the west side of Valley Drive between High Creek Road and Mustang Drive (part of Tract 2-A in the NW ¼ of Section 20, T139N-R80W/Hay Creek Township)		
Project Size: 17.75 acres	Number of Lots: 36 lots in 4 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Single-family residential	
Zoning: A – Agricultural R5 – Residential	Zoning: R5 – Residential	
Uses Allowed: A – Agriculture R5 – Single-family residential	Uses Allowed: R5 – Single-family residential	
Maximum Density Allowed: A – One unit/40 acres R5 – 5 units/acre	Maximum Density Allowed: R5 – 5 units/acre	
PROPERTY HISTORY:		
Zoned: Part – 06/00	Platted: N/A	Annexed: N/A
ADDITIONAL INFORMATION		
<p>1. The applicant originally requested the use of a cul-de-sac for this development and submitted written justification for this request. Based on these criteria included in 14-09-05(1)(m) of the Subdivision Regulations (Design Standards), staff did not support the use of a cul-de-sac in this location, as Ranch Circle could be extended south to Mustang Drive. The preliminary plat was considered by the Planning and Zoning Commission at the November 17, 2010 meeting. The Commission tentatively approved the preliminary plat, denying the request for the use of a cul-de-sac as proposed, and with the understanding that the subdivision will be redesigned to eliminate the cul-de-sac prior to submittal of the final plat. The final plat was redesigned with a loop road.</p>		
FINDINGS:		
<p>1. All technical requirements for approval of a final plat have been met.</p> <p>2. The storm water management plan has been approved by the City Engineer.</p> <p>3. The proposed subdivision does not impact the Fringe Area Road Master Plan for the area, which identifies Valley Drive as the north-south collector for this section.</p>		
<i>(continued)</i>		

4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single family residential to the north and west, a park to the southeast and undeveloped property to the southwest and west.
5. The proposed subdivision would be annexed prior to development; therefore, it will 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.

RECOMMENDATION:

Based on the above findings, staff recommends approval of the final plat of Eagle Crest Third Addition.



Legend

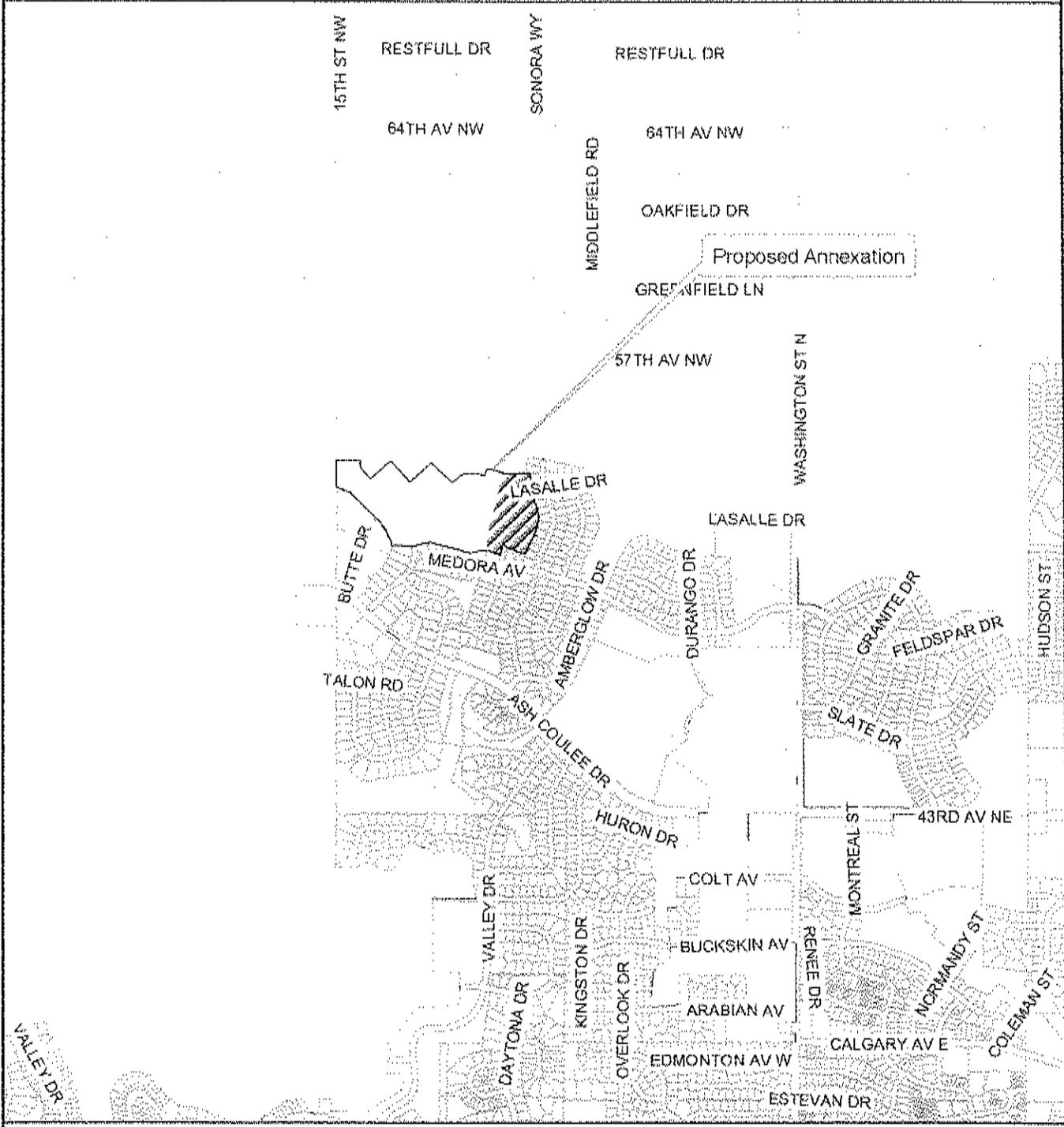
- ★ Study Area
- New Master Plan Roadways**
 - ▬ Arterials
 - ▬ Collectors

MAP 8
 BISMARCK/BURLEIGH FRINGE AREA
 ROAD MASTER PLAN
 9/19/03

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

BACKGROUND:		
Title: Part of Horizon Heights Fifth Addition – Annexation (Lots 8-13 and the un-annexed portion of Lots 14-15, Block 6, Lots 2-6, Block 7 and Lots 1-7, Block 8)		
Status: Planning Commission – Final Consideration	Date: January 26, 2011	
Owner(s): Mitzel Builders, Inc., Cavalier Homes, Inc. and Janessa & Lance Vogel	Engineer: Kadmas, Lee & Jackson	
Reason for Request: To annex a portion of the fifth phase of the Horizon Heights residential development.		
Location: In northwest Bismarck, north of Medora Avenue, northwest of Horizon Middle School (a replat of Lots 4 and 5, Block 8, Horizon Heights 4 th Addition, a replat of all of Auditor's Lot WH and a portion of Auditor's Lot F1 of the W ½ of Section 17, T139N-R80W/Hay Creek Township).		
Project Size: 7.91 +/- acres	Number of Lots: 18 lots in 3 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Vacant/Undeveloped	Land Use: Single-family residential	
Zoning: A – Agriculture R5 – Residential	Zoning: R5 - Residential	
Uses Allowed: A-Agriculture R5- Single-family residential	Uses Allowed: R5-Single-family residential	
Maximum Density Allowed: A – 1 unit per 40 acres R5 – 5 units per acre	Maximum Density Allowed: R5 – 5 units per acre	
PROPERTY HISTORY:		
Zoned: Western Hills – 1985 Horizon Heights 4 th - 2008	Platted: Western Hills – 1985 Horizon Heights 4 th - 2008	Annexed: Horizon Heights 4 th – 2008
FINDINGS:		
<ol style="list-style-type: none"> 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 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. 		
RECOMMENDATION:		
Based on the above findings, staff recommends approval of the annexation request for part of Horizon Heights Fifth Addition (Lots 8-13 and the un-annexed portion of Lots 14-15, Block 6, Lots 2-6, Block 7 and Lots 1-7, Block 8).		

Proposed Annexation Horizon Heights Fifth 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 20, 2017 (katg)
 Source: City of Biwabik



RECEIVED
JAN 14 2011

ANNEXATION EXHIBIT
HORIZON HEIGHTS FIFTH ADDITION
BISMARCK, NORTH DAKOTA
01/14/2011

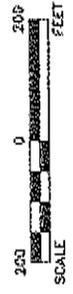
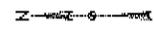
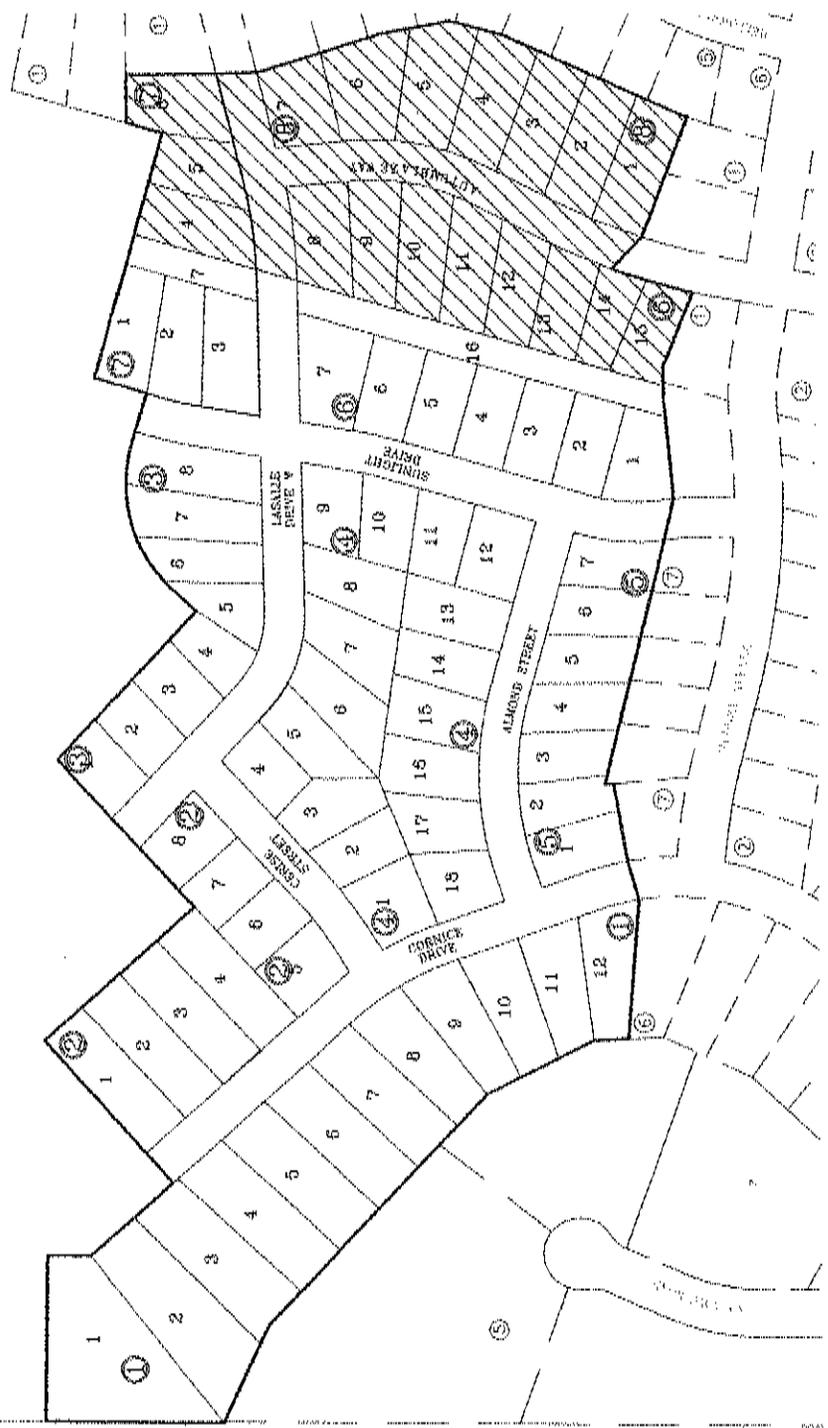
Annexation Statement:

The Applicant, Mizel Builders, Inc., requests that the City of Bismarck modify the Horizon Heights Fifth Addition annexation request to only contain a portion of the project. We request that the City annex the following lots:

- Block 5, Lots 8-15
- Block 7, Lots 4-6
- Block 8, Lots 1-7

included in this annexation will be the adjacent public right-of-ways.

The requested area is shown in hatching on this exhibit.



Kadmas
Lee &
Jackson
Engineers Surveyors
Planners

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

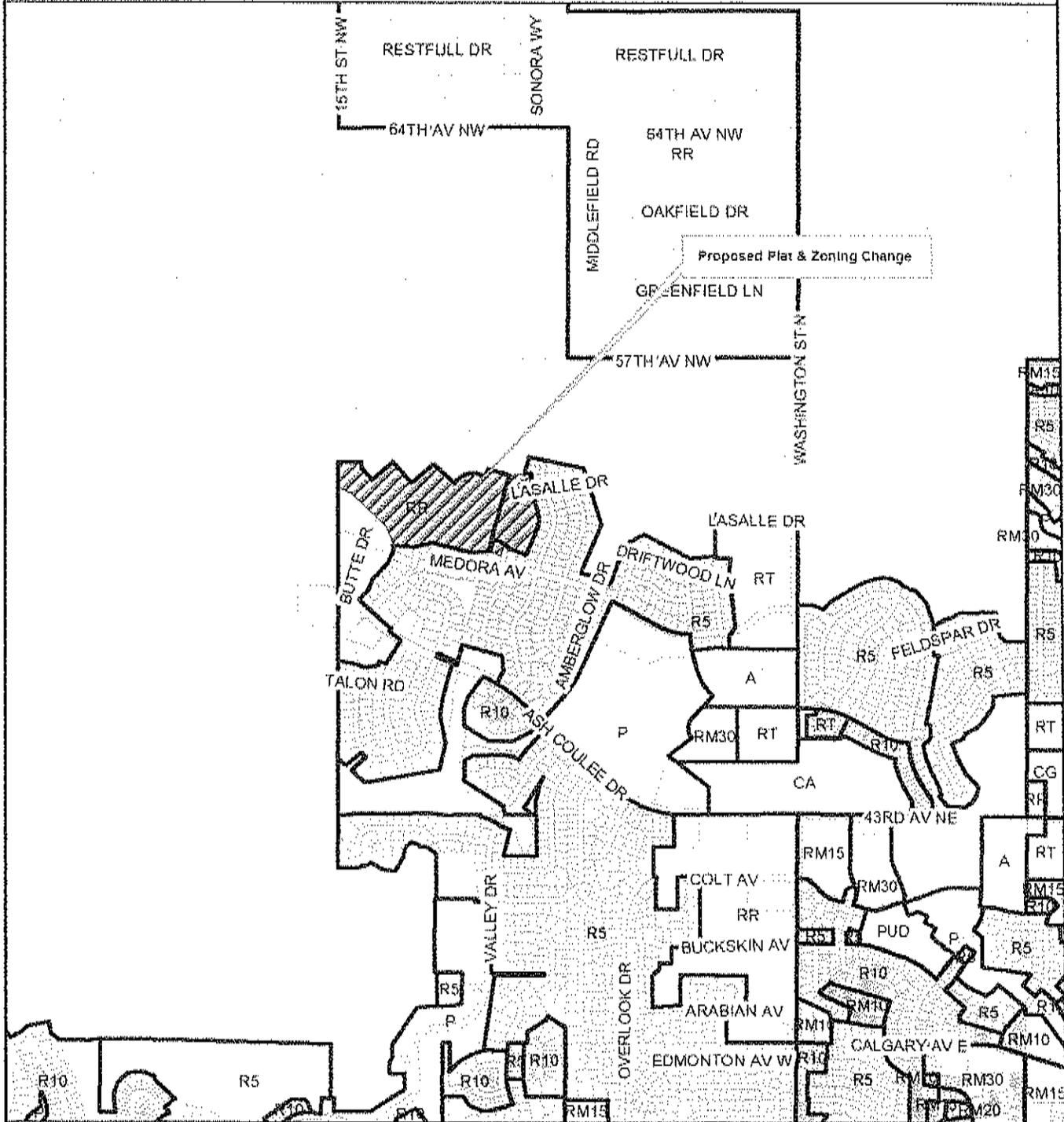
BACKGROUND:		
Title: Horizon Heights Fifth Addition – Zoning Change (A, RR and R5 to R5)		
Status: Planning Commission – Public Hearing	Date: January 26, 2011	
Owner(s): Mitzel Builders, Inc., Cavalier Homes, Inc. and Janessa & Lance Vogel	Engineer: Kadmas, Lee & Jackson	
Reason for Request: To commence with the fifth phase of the Horizon Heights residential development.		
Location: In northwest Bismarck, north of Medora Avenue, northwest of Horizon Middle School (a replat of Lots 4 and 5, Block 8, Horizon Heights 4 th Addition, a replat of all of Auditor's Lot WH and a portion of Auditor's Lot F1 of the W ½ of Section 17, T139N-R80W/Hay Creek Township).		
Project Size: 38.87	Number of Lots: 83 lots in 7 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Vacant/Undeveloped	Land Use: Single-family residential	
Zoning: A – Agriculture RR – Residential R5 – Residential	Zoning: R5 - Residential	
Uses Allowed: A-Agriculture RR-Large lot, single-family residential R5- Single-family residential	Uses Allowed: R5-Single-family residential	
Maximum Density Allowed: A – 1 unit per 40 acres RR – 1 unit per 65,000 square feet R5 – 5 units per acre	Maximum Density Allowed: R5 – 5 units per acre	
PROPERTY HISTORY:		
Zoned: Western Hills – 1985 Horizon Heights 4 th - 2008	Platted: Western Hills – 1985 Horizon Heights 4 th - 2008	Annexed: Horizon Heights 4 th – 2008
FINDINGS:		
<ol style="list-style-type: none"> The proposed zoning change is 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 proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include partially developed single-family subdivisions to the east and south, agricultural zoning to the north and west and two large lot, single-family dwellings to the west. 		
<i>continued...</i>		

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

RECOMMENDATION:

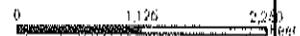
Based on the above findings, staff recommends approval of the zoning change for Horizon Heights Fifth Addition from A-Agriculture, RR-Residential & R5-Residential to R5-Residential.

Proposed Plat and Zoning Change (A, RR & R5 to R5) Horizon Heights Fifth Addition

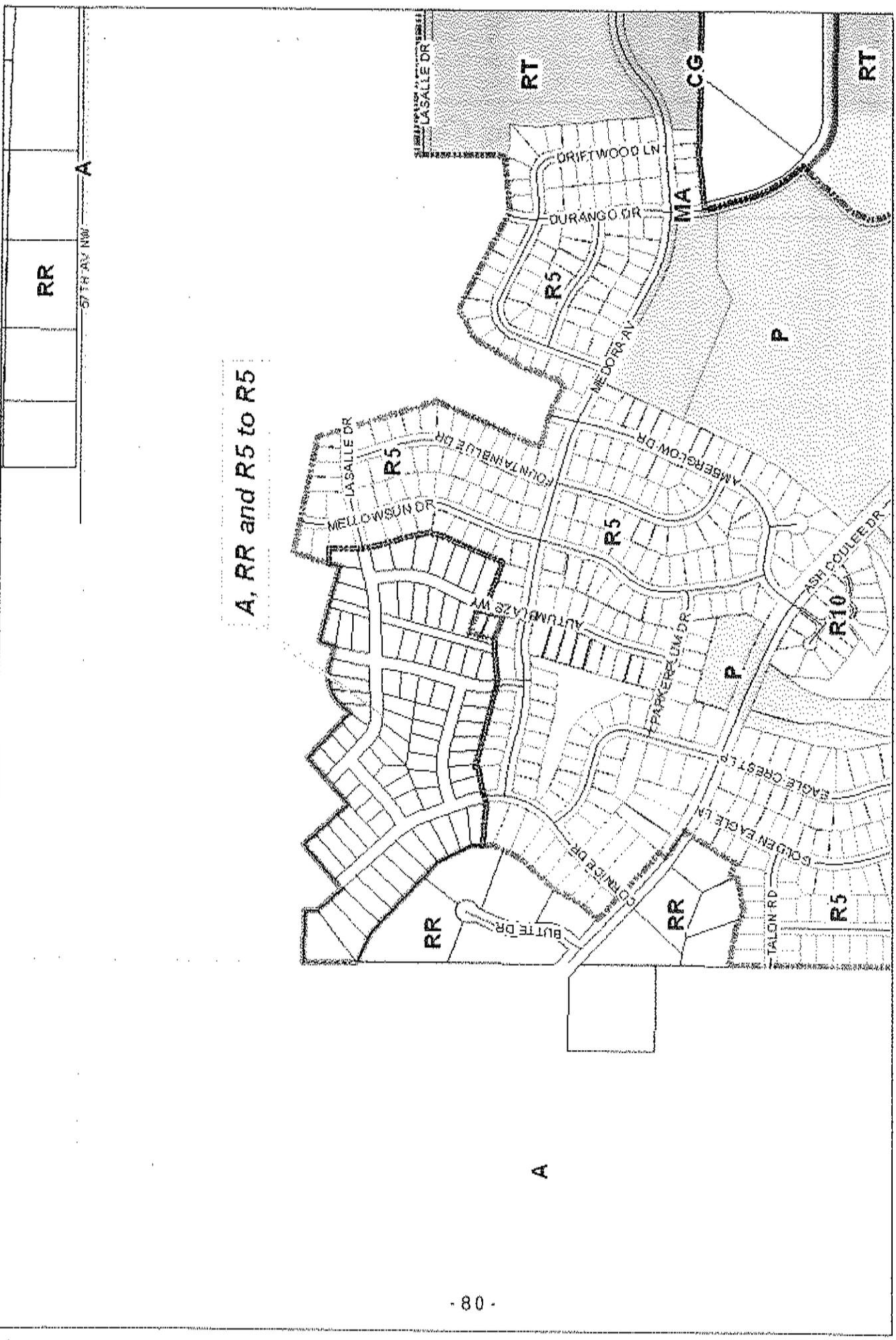


DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated thereon.
Map was last updated/revised: October 20, 2010 (10/0)

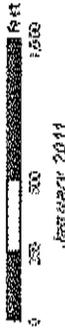
Source: City of Bismarck



Horizon Heights Fifth Addition



A, RR and R5 to R5



January 2011

Legend Bismarck Annexation Boundary

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

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

BACKGROUND:		
Title: Horizon Heights Fifth Addition – Final Plat		
Status: Planning Commission – Public Hearing	Date: January 26, 2011	
Owner(s): Mitzel Builders, Inc., Cavalier Homes, Inc. and Janessa & Lance Vogel	Engineer: Kadrmas, Lee & Jackson	
Reason for Request: To commence with the fifth phase of the Horizon Heights residential development.		
Location: In northwest Bismarck, north of Medora Avenue, northwest of Horizon Middle School (a replat of Lots 4 and 5, Block 8, Horizon Heights 4 th Addition, a replat of all of Auditor's Lot WH and a portion of Auditor's Lot F1 of the W ½ of Section 17, T139N-R80W/Hay Creek Township).		
Project Size: 38.87	Number of Lots: 83 lots in 7 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Vacant/Undeveloped	Land Use: Single-family residential	
Zoning: A – Agriculture RR – Residential R5 – Residential	Zoning: R5 - Residential	
Uses Allowed: A-Agriculture RR-Large lot, single-family residential R5- Single-family residential	Uses Allowed: R5-Single-family residential	
Maximum Density Allowed: A – 1 unit per 40 acres RR – 1 unit per 65,000 square feet R5 – 5 units per acre	Maximum Density Allowed: R5 – 5 units per acre	
PROPERTY HISTORY:		
Zoned: Western Hills – 1985 Horizon Heights 4 th - 2008	Platted: Western Hills – 1985 Horizon Heights 4 th - 2008	Annexed: Horizon Heights 4 th - 2008
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> 1. There is a pipeline running NE/SW through the proposed plat. The long narrow lots, Lot 16, Block 6, Lot 7, Block 7, include the existing pipeline easement and would be owned by the homeowners association established for the subdivision. 2. Lots 1-3, Block 1 and Lot 1, Block 7 would be undevelopable until such time that adequate right-of-way is dedicated and roads are constructed to service the lots. The lots are being included in the plat boundary because this is the extent of the ownership by Mitzel Builders, Inc. 		
<i>continued...</i>		

3. An additional roadway has been added since the preliminary plat was considered. The new roadway was requested by City staff to help provide additional access points and to shorten the length between secondary access points within the proposed subdivision. Additionally the proposed roadway alignments have been modified to bring the development in line with the future roadway network in the Section. The new roadway alignment recognizes the existing topography in the area.

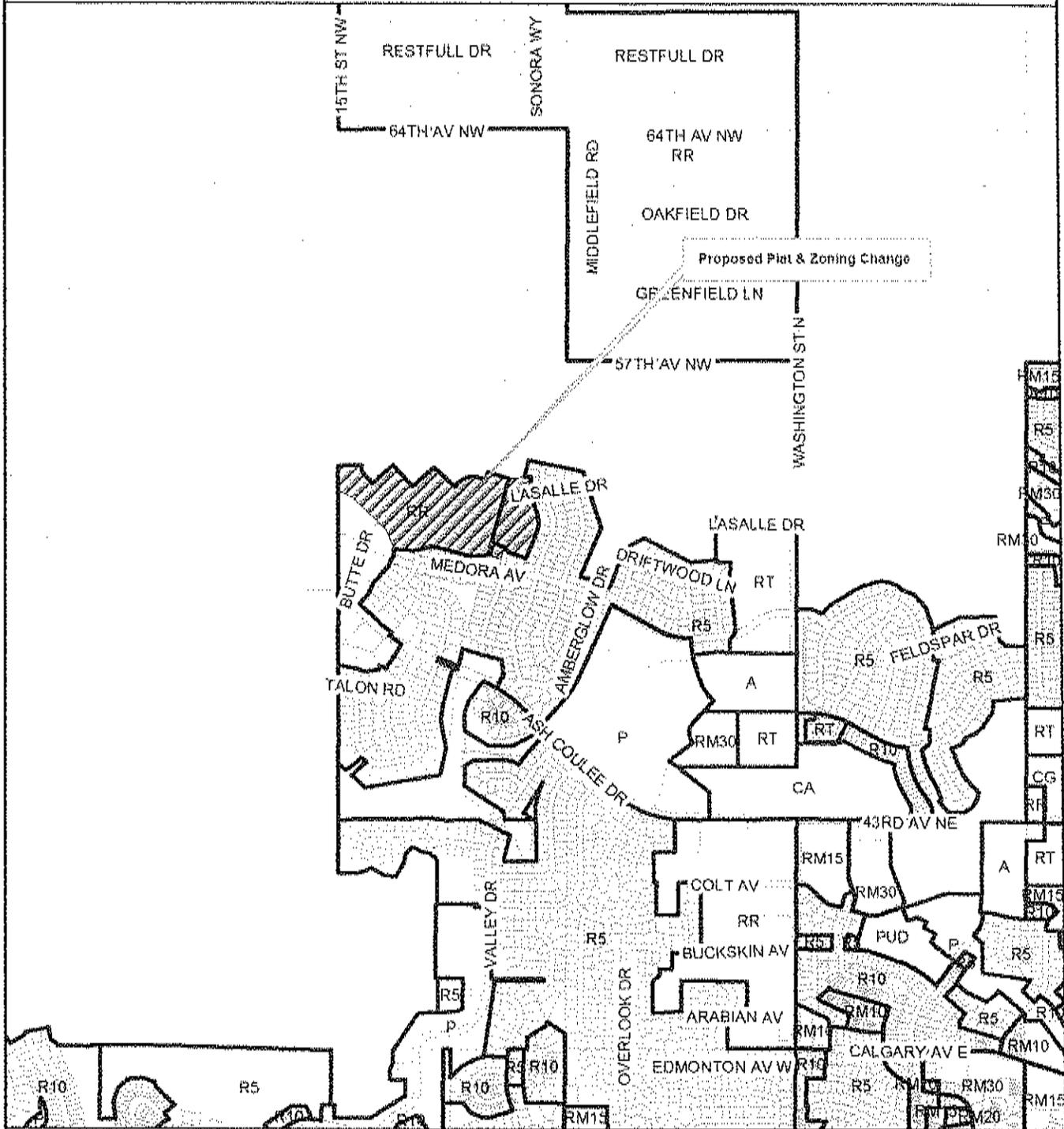
FINDINGS:

1. All technical requirements for approval of a final plat have been met.
2. The stormwater management plan has been approved by the City Engineer.
3. The proposed subdivision generally conforms with the Fringe Area Road Master Plan, which identifies Medora Avenue, LaSalle Drive West and Cornice Drive as collector roadways for Section 17.
4. The proposed subdivision would be compatible with adjacent land undeveloped uses. Adjacent land uses include partially developed single-family subdivisions to the east and south, agricultural land to the north and west and two large lot, single-family dwellings to the west.
5. A portion of the property would be annexed prior to development; 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.

RECOMMENDATION:

Based on the above findings, staff recommends approval of the final plat for Horizon Heights Fifth Addition.

Proposed Plat and Zoning Change (A, RR & R5 to R5) Horizon Heights Fifth Addition



DISCLAIMER: This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data disseminated herein. Map was Updated/Created: October 20, 2010 (fwg)

Source: City of Eskandari



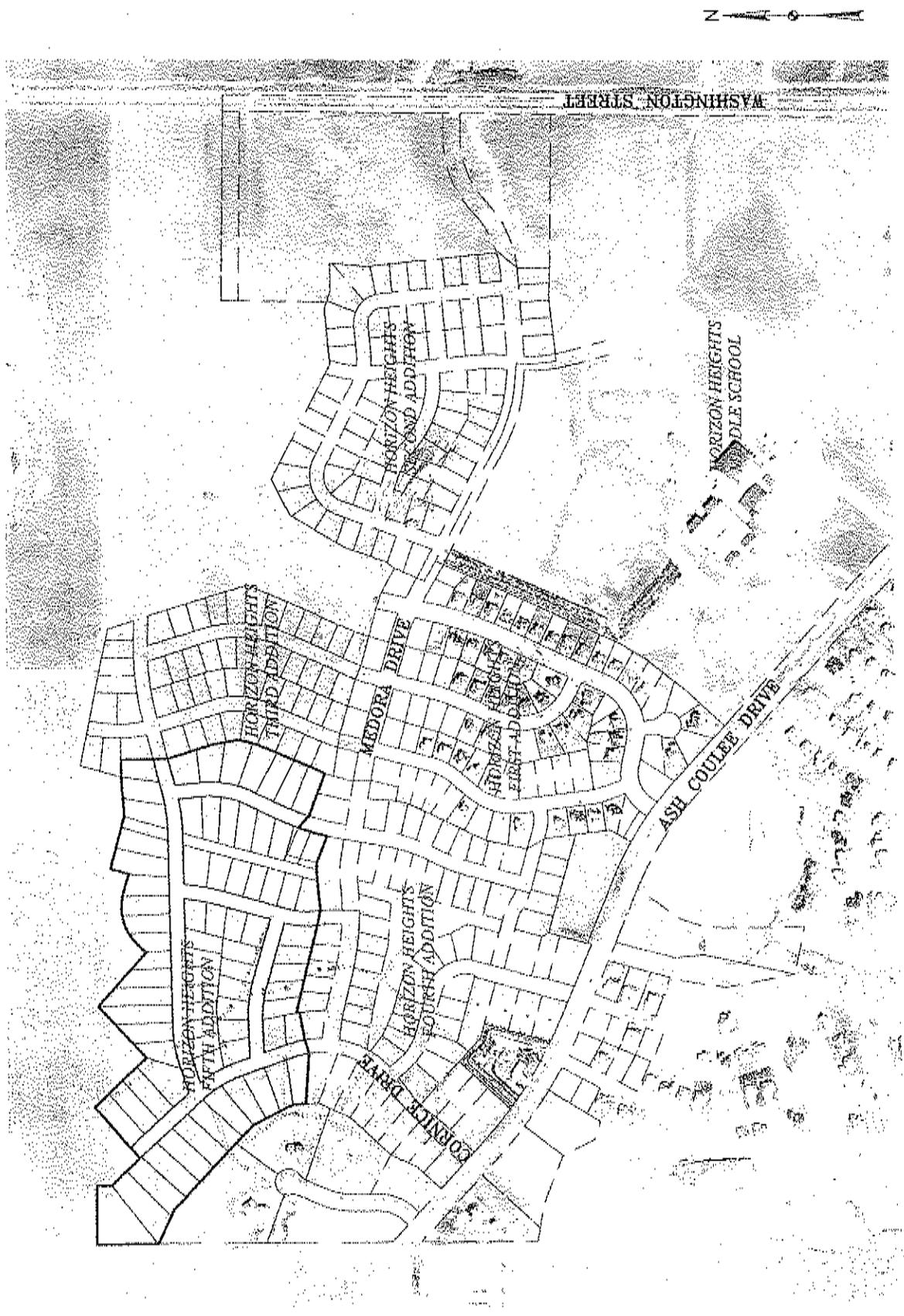


Legend

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

MAP 8
 BISMARCK/BURLEIGH FRINGE AREA
 ROAD MASTER PLAN
 9/19/03

DATE:	08/15/20
PROJECT:	HORIZON HEIGHTS FIFTH
SCALE:	AS SHOWN
DATE:	08/15/20
PROJECT:	HORIZON HEIGHTS FIFTH
SCALE:	AS SHOWN
DATE:	08/15/20
PROJECT:	HORIZON HEIGHTS FIFTH
SCALE:	AS SHOWN



08-15-2020 - 8:28am - A:\Projects\15025-HORIZON HEIGHTS FIFTH\15025-AREA 257.dwg

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 14-03-11 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO LANDSCAPING AND SCREENING.

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 Landscaping and Screening is hereby amended and re-enacted to read as follows:

14-03-11. Landscaping and Screening.

1. *Purpose.* The purpose of these regulations are to maintain the City's quality and character by enhancing its visual appearance through the use of landscaping; enhance environmental conditions by providing shade, air purification, reduction of storm water run-off, and filtering of noise and light; promote neighborhood character, traffic calming, wildlife habitat, pedestrian amenity and aesthetic value, screen off-street parking areas and exterior storage areas from view of persons on public streets and adjoining properties and mitigate off-site headlight projection; provide buffer areas between land uses of differing intensity; and encourage the planting of trees and other plant materials throughout the community that are native or generally suitable for this area.

2. *Applicability.* The landscaping requirements contained herein shall apply to any of the following:
 - a. The construction of any principal commercial, industrial, institutional, or multi-family

building(s) with ~~more than 4~~ three (3) or more units or an accessory building for any of the above uses.

- b. The installation of any parking area or the expansion of any existing parking area by five (5) or more required off-street parking spaces; and
- c. A change in the use of the property that requires rezoning to a more intensive zoning classification or a special use permit.
- d. The reconstruction of a portion of an existing off-street parking lot equal to or greater than twenty percent (20%) at one time or forty percent (40%) over a five (5) year period, regardless of whether or not required parking spaces are added, and provided the required plant materials do not reduce the number of off-street parking spaces below what is required. Reconstruction includes any land disturbance activity or exposure of any subgrade or soil material. Regular maintenance, minor repairs, patch work or a partial mill and overlay would not constitute reconstruction.

3. *General Requirements.* All exposed ground areas, including areas not devoted to off-street parking, drives, sidewalks or other such improvements shall be landscaped with grass, vegetative ground cover, shrubs, trees or other ornamental landscape materials within 1 year following the date of building occupancy in conjunction with site development. All landscaped areas shall be kept neat, clean and uncluttered. No required landscaped area shall be used for parking of vehicles or for the storage or display of materials, supplies or merchandise. Boulevard areas shall be subject to the requirements of Sections 10-03-14 and 10-05-04.

4. *Landscaping Plan Required.* A landscape plan shall be required for all development subject to the provisions of this subsection. All landscape plans submitted for approval shall contain, at a minimum, the following information:

- a. North point and scale;

- b. The boundary lines of the property with dimensions and area;
- c. The location of all driveways, parking areas, sidewalks, structures, utilities, or other features, existing or proposed, affecting the landscaping of the site;
- d. The location, common name, scientific name to the species level, size and quantity of all existing trees, shrubs or other vegetation intended for use in meeting the requirements of this subsection;
- e. The location, common name, scientific name to the species level, size and quantity of all proposed landscape materials;
- f. The location and height of any proposed earthen berms, masonry fences or other features used to meet the landscaping or buffer yard requirements; and
- g. The location of any existing and/or proposed easements; and
- h. The square footage of each interior parking lot landscaping area and the overall square footage of all interior parking lot landscaping areas shown.

5. *Landscape Design Considerations.* Landscape design should serve to provide visually interesting open space, reduce the potential negative impact of development on adjacent land uses, and complement the scale of the development and its surroundings. The following items are to be considered in developing a landscape plan for submittal to the City:

- a. Landscape materials and structural items placed within the sight triangle of a corner lot, as defined in Section 14-02-03, shall not have a height of more than three (3) feet above the curb level during all stages of plant growth. Deciduous trees may be planted within the sight triangle provided they are not an obstruction to

vision between three (3) feet and ten (10) feet above the curb level;

- b. Landscape materials and structural items at driveway entrances shall be placed so that visibility for vehicles entering or exiting a parking lot is not obstructed;
- c. Trees or shrubs shall not be planted under utility lines when their ultimate height may interfere with the lowest lines;
- d. Landscaped areas shall be of adequate size to promote proper plant growth and to protect plantings from pedestrian traffic, vehicle traffic, and other types of concentrated activity;
- e. Landscaped areas and plantings shall be located in a manner to allow adequate room for proper maintenance;
- f. A variety of tree and shrub species shall be utilized to provide year around visual interest. Except for continuous hedges and street trees, not more than fifty (50) percent of the required number of trees or shrubs may be comprised of any one (1) species. In addition, not more than fifty (50) percent of the shrubs and perennials within any planting bed larger than five hundred (500) square feet in area may be comprised of any one (1) genus;
- g. Final slopes greater than a 3:1 ratio, including slopes on earthen berms, will not be permitted without special approval or treatment, such as special seed mixtures or reforestation, terracing or retaining walls; and
- h. Within the DC - Downtown Core and DF - Downtown Fringe zoning districts, streetscape elements from the City's Streetscape Guidelines should be incorporated into the perimeter parking lot landscaping.

6. Landscape Materials Standards.

- a. Plant Quality. Plants installed to satisfy the requirements of this subsection must meet or exceed the plant quality standards of the most recent edition of *American Standards for Nursery Stock*, published by the American Association of Nurserymen, be nursery grown and adapted to the local area.
- b. Artificial Plants. No artificial plants or vegetation may be used to meet any standard of this section.
- c. Sizes.

Type of Material	Minimum Size at Time of Planting
Shade or Ornamental Trees	Caliper of 1½ inches measured 6 inches above the root collar for trees with a mature height of 30 feet or greater
Ornamental Trees	Caliper of 1 inch measured 6 inches above the root collar for trees with a mature height of less than 30 feet
Upright Coniferous Trees	Minimum height of 4 feet above grade
Shrubs	Minimum height of 2 feet above grade or a minimum container size of 2 gallons and <u>minimum mature height of 3 feet above grade</u>
Perennials	Minimum container size of 1 gallon

- d. Existing Plant Material. Existing, healthy plant material may be utilized to satisfy landscaping requirements, provided it meets the minimum sizes specified above.
- e. Ground Cover. Vegetative ground cover shall be of a size and spacing to provide a minimum of fifty (50%) percent coverage during the first full growing season and complete coverage upon maturity. Only pervious weed barriers shall be allowed. Mulch may not be used in lieu of vegetative ground cover, except in those

situations where mulch is necessary to promote healthy tree and shrub growth.

Where mulch is used, an adequate vertical barrier must be included around the perimeter of the mulch area to prevent mulch from washing into the public right-of-way or on to adjacent properties.

- f. Soil in Landscaped Areas. Soil in landscaped areas shall consist of loose, friable, loamy topsoil that is free of excess acid and alkali. It shall be free from objectionable amounts of sod, hard lumps, gravel, subsoil or other undesirable material, to a depth of eighteen (18) inches.

7. Street Trees.

- a. Purpose. The street tree requirements are intended to promote air quality, shade, neighborhood character, traffic calming, reduced storm water runoff, wildlife habitat, pedestrian amenity and aesthetic value.
- b. Applicability. Street trees shall be installed in conjunction with the construction of any principal commercial, industrial, institutional or multi-family building with more than three (3) units along a section of public roadway with curb and gutter installed or scheduled to be installed in conjunction with the project.
- c. Location. Street trees shall be installed within the ~~street~~ public right-of-way or within ten (10) feet of the street public right-of-way.
- d. Spacing and Planting Requirements. Unless the City Forester determines that it is necessary to address specific site conditions, three (3) deciduous trees are required for every one hundred (100) linear feet of street frontage. Street trees need not be placed at exact intervals, but they must be placed evenly along the street frontage. The City Forester shall have the authority to determine the final location of street trees in accordance with Section 13-02-01 of the City Code. Mulch shall be installed to a

minimum coverage thickness of two (2) inches within a radius of three (3) feet of the trunk base. Tree grates may be used in lieu of mulching at the discretion of the City Forester.

e. Permit Required. A planting permit must be obtained from the Forestry Division of the Public Works Department prior to planting any trees within the public right-of-way.

8. *Perimeter Parking Lot Landscaping.*

- a. Purpose. The perimeter parking lot landscaping requirements are intended to screen views of parking lots and access lanes from public rights-of-way, mitigate off-site headlight projection, and provide pervious surfaces to reduce storm water run-off.
- b. Applicability. Perimeter parking lot landscaping shall be required with the installation or reconstruction (as defined in subsection 2(d)) of any off-street parking area or access lane adjacent to the public right-of-way and/or visible from and within three hundred (300) feet of a public right-of-way.
- c. Standards. All parking lots and access lanes shall provide perimeter landscaping between said off-street parking areas and access lanes and adjacent street public rights-of-way. Said perimeter landscaping shall be constructed with standard poured-in-place concrete curbing on the parking lot side in order to minimize damage to plant material.
- d. Trees and Shrubs. Trees and shrubs shall be installed in accordance with the following table. The intent of the minimum requirements column is to provide a total number of trees and shrubs required based on street frontage, not to dictate the spacing of the trees and shrubs within that frontage. For fractions of the specified linear feet, the number of trees and shrubs required shall be the corresponding fraction.

Parking		
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Lot Size (Number of Spaces)	Minimum Landscaping Width	Minimum Requirements
Less than 100	4 feet; or	Masonry wall, decorative fencing or continuous evergreen or deciduous hedge with a minimum height of 3 feet.
	6 feet	1 shade or ornamental tree and 5 shrubs for every 25 linear feet of street frontage.
<u>101 to</u> <u>399 400</u>	10 feet; or	4 shade or ornamental trees and 40 shrubs for every 100 linear feet of street frontage; or Masonry wall, decorative fencing combined with a variety of landscape materials, or continuous evergreen or deciduous hedge with a minimum height of 3 feet
	20 feet; or	Earthen berm with a minimum height of 3 feet plus 2 shade or ornamental trees for every 100 linear feet of street frontage; or 2 shade or ornamental trees and 15 shrubs for every 100 linear feet of street frontage.
	30 feet	4 shade or ornamental trees and 10 shrubs for every 100 linear feet of street frontage.
<u>More</u> <u>than</u> <u>400 or</u> <u>more</u>	20 feet; or	Earthen berm with a minimum height of 3 feet plus 4 shade or ornamental trees for every 100 linear feet of street frontage; or

		4 shade or ornamental trees and 15 shrubs for every 100 linear feet of street frontage; or Masonry wall, decorative iron fencing combined with a variety of landscape materials, or continuous evergreen or deciduous hedge with a minimum height of 4 feet.
	30 feet or	4 shade or ornamental trees and 15 10 shrubs for every 100 linear feet of street frontage.
	40 feet or greater	4 shade or ornamental trees for every 100 linear feet of street frontage.

- e. Applicability to Industrial Districts. wWithin the MA - Industrial and MB - Industrial zoning districts, the Director of Community Development and the City Forester may waive or modify perimeter parking lot landscaping requirements based on site conditions if the parking lot has twenty five (25) or fewer parking spaces and the property is not located along a collector or arterial roadway.
- f. Grade Differential. Consideration will be given for parking areas and access lanes that are significantly above or below the finish grade of the adjacent public right-of-way. Modifications to the required plant quantities will be considered on a case-by-case basis by the Director of Community Development and the City Forester with the submittal of section and/or elevation drawings showing how the design will meet the intent of the ordinance.
- g. Separation. For off-street parking areas with varying widths adjacent to a public right-of-way, the average separation distance between the

parking area and the right-of-way will be the basis for the required plant materials.

h. Substitutions. The Director of Community Development and the City Forester may allow perennials to be substituted for a portion of the required shrubs on a one-to-one basis, and for one shade tree to be substituted for three shrubs, based on specific site conditions and the overall landscape design for the site.

9. *Interior Parking Lot Landscaping.*

a. Purpose. The interior parking lot landscaping requirements are intended to break up large expanses of pavement, provide relief from the heat island effect associated with paved areas, promote air quality, shade, aesthetic value, and provide pervious surfaces to reduce storm water run-off.

b. Applicability. Interior parking lot landscaping applies to any new or reconstructed parking lot (as defined by subsection 2(d)).

c. Standards. All parking lots containing fifty (50) or more off-street parking spaces shall provide interior landscape areas within the parking lot. Said landscape areas shall be provided at the rate of ten (10) square feet per parking space, shall be no less than ten (10) feet by ten (10) feet (100 square feet), and shall be constructed with poured-in-place concrete curbing to minimize damage to plant material. The poured-in-place concrete curbing requirement may be waived by the Director of Community Development and the City Forester for landscape beds intended to function as rain gardens, storm water infiltration areas or storm water detention facilities. For parking lots with one hundred (100) to four hundred (400) parking spaces, at least fifty percent (50%) of the landscape areas shall be no less than six hundred (600) square feet in area with a minimum width dimension of ten (10) feet. For parking lots with more than four hundred (400) parking spaces, at least fifty percent (50%) of the

landscape areas shall be no less than twelve hundred (1200) square feet in area with a minimum width dimension of ten (10) feet.

- d. Placement of Landscape Areas. Live plant material should be evenly dispersed throughout the parking area.
- e. Trees and Shrubs. At least one (1) shade tree and three (3) shrubs shall be provided for every twenty (20) parking spaces or fraction thereof within the off-street parking area. One (1) shade tree may be substituted for three (3) shrubs, but shrubs may not be substituted for shade trees. The Director of Community Development and the City Forester may allow perennials to be substituted for a portion of the required shrubs on a one-to-one basis, based on specific site conditions and the overall landscape design for the site.
- ~~f. Transfer of Interior Parking Lot Landscaping Areas. For parking lots containing 100 or fewer parking spaces, the required interior landscaping area and plantings may be transferred and combined with the required perimeter parking lot landscape area.~~

10. Buffer Yards.

- a. Purpose. The buffer yard requirements are intended to provide separation between land uses of differing intensity. Buffer yards utilize a combination of distance and plantings to form a dense landscaping screen to mitigate the undesirable impacts associated with incompatible land uses on adjacent properties. Earthen berms and/or opaque wood or similar screening fence as defined in this section may also be used where appropriate at the discretion of the Director of Community Development and the City Forester.
- b. Applicability. Buffer yards shall be required between a single- or two-family residential use and any other non-agricultural land use, and between a multiple family residential use (three (3) or more units) and any commercial, industrial

or institutional use. Buffer yards shall also be required for parking lots and access lanes associated with these uses, whether they are located on the same parcel or on a separate parcel.

c. Location of Buffer Yards. Buffer yards shall be located along the entire length of any lot line where two (2) land uses of differing intensity abut, excluding areas adjacent to access points and sight triangles. Such buffer yards may be located within required yards, but not within any portion of the public right-of-way or over any established trail or access easement.

d. Responsibility of Buffer Yard Installation. Installation of All required buffer yards shall be the responsibility of the proposed higher intensity use and shall be located on the lot of the higher intensity use unless a perpetual landscape easement is obtained from the property owner with the lower intensity use, in which case the buffer yard may be located on the lot with the lower intensity use. In situations where the higher intensity use was in place prior to the adoption of this ordinance ~~(October 8, 2002)~~ or any subsequent amendments, a buffer yard shall not be required with the subsequent development of the adjacent lower intensity land use. Landscape easements for buffer yards may be required in conjunction with the platting process in situations where such buffer yards will be required based on existing or proposed zoning and/or land uses.

e. Standards. Buffer yards shall be installed in accordance with the following table:

Area Where Buffer Yard Required	Minimum Width of Buffer Yard	Landscape Materials Required per 100 Linear Feet
---------------------------------	------------------------------	--

Side or rear yard of any expanding higher intensity land use adjacent to single and two-family residential uses or zoning	10 feet w/6-foot screening fence	4 shade trees and 2 ornamental trees
<u>Side or rear yard of any new high density multi-family use or zoning(9+ units) adjacent to medium density multi-family residential use or zoning(3-8 units)</u>	15 feet	<u>2 shade trees, 2 ornamental trees, 2 large upright coniferous trees and 10 shrubs (50% of shrubs must be upright evergreens)</u>
	15 feet w/6-foot screening fence	<u>2 shade trees and 2 ornamental trees and 2 large upright coniferous trees</u>
Side or rear yard of any new multi-family land use adjacent to single and two-family residential uses or zoning or	15 feet or	3 shade trees, and 4 ornamental trees, and 2 large upright coniferous trees, or 10 small upright coniferous trees and 14 shrubs (25% of shrubs must be evergreens)

Side or rear yard of any new commercial or institutional use adjacent to a multi-family residential use or zoning	15 feet w/6-foot screening fence	2 shade trees and 2 ornamental trees and 2 large upright coniferous trees
Side or rear yard of any new commercial or institutional land use adjacent to a single or two-family residential use or zoning	20 feet <u>or</u>	2 shade trees and 4 ornamental trees and 3 large upright coniferous trees and 10 small upright coniferous trees and 14 shrubs
	20 feet w/6-foot screening fence	2 shade trees and 3 ornamental trees and 2 large upright coniferous trees
Side or rear yard of any new industrial use adjacent to any residential use or zoning	50 feet w/6-foot berm	5 shade trees and 7 ornamental trees and 10 large upright coniferous trees and 10 small upright coniferous trees and 24 shrubs

A screening fence may be made of solid wood, composite material with the appearance of solid wood, vinyl with the appearance of solid wood, masonry, or a combination of masonry and any of the other materials listed. In situations where the rear walls of accessory garages are located within twenty (20) feet of a property line, the planting material numbers required for a buffer yard with a screening fence will apply, provided the wall of the accessory garages is at least one

hundred (100) feet in length and provided that the number of planting materials required for a buffer yard without a fence are provided in areas not occupied by such garages.

In order to provide flexibility in the application of this ordinance, the Director of Community Development and the City Forester may allow material numbers and/or types to be modified on a case-by-case basis with the submittal of an oblique view or elevation sketch of the buffer yard showing how the proposed materials will meet the dense landscaping screen intent of this ordinance within five (5) years of initial installation and at full maturity.

f. Sizes. In order to provide an effective landscaping screen in conjunction with site development, minimum sizes at the time of planting and minimum heights at maturity have been established. The classification of various types of materials shall be based on the City of Bismarck's Forestry standards and specifications.

Type of Materials	Minimum Size at Time of Planting	Minimum Height at Maturity
Shade Trees	Caliper of <u>2 1/2</u> inches measured 6 inches above the root collar	20 feet
Ornamental Trees	Caliper of <u>1 1/2</u> inches measured 6 inches above the root collar	15 feet
Small Upright Coniferous Trees	Minimum height of 2 feet above grade or minimum container size of 5 gallons	6 feet

Large Upright Coniferous Trees	Minimum height of 4 feet above grade	20 feet
Shrubs	Minimum height of 2 feet above grade or a minimum container size of 2 gallons	3 feet

- g. Applicability to Non-Conforming Uses. Proposed modifications to a required buffer yard adjacent to any non-conforming use, based on zoning, may be considered on a case-by-case basis by the Director of Community Development and the City Forester.
- h. Applicability to Buffer Yards in Areas Within the Extraterritorial Area. Consideration will be given by the Director of Community Development and the City Forester on a case-by-case basis to allow a modified buffer yard in developing areas within the extraterritorial area. Consideration will be given for reduced plant quantities, sizes, locations and plant species.
- i. Grade Differential. Consideration will be given for required buffer yards that are significantly above or below the finish grade of the adjacent property. Modifications to the required plant quantities may be considered on a case-by-case basis by the Director of Community Development and the City Forester with the submittal of section and/or elevation drawings showing how the design will meet the intent of the ordinance.
11. Installation, Maintenance, Replacement, Inspection and Enforcement.
- a. Installation of Street Trees. The City Forester shall determine the time for installation of street trees.
- b. 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 can not 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, within one (1) year following the date of building or site occupancy, unless otherwise approved by the Director of Community Development and the City Forester. Upon installation of all landscape materials, the landscape architect or designer who prepared the landscape plan, the construction manager who oversaw site construction or the property owner must provide certification to the City Forester that the landscape materials were installed in accordance with the approved landscape plan.~~

- c. 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.
- d. 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.

(Ord. 5437, 06-28-05; Ord. 5450, 08-23-05; Ord. 5562, 11-28-06; Ord. 5640, 10-09-07)

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 15, 2010**

The Bismarck Planning & Zoning Commission met on December 15, 2010, 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, Jo Conmy, Jack Hegedus, Curt Juhala, Vernon Laning, Ken Selzler, Wayne Yeager, Lisa Waldoch and John Warford.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Gregg Greenquist – Planner, Jason Tomanek – Planner, Kimberley Gaffrey – Office Assistant III, Ray Ziegler – Building Official and Charlie Whitman – City Attorney.

Others present were David Patience – 909 Basin Avenue, Mark Braun – 1324 Riverwood Drive, Brian Eiseman and Brent Erickson – 128 Soo Line Drive, Mike Barrett – 3876 Prairie Pine Loop, Tom and Mary Tupa – 207 East Brandon Drive, Kelly Olson – 129 East Brandon Drive, Doug Buckman – 141 East Brandon Drive, Ronda Fox – 3004 Ontario Lane, Camille Bickel – 2992 Ontario Lane, Jane Vetter – 2974 Ontario Lane, David Mayer – 3206 Winnipeg Drive, Anne and Keith Eliason – 147 East Brandon Drive, Matthew Stone – 3158 Winnipeg Drive, Hank Albers – 3200 Winnipeg Drive, Lucy Ziegler – 115 East Brandon Drive, Sarah McCullough – 3301 Winnipeg Drive, Gary & Linda Oster – 3218 Winnipeg Drive, Jim & Sharon Wilson – 8459 Burr Oak Loop, Jean & George Hilts – 1258 West Highland Acres Road, Marlene & David Krebsbach – 201 East Brandon Drive, Richard Roehrich – 2968 Ontario Lane, Delores Paul & Gordon Berge – 2976 Ontario Lane, Tom Kary – 216 East Calgary Avenue, Shelly Roningen – 135 East Calgary Avenue and Loran Galpin – 501 East Main Avenue.

INTRODUCTION OF COMMISSIONER TOM ATKINSON

Chairman Yeager introduced Tom Atkinson, a new Commissioner representing the City.

MINUTES

Chairman Yeager called for consideration of the minutes of the November 17, 2010 meeting.

MOTION: Commissioner Armstrong made a motion to approve the minutes of the November 17, 2010 meeting as received. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Hegedus, Juhala, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

**CONSIDERATIONS –
ZONING CHANGE FROM A TO RR AND PRELIMINARY PLAT –
ASHLAND ESTATES II SUBDIVISION**

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

- A. A zoning change from the A-Agricultural zoning district to RR-Residential zoning district and preliminary plat for Ashland Estates II Subdivision. The property is 2 lots in 1 block on 4.99 acres located approximately 6½ miles south of downtown Bismarck, on the south side of Sibley Drive between Briardale Third Subdivision and Ashland Estates (Lot D of the NW¼ of the SW¼ of Section 3, T137N-R80W/Fort Rice Township).

Commissioner Hegedus commented that there is an issue with a secondary access and based on the findings in the staff report, made a motion to deny the request until the access issues are resolved.

MOTION: Commissioner Hegedus made a motion to deny the zoning change from A-Agricultural to RR-Residential for Ashland Estates II Subdivision. Commissioner Laning seconded the motion with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Hegedus, Juhala, Laning, Selzler, Warford and Yeager voting in favor of the motion and Commissioner Waldoch voting against. The motion passed 10-1.

PUBLIC HEARING – FINAL PLAT – MDU SUBSTATION SUBDIVISION

Chairman Yeager called for the public hearing for the final plat for MDU Substation Subdivision. The property is located northeast of Bismarck, a corner lot southeast of the intersection of Centennial Road and 43rd Avenue NE (NE¼ of Section 24, T139N-R80W/Hay Creek Township).

Mr. Greenquist provided an overview of the request and listed the following findings for the final plat:

1. A zoning change is not needed and although the Future Land Use Plan shows this area as “Neighborhood Commercial” utility service group uses such as an electrical substation are allowed in any zoning district.
2. The proposed subdivision complies with the Fringe Area Road Master Plan. Adequate right-of-way will be dedicated for 43rd Avenue. Adequate right-of-way already exists along Centennial Road.
3. Access to the property is provided by an approach on 43rd Avenue NE.
4. The proposed subdivision is compatible with adjacent land uses and would not adversely affect property in the vicinity. A landscaped buffer yard will be installed on the east side of this lot.

5. Surrounding land uses include undeveloped agricultural land to the north, south and west. There is a church to the east and a rural residential subdivision to the northwest.
6. The proposed plat is consistent with all adopted plans, policies and accepted planning practices.
7. The Storm Water Management Plan has been approved by the City Engineer.

Mr. Greenquist said that based on the above findings, staff recommends approval of the final plat of MDU Substation Subdivision, with the following conditions:

1. That the buffer yard is planted by June 15, 2011 or in conjunction with the development of the site, whichever comes first; and
2. The landscape plan for the buffer yard must be submitted to and approved by City staff prior to the request being forwarded to the Board of City Commissioners for final action.

Chairman Yeager opened the public hearing for the final plat of MDU Substation Subdivision.

Mike Barrett said he does not understand what exactly a substation is and wants to know if there will be any overhead power lines running from it. Mr. Patience said the design is similar to most other substations and believes the overhead transmission line will run to the west along the south side of 43rd Avenue, but would go into the substations underground. He said additional questions would have to be answered by MDU.

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 of MDU Substation Subdivision with the following conditions: 1) that the buffer yard is planted by June 15, 2011 or in conjunction with the development of the site, whichever comes first; and 2) the landscape plan for the buffer yard must be submitted to and approved by City staff prior to the request being forwarded to the Board of City Commissioners for final action. Commissioner Hegedus seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Hegedus, Juhala, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM R5-RESIDENTIAL, R10-RESIDENTIAL AND RM15-RESIDENTIAL TO R5-RESIDENTIAL AND R10-RESIDENTIAL AND FINAL PLAT – ROCKY HEIGHTS ADDITION

Chairman Yeager called for the public hearing for the zoning change from the R5-Residential, R10-Residential and RM15-Residential zoning districts to the R5-Residential and R10-Residential zoning districts and the final plat for Rocky Heights Subdivision. The property is located in north Bismarck, along the east side of North Washington Street, north of Century Avenue between the Juniper Drive and Aspen Drive intersections (SW ¼ of Section 21, T139N-R80W/Hay Creek Township).

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

1. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include single and two-family dwellings to the west; a church to the northwest; single family dwellings to the north and east; single family, duplex and row-house dwellings to the south.
2. The subdivision proposed for this property will be an urban residential subdivision and has already been annexed; therefore, the zoning change will not place an undue burden on public services.
3. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.

Ms. Lee then listed the following findings for the plat:

1. The proposed plat is not completely consistent with all technical requirements for a final plat. In particular, the double-frontage lot situation is an issue.
2. For double-frontage lots backing on local residential streets, the ordinance does not establish a minimum separation distance between a rear lot line and a street.
3. The proposed plat is compatible with adjacent land uses. Adjacent land uses include single and two-family dwellings to the west; a church to the northwest; single family dwellings to the north and east; single family, duplex and row-house dwellings to the south.
4. The proposed subdivision will be an urban residential subdivision and has already been annexed; therefore, it will not place an undue burden on public services.
5. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
6. The Storm Water Management Plan has been approved by the City Engineer.

Ms. Lee then provided the following additional information:

1. A single access on North Washington Street is shown at the northwest corner of the subject parcel. A looped roadway with two access points is unfeasible. A street constructed on the steep hillside would exceed the maximum allowable grade. A cul-de-sac has been requested and is acceptable.
2. The location of Aspen Drive creates a double-frontage lot situation with four lots along the north side of this plat. The developer has offered a buffer strip of 20-feet to separate these lots from the new street right-of-way.

3. Section 14-09-05(4)(e) of the Bismarck Ordinance says: Double frontage or reverse frontage lots shall not be permitted except where lots back on arterial streets or highways, or where topographic or other conditions render subdividing in another fashion unreasonable. Such double frontage lots shall have an additional depth of at least twenty (20) feet over and above normal lot size in order to allow screen planting and landscaping along the back lot line.
4. The ordinance allows an exception for double-frontage lots which back on arterial streets or highways. Aspen Court is a local residential street. When designing new subdivisions and creating double frontage lots along arterials, the newly created lots are vacant, undeveloped. The buyers of those new lots willingly choose to purchase and live on a double frontage lot. Although the current residents to the north of the proposed plat did not choose to live on double frontage lots, it was a reasonable expectation that someday the property to their south could be subdivided.
5. The ordinance allows another exception from the double frontage lot ban “*where topographic or other conditions render subdividing in another fashion unreasonable*”. Topography does not completely prohibit the proposed street from being relocated.
6. One negative aspect for the homes to the north would be having car headlights shining into their rear windows. To screen headlights, the developer has proposed landscaping be installed on the 20-foot buffer strip (see landscaping proposal). The proposed tree species and density indicated on the consultant’s landscaping plan may not adequately protect those properties from headlight glare.
7. Staff had earlier indicated to the owners’ representatives that the staff recommendation on this plat would be to retain the existing row of mature juniper trees along the north edge of the proposed plat and plant additional new trees to allow them to become established and eventually replace the aging junipers. Staff had indicated that a buffer lot of 50-feet in width would be recommended for the north edge of the proposed plat. A buffer lot of that width would have contained the mature junipers. The representatives disagreed with the staff recommendation and the existing junipers were cut down.
8. For any new landscaping in this buffer strip to be effective, it would have to be more densely planted than shown on the consultants’ landscaping plan with replacement conifers of a suitable size.
9. Staff has since looked at alternative spacing for this area north of Aspen Court. It is possible with the proposed 20-foot buffer strip to locate the new street so the curb would be at least 43-feet south of the northern property line. A new sidewalk of 4½-feet in width would be located somewhere north of the curb.

Ms. Lee said based on the above findings, staff reluctantly recommends approval of the zoning change from the R5-Residential, R10-Residential and RM15-Residential zoning districts to the R5-Residential and R10-Residential zoning districts and the final plat for Rocky Heights Subdivision, with the following conditions:

1. That the buffer lot of 20-feet in width and landscaping contained within it be under common ownership of a Rocky Heights homeowners' association and maintained by the association in perpetuity
2. That the width and alignment of the paved portion of the east/west segment of Aspen Drive be configured to result in a separation distance of 43-feet between the north property line and the north curb
3. That the landscape plan for the buffer yard must be revised, submitted to and approved by City staff prior to the request being forwarded to the Board of City Commissioners for final action
4. That the buffer yard is planted by June 15, 2011 or in conjunction with the development of the site, whichever comes first; and
5. That the landscaping materials be planted prior to any building permits being issued for this subdivision and that all plant materials are maintained in a healthy condition for perpetuity.

Ms. Lee also distributed letters to the Bismarck Planning & Zoning Commissioners from the East Brandon homeowners, the Winnipeg Drive property owners, the Century Park Condominium Association and Paul and Jennifer (Montz) Rechlin, attached as Exhibit A, Exhibit B, Exhibit C and Exhibit D.

Chairman Yeager called for the public hearing for the zoning change from the R5-Residential, R10-Residential and RM15-Residential zoning districts to the R5-Residential and R10-Residential zoning districts and the final plat for Rocky Heights Subdivision.

Tom Tupa said he lives on East Brandon Drive and is one of the homeowners who helped write the letter attached as Exhibit A. Mr. Tupa read the opening section, paragraphs 1, 5 and 7 and the closing section of the letter, which dealt with concerns regarding drainage, erosion control and utility easements.

Doug Buckman stated that he lives on East Brandon Drive and is one of the homeowners who helped write the letter attached as Exhibit A. Mr. Buckman read paragraphs 4, 6 and 8 of the letter, which dealt with concerns regarding the need for a buffer yard, ground water levels and the impact on property values.

Anne Eliason added that she also lives on East Brandon Drive and is one of the homeowners who helped write the letter attached as Exhibit A. Ms. Eliason read paragraphs 2 and 3 of the letter, which dealt concerns regarding double frontage lots, maintenance of the area north of Aspen Court.

Shelly Roningen said that she lives on East Brandon Drive as well and has many concerns with the proposed development. Ms. Roningen explained that her concerns are with the double frontage property, the trees that have already been removed, the maintenance of the buffer yard that will be located on Lot 13, the traffic that will be adjacent to her backyard, the ongoing

constructions noises and the overall negative impact the proposed development will have on her and the surrounding neighbors.

Gary Oster stated that that he lives on Winnipeg Drive and then distributed a letter from the Winnipeg Drive landowners and a letter from Paul and Jennifer (Montz) Rechlin, attached as Exhibit B and Exhibit D. Mr. Oster read and explained the seven points of concern that the Winnipeg Drive landowners have, as outlined in Exhibit B (drainage, site grading, erosion control, the need for a buffer area, special assessments, impact on property values and the impact of R10 zoning).

Gordon Berge said that he lives on Ontario Lane and expressed his concerns as outlined in the letter from the Century Park Condominium Association, attached as Exhibit C (drainage, soil erosion and privacy and noise concerns.

David Mayer stated that he lives on Winnipeg Drive and shares the same views of the issues that have already been discussed. Mr. Mayer commented that he is also concerned with the fact that there are not two access points to the development, the cul-de-sac waiver, double frontage lots, and the density of the proposed development.

Brian Eiseman with Kadmas Lee & Jackson said that he is speaking on behalf of the owners of the proposed development. Mr. Eiseman went on to say that the current owners met with City staff before the property was even purchased and were told the only two access points that would be allowed would be the existing access point and then one further to the south because they would line up with existing streets, however, the south access will not work because of the grade of the land. Mr. Eiseman continued by saying he is aware of the concerns regarding special assessments and that no one wants any special assessments to be placed on the neighbors for any streets or storm water improvements for this project and the developer agrees with that. He said that the double frontage lots are a huge issue and they are not recommended except in unordinary circumstances and there must be a 20 foot buffer. This is an unordinary circumstance so the road was moved to the south to allow for a 20 foot buffer. Mr. Eiseman then stated that drainage is also a big issue and there are a whole lot of dynamics that are going on with the drainage and double frontage lots that are not working together in particular the further south the road is moved, the worse the drainage will become. He said that how the proposed plat is designed will alleviate most of the storm water concerns. Mr. Eiseman explained that the trees on the north side of the property were removed because that was always the intent and it was not done maliciously and the timing was unfortunate. He added that a horticulturist at North Dakota State University was consulted and the horticulturist said to remove them, as they will not survive construction. Not only that, the horticulturist also indicated the trees serve no purpose and they are insect and rodent infested. Mr. Eiseman commented that a landscape plan has been submitted and it includes the replacement of those trees. He added that there is no intention on removing any of the rest of the trees surrounding the property. Mr. Eiseman said he understands about the headlight issue and it happens all over town, but the fact that the proposed development is low and that should help cut down on the amount of traffic. He went on to say that after the plat is approved, then a development plan will be prepared that will address the grading plans, the soil erosion plan and water and sewer plans will be submitted and reviewed by the City.

Commissioner Hegedus asked if the 20 foot buffer zone and the 43 foot separation requirements are included in the proposed plat and if they fit into the plan. Mr. Eiseman said yes, they are included in the proposed plat and it does work well.

Commissioner Armstrong inquired if there has been any thought to the possibility of underground springs in this area. Mr. Eiseman responded by saying there have not been any geotechnical investigations completed on this site yet, but if some are found during the investigation then the design of the development will have to accommodate whatever is found and he added that they are well aware of the water issues in the area.

Commissioner Warford asked about the utilities. Mr. Eiseman answered by saying he is waiting for return calls from the utility companies on where they would like to access this property. The utility companies have seen the proposed plat and are comfortable with the proposed easements shown on the plat.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Hegedus made a motion to approve the zoning change from the R5-Residential, R10-Residential and RM15-Residential zoning districts to the R5-Residential and R10-Residential zoning districts and the final plat for Rocky Heights Subdivision, with the following conditions: with the following conditions: 1) that the buffer lot of 20-feet in width and landscaping contained within it be under common ownership of a Rocky Heights homeowners' association and maintained by the association in perpetuity; 2) that the width and alignment of the paved portion of the east/west segment of Aspen Drive be configured to result in a separation distance of 43-feet between the north property line and the north curb; 3) that the landscape plan for the buffer yard must be revised, submitted to and approved by City staff prior to the request being forwarded to the Board of City Commissioners for final action; 4) that the buffer yard is planted by June 15, 2011 or in conjunction with the development of the site, whichever comes first; and 5) that the landscaping materials be planted prior to any building permits being issued for this subdivision and that all plant materials are maintained in a healthy condition for perpetuity.

Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conny, Hegedus, Juhala, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL TO RR-RESIDENTIAL AND FINAL PLAT – WOODRUFF SUBDIVISION

Chairman Yeager called for the public hearing for the zoning change from the A-Agricultural zoning district to the RR-Residential zoning district and the final plat for Woodruff Subdivision. The property is located west of 66th Street NE, south of 71st Avenue NE and north of Rocky Road (part of the NE¼ of Section 7, T139N-R79W/Gibbs Township).

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

1. The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan).
2. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include rural residential to the south and agricultural land to the west, north and east.
3. The property included in the zoning change is already developed, has access via a private drive to Rocky Road, and is served by South Central Regional Water District; therefore, the zoning change will not place an undue burden on public services.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then listed the following additional information:

1. Since the proposed subdivision is located partially within the two to four-mile ETA, it is subject to joint jurisdiction procedures as established by NDCC 40-47-01.1. Burleigh County can participate in decisions on development proposals in the area of joint jurisdiction. The County may object to the City's final decisions and request negotiation within 30 days of the decision. If the City and County do not come to an agreement within 30 days, the dispute is submitted to a committee for mediation. If the mediation committee is unable to resolve the dispute to the satisfaction of the City and Burleigh County, the dispute must be resolved by the Burleigh County Board of Commissioners.
2. The property included in the proposed subdivision was split off from the surrounding agricultural property with a plat of irregular description in 2006. The plat of irregular description included the following note, "Due to its size (under 40 acres) and its current zoning, Agriculture, this parcel constitutes a non-conforming use. No further building permit will be allowed for this parcel until it is platted and zoned."

Ms. Lee then listed the following findings for the plat:

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.
3. The proposed subdivision is in conformance with the Fringe Area Road Master Plan, which identifies 59th Street NE as the north-south collector for this section.

4. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include rural residential to the south and agricultural land to the west, north and east.
5. The property included in the proposed subdivision is already developed, has access via a private drive to Rocky Road, and is served by South Central Regional Water District; 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. Lee then listed the following additional information:

1. The Gibbs Township Board of Supervisors has recommended approval of the proposed subdivision.
2. Since the proposed subdivision is located partially within the two to four-mile ETA, it is subject to joint jurisdiction procedures as established by NDCC 40-47-01.1. Burleigh County can participate in decisions on development proposals in the area of joint jurisdiction. The County may object to the City's final decisions and request negotiation within 30 days of the decision. If the City and County do not come to an agreement within 30 days, the dispute is submitted to a committee for mediation. If the mediation committee is unable to resolve the dispute to the satisfaction of the City and Burleigh County, the dispute must be resolved by the Burleigh County Board of Commissioners.
3. The property included in the proposed subdivision was split off from the surrounding agricultural property with a plat of irregular description in 2006. The plat of irregular description included the following note, "Due to its size (under 40 acres) and its current zoning, Agriculture, this parcel constitutes a non-conforming use. No further building permit will be allowed for this parcel until it is platted and zoned."
4. Access to the parcel is provided via a private access easement and a privately-maintained drive on the east half of the 59th Street NE right-of-way (only the east half of the roadway is dedicated) from the west end of Rocky Road. The applicant is in the process of obtaining an additional private access easement over the adjacent property to accommodate the alignment of the existing driveway.
5. The current access to the parcel will not change with the proposed plat; however, there is some concern about the continued use of the east-west portion of the private access easement when the adjacent property is developed. Because the location of this private access easement creates a double-frontage issue for the developed lots to the south, it would be undesirable to turn it into a public roadway. With future development of the adjacent property and the creation of public roadways in this area, access to the property in this plat may need to be modified.

Ms. Lee said based on the above findings, staff reluctantly recommends approval of the zoning change from the A-Agricultural zoning district to the RR-Residential zoning district and final plat for Woodruff Subdivision, with the understanding that the property owner will work with the adjacent property owner to improve access to the property in this subdivision when the adjacent property is developed.

Chairman Yeager called for the public hearing for the zoning change from the A-Agricultural zoning district to the RR-Residential zoning district and final plat for Woodruff Subdivision.

There was no public comment.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Armstrong made a motion to approve the zoning change from the A-Agricultural zoning district to the RR-Residential zoning district and final plat for Woodruff Subdivision, with the understanding that the property owner will work with the adjacent property owner to improve access to the property in this subdivision when the adjacent property is developed. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Hegedus, Juhala, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT FOR LOTS 21-24 AND THE EAST 10 FEET OF THE VACTED ALLEY ADJACENT, BLOCK 40, GOVERNOR PIERCE ADDITION (112 24TH STREET SOUTH)

Chairman Yeager called for the public hearing for a special use permit to allow a drive-through window in conjunction with a bank on Lots 21-24 and the East 10-feet of the Vacated Alley Adjacent, Block 40, Governor Pierce Addition. The property is located along the east side of 24th Street South between Main Avenue East and Railroad Avenue (112 24th Street South).

Mr. Tomanek provided an overview of the request and listed the following findings for the special use permit:

1. A bank with a drive-through window is allowed as a special use in the MA zoning district, provided specific conditions are met. The proposed drive-through window meets all six provisions outlined in Section 14-03-08(4)(g) of the City Code of Ordinances (Zoning). A copy of this section the ordinance is attached.
2. The proposed special use would not adversely affect the public health, safety and general welfare.
3. The proposed special use would not be detrimental to the use or development of adjacent properties.

4. The use would be designed, operated and maintained in a manner that is compatible with the appearance of the existing character of the surrounding area.
5. Adequate public facilities and services are in place.
6. This use would not cause a negative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity
7. Adequate measures have been taken to minimize traffic congestion in the public streets and provide for appropriate on-site circulation of traffic, in particular, the public alley directly adjacent to the north property line will provide for adequate ingress and egress for the property, ample off-street parking is available on-site and stacking space for twelve vehicles in the drive-through lane would be provided.
8. The City Traffic Engineer has reviewed the proposed site plan and has no opposition to the special use permit to allow the operation of a drive-through.

Mr. Tomanck said that based on the above findings, staff recommends approval of the special use permit to allow a drive-through window in conjunction with a bank on Lots 21-24 and the east 10-feet of the vacated alley adjacent, Block 40, Governor Pierce Addition (112 24th Street South), with the following conditions:

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

Chairman Yeager opened the public hearing for the special use permit on Lots 21-24 and the east 10-feet of the vacated alley adjacent, Block 40, Governor Pierce Addition (112 24th Street South).

No public comment was received.

Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Warford made a motion to approve the special use permit allow a drive-through window in conjunction with a bank on Lots 21-24 and the east 10-feet of the vacated alley adjacent, Block 40, Governor Pierce Addition (112 24th Street South), with the following conditions: 1) the construction and operation of a drive-through window must meet all applicable requirements for such a use in the MA zoning district; and 2) development of the site generally conforms to the site plan submitted with the application. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Hegedus, Juhala, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 6:55 p.m. to meet again on January 26, 2011.

Respectfully submitted,

Kimberley Gaffrey
Recording Secretary

Wayne Yeager
Chairman

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RECEIVED
DEC 14 2010

December 9, 2010

Chairman Yeager and Planning Commission Members
Bismarck City Planning and Zoning Commission
City County Office Building
221 N 5th St.
Bismarck, ND 58501

Subject: Rocky Heights Proposed Development

Chairman Yeager,

Let us start by saying none of the surrounding home owners are opposed to the development of Rocky Heights. Our interest is that it be done without any negative impact to the current home owners, some who have been in their homes for more than 30 years.

If the project is not done with the current home owner concerns being addressed, we fear some of us could face some undue hardships as a result of the proposed development.

In identifying our concerns, we have had numerous neighborly discussions. We have also had several neighborhood meetings to discuss the proposed development. We reviewed and discussed the Storm Water Management Plan made available by the Community Development Department.

As current home owners and future neighbors to the new development owners, we bring these concerns to the attention of the Planning Commission. We believe our concerns and suggestions would bring about a more attractive and harmonious neighborhood that would benefit the city, the property surrounding the proposed development and the development itself.

Questions, Concerns, and Suggestions

1. Home owners, particularly on the south (Ontario) and the north (Brandon) sides of the proposed development, still have concerns about the run-off and drainage from the development. There is concern about heavy rain and snow melt flowing north and south. Could the proposed holding pond on Aspen be relocated and put onto the property rather than the road? Using a road as a detention pond is somewhat unusual. Other developments use existing property to control water discharge. With recent information, some of our concerns have been lessened and it now appears that much of the water (not necessarily all) from a 100 year storm will drain toward Washington Street and not flow northward onto the East Brandon properties directly north of Aspen Court.
2. There is major concern about the entrance of Aspen Court off Washington Street. The issues are double frontage roads, vehicle lights, noise, safety (young children with a street in their "back yard") and the labeling of the road as public or private. If Aspen Court is private, the maintenance and upkeep would be the responsibility of the development property owners. If Aspen Court is a public road, would the homeowners on East Brandon (and perhaps

other owners) be assessed for the construction and upkeep of the road? It is our understanding the city no longer encourages double frontage roads. **We suggest the road be redesigned to follow more closely the original road to the top of the hill after entering from Washington.**

3. If Aspen Court becomes a public street, would the city be responsible to maintain the right of way on the north side of the road?
4. The current home owners believe a permanent "green zone" of some sort be established and maintained around the entire development. **We suggest a permanent buffer zone or a conservation easement of 50 feet be created for the homes that border the three residential sides of the entire proposed development and that mature trees be planted in the buffer/conservation easement to suppress noise and to eliminate the disturbance of automobile headlights of the Aspen Court traffic.**
5. Construction erosion could be a major issue for many adjacent home owners. Little is said about the water and wind erosion protection during the construction phase of the proposed development. **We suggest a silt fence (or some other suitable erosion containment process) be established around the entire project, and that if the silt fence is used that the bottom of the fence be buried and that it be periodically checked (and cleaned out if necessary) during the construction phase.** Home owners are concerned that erosion may spill over from the undeveloped lots to their existing property. Further, we **suggest that some cover or seeding of grass be done to prevent wind erosion.** Given the elevation of the development we believe wind erosion is as important as the water erosion from the project.
6. What is the anticipated effect on the ground water levels as a result of the proposed development? There already exists

a major ground water problem with most homes in the area having sump pumps that operate at least part of the year.

7. Will there be any utility easements created on the north side of the proposed development?
8. Has any consideration been given to the long or short term effect on existing adjacent home owner values?

As you can see, there are legitimate concerns by the adjacent home owners. And, we respectfully ask the Planning Commission give serious consideration to the issues raised by the surrounding home owners.

We ask that you keep the best interests of all parties in mind. A comment made at one of our neighborhood meetings was "why can't this proposed development be a positive experience for everyone rather than it having a potential negative impact on some existing home owners?"

Thank you for your time and consideration. We will try to answer any questions the Commission may have.

East Brandon Home Owners.

Name	Address	Years at Location
<hr/>		
<hr/>		

RECEIVED
DEC 15 2010

December 10, 2010

To: City of Bismarck
Planning and Zoning Commission

Re: Rocky Heights Development Plans

Dear Chairman Yeager and Planning Commission Members,

As owners of adjacent properties, located to the east on Winnipeg Drive, of the proposed Rocky Heights development, we are writing to express our collective concerns. We have met with our neighbors as well, whose properties are to the North and South of the proposed development and all of us have been able to review the storm water plans and the revised plans. There are many common concerns from all three sides but, this letter is meant to bring out specific concerns the Winnipeg Drive property owners have. Following, as enumerated, are these concerns:

- 1.) The plans show how the drainage will work and show structure placement as well for each lot. However, it fails to provide any discussion of how this drainage will be affected should the individuals purchasing each lot decide to change the location of the structure within the lot. There needs to be some avenue of controlling where the structures are located in each lot so as to maintain the integrity of the proposed drainage plan. We are not sure if these drainage forecasts also take into account potential and dramatic increase in flows, trading in the current native grasses and undisturbed soils for asphalt roofs, driveways and numerous other landscaping and hard scaping materials.
- 2.) Where is the final grading plan with all grading limits identified? How much earth is expected to be moved, not only with the initial development phase, but also within each lot after they have been sold and houses are being built? Will this dirt that is removed from the hilltop be re-used within the development?
- 3.) Is there a clear and concise plan for handling soil erosion on all 3 sides? We are concerned with the wind and water erosion that will occur without proper controls in place. All opened or disturbed areas of earth need to be immediately planted with grass, not weeds, and other proper methods of erosion control also being mandated. These controls must also be applied to each individual lot when prepared for home construction.
- 4.) Currently, all 3 sides have trees which have provided each of us with not only weather protection, but privacy. This was a large consideration in purchasing our properties and there is no reason these need to be or should be disturbed. A buffer zone of 60 ft or more could remedy this concern and an acceptable maintenance plan be drawn up between the developer and all adjacent property owners. This could also be included and enforced with any individual lot owner in the future.

There would be no buildings allowed, nor dog runs, nor camper or boat parking etc. This would be entirely dedicated to the green space, ensuring common privacy for the existing property owners and all future property owners equally, all the while preserving the wildlife habitats, peacefulness and property values for all.

- 5.) Is there a potential for assessments being made against Winnipeg Drive adjacent property owners for this development?
- 6.) Concerns for reduced property values have also been raised. Can the Planning Commission or City staff provide any insight into this issue? The resale values of our properties will most definitely be affected if this development does not have controls in place to guard against devaluation of all adjacent properties, now and in the future.
- 7.) There is also on the table a request for rezoning of part of this development area, allowing for twin homes. With the extreme pie-shaped lots as proposed, these types of structures will only further push the backyards further down the steep southern slope. This in part, references the concerns raised in #1 above. There has to be a specific site plan for each lot as well.

The increased traffic as a result of twin homes is also a major concern, especially when exiting from Aspen Court to North Washington Street, a major arterial roadway. The reverse is also a concern.

Please understand we who live along Winnipeg Drive are not seeking to stop the developers plans for the former Montz property. However, this is not a normal development either that the Planning Committee has reviewed in the past. This area has been relatively undisturbed for the last 30+ years and each adjacent property owner has spent a lot of hard earned money and sweat into making their individual property functional, beautiful and a huge source of pride. It's with all of this in mind that we, as adjacent property owners along Winnipeg Drive, ask each of you to take a closer at this plan.

We thank you in advance for your time, expertise and consideration of our concerns.

Winnipeg Drive Property Owners:

	Name	Address	Signature
1.)	Matthew Stone	3158 Winnipeg Dr.	Matthew R. Stone June Stone
2.)			
3.)	Jeremy Lecker	3700 Winnipeg Dr.	Jeremy Lecker

Winnipeg Property Owners letter, dated December 10, 2010, to City of Bismarck Planning & Zoning Commission.

Name	Address	Signature	
4.)	Law Allous	3200 Winnipeg Dr	Law Allous
5.)	Jennifer Recklin	3212 Winnipeg Dr	Jennifer Recklin
6.)	Paul Recklin	3212 Winnipeg Dr.	Paul Recklin
7.)	DAVID MAYER	3206 Winnipeg Dr	David Mayer
8.)	Dawn Mayer	3206 Winnipeg Dr	Dawn Mayer
9.)	Linda J. Oster	3218 Winnipeg	Linda J. Oster
10.)	Mary D. Oster	3218 Winnipeg Drive	Mary D. Oster
11.)			
12.)			

December 10, 2010

Planning Commission
City of Bismarck
221 N 5th Street
Bismarck, ND 58501

Re: Proposed Development -- Rocky Heights

As neighbors bordering the south edge of the proposed Rocky Heights housing development, this letter expresses concerns from property owners of the Century Park Condominium Association that border the proposed development. We want to be on record that we are not opposed to developing the property; but we do propose that the development proceed in a thoughtful manner that will balance the needs of conservation of trees, drainage concerns, and privacy & noise factors for existing neighbors.

We respectfully ask for consideration of our primary areas of concern and our proposed solutions:

1. **Drainage and soil erosion** from the property flowing toward the south, southwest and southeast boundaries of the Rocky Heights development. We are concerned that construction will instigate drainage problems by disturbing soils, current drainages that are in place, underground springs and native prairie grasses.

We have recently learned that the developers of the above property plan to construct an eight-foot wide swale, extending from the east edge of the property to the west edge, and directly on the south side of the property line. The swale will be contoured so that all snowmelt and heavy rainfalls from the Rocky Heights property will minimize impacting our properties.

We would like to respectfully request this swale be placed a safe distance north of the row of pine trees near the southern border of the proposed Rocky Heights development, and that the swale be constructed to preserve the integrity of these pine trees. This action would create a significant solution of benefit to all parties.

2. **Privacy and noise concerns:** The hillside to the north of our property line has remained virtually undisturbed for the past 50 years. We think the proposed development will disturb an existing ecosystem of wildlife and native grass prairies. We have enjoyed watching deer, pheasants, grouse, partridge, wild turkeys and ducks and a wonderful, park-like atmosphere for 30 years. At the outset of the proposed development, many 50-year old trees were removed. These trees created a wonderful privacy and noise barrier to adjacent property owners.

We are very concerned that the developer and/or new property owners will remove more of the existing trees, without replanting desirable species of mature size to abate noise, lights and enhance privacy. We feel it is imperative to keep the pine trees near the southern boundary of the Rocky Heights development which will also be of tremendous benefit to the new property owners who purchase homes.

We propose that a 60-foot border of green space be established on the south edge of the proposed Rocky Heights development for conservation enhancement, privacy and noise abatement; and that tree and shrub plantings be kept in place, maintained and enhanced to create an attractive, natural barrier between the proposed development and our properties. This space will continue to enhance wildlife as well.

In addition, we also propose a 40-foot setback, in addition to the above, so that the rear of newly constructed homes will be at a distance from our property lines to insure not only the privacy of new property owners, but to adjacent property owners as well.

It is our desire to foster positive relationships with our new neighbors to the north by being proactive rather than reactive. These suggestions are presented as solutions that we believe will enhance our entire neighborhood, preserve and build property values, and create harmony that will benefit all of us. Thank you for consideration of our concerns.

Sincerely,

Century Park Condominium Association

Name: Sharon Cerkoney
Address: 2958 Ontario Lane
Signature: Sharon Cerkoney

Name: Jane Vetter
Address: 2974 Ontario Lane
Signature: Jane Vetter

Name: Kandi Att
Address: 2963 Ontario Lane
Signature: Kandi Att

Name: Sharon J. Lech
Address: 2974 Ontario Lane
Signature: Sharon J. Lech

Name:
Address:
Signature:

Name: Pamela B. ...
Address: 2922 Ontario Lane
Signature: Pamela B. ...

Name: Lloyd Bungey
Address: 2976 Ontario Lane
Signature: Lloyd Bungey

Name:
Address:
Signature:

Name:
Address:
Signature:

Name:
Address:
Signature:

Name: *Stephen + Patricia Berger*
Address: *3976 Ontario Lane*
Signature: *3976 Ontario Lane*

Name: *Richard L. Rothman & Carol Rothman*
Address: *2962 Ontario Ln*
Signature: *2962 Ontario Ln*

Name: *Lin Dean*
Address: *2978 Ontario Ln*
Signature:

Name: *Joseph W. Hester*
Address: *2956 Ontario Lane*
Signature:

Name:
Address:
Signature:

RECEIVED
DEC 14 2010

3212 Winnipeg Drive
Bismarck, ND 58503
December 12, 2010

City Planning & Zoning Commission
Community Development Department--Planning Division
PO Box 5503
Bismarck, ND 58506-5503

Re: Proposed Rocky Heights Addition

As the previous owners of the "Montz Hill" property, we feel an obligation in part to ourselves, and even more so to our friends and neighbors, to comment on the proposed Rocky Heights addition. Our neighbors understandably must feel betrayed after years of promises by Bob "Doc" Montz that the property would never be developed and assurances by us that they need not fear any significant development, certainly not in the near future. Because this has been such a difficult, traumatic and contentious time for us personally, we feel written rather than verbal testimony is probably best.

The Montz property had been in my (Jennifer Montz Rechlin) family since my father and mother, Bob and Florence Montz, bought the property and built the hilltop home 51 years ago. Shortly after my father passed away in 2009, Jean Hilts, a 20+-year acquaintance of mine, approached me about buying the landmark homestead, and over the months professed love of the home, the view, the wildlife and trees, and the large-lot beauty that would allow them room to build an additional home for their son and daughter-in-law in a few years.

We priced and sold the home and acreage last spring to Rocky and Jean Hilts as a large-lot residence, but (unfortunately) we did not specify any conditions or limitations. We recognized that some sort of light development could be an eventual possibility, perhaps inevitable. But we were shocked shortly after closing to discover that the character and integrity of the landmark property and the neighborhood would undergo immediate and substantial change. Within a short time, we learned that proposed was construction of a city street, demolition of the home, excavation of the top of the hill, leveling of trees, rezoning, and platting of 12 lots for as many as 16 new residences.

We do not deny the rights of a landowner, but we do not believe those rights extend to threatening the health and safety of others, or the loss of privacy and destruction of what defines the neighborhood. We have many concerns with how the development is proposed, but we limit our comments to two basic issues that are of greatest concern, and suggestions as to how to address them.

First, we ask that there be established a permanent conservation, or greenbelt, easement. Of paramount importance is protection of the mature, well-established tree rows on the eastern edge of the development that provide effective wind, noise and visual screening for lots on Winnipeg Drive. Before we sold the property to the Hiltzes, we told them that there was significant interest by surrounding landowners in buying adjacent strips of land to assure the trees would remain. The Hiltzes' negative response was logical, considering their expressed desire to protect the trees by keeping the property as their own. But now, with the proposed development and multiple future owners, only a permanent easement can provide assurance that the trees will remain. We believe the Hiltzes should embrace this idea.

We suggest a permanent easement of 60 feet in depth along the entire eastern edge of the proposed development. The 60-foot easement would align with (and replace) the easement behind our home on Winnipeg Drive, thus providing consistency, and, importantly, permanence.

We believe it is advisable to extend conservation easements to both northern and southern boundaries, although, for the north side where trees were leveled earlier this month, staff is making recommendations that could at least partially protect some of the Brandon residences.

Our other concern regards an interplay of issues, mostly involving the traffic, zoning, drainage, and lot configurations at the top of the hill. Mostly, problems stem from the proposed R-10 zoning.

The R-10 lots, all on the hilltop and the cul-de-sac, are generally narrow frontage, pie-shaped lots (inexplicably, Lot 9, one of the smallest lots and a narrow frontage lot, is also proposed for R-10 zoning). The cul-de-sac allows for little on-street parking, and the narrow frontages on all but Lot 8 are not wide enough to accommodate the size of twin homes likely to be built on the view lots unless they are set back some undefined distance. This would likely require, or at least encourage, considerable setbacks of the (twin) homes—generally further to the south, but also to the east and west—that would not only add to the impervious roof surfaces, but also require lengthy impervious driveway surfaces for access and perhaps additional pavement for parking. This would exacerbate existing drainage and storm water problems.

The resulting undefined siting of the homes, whether to accommodate size or to capitalize on a view, could not only add to, but also change the pattern of drainage in now unpredictable directions, sending storm water flow towards yards and homes that could least accept it. This issue gives even more justification for buffer zones to help absorb the increased and unpredictable storm water flow.

Also, the more residences permitted by the plat and zoning, the greater the traffic, the frustration, and the certainty of accidents at the busy, offset intersection at Washington Street.

To address these concerns, we recommend the following: inclusion of a permanent conservation easement, at a minimum along the entire eastern border of the development; denial of R-10 zoning in the cul-de-sac area; establishment of maximum allowable front-yard setbacks; and acceptable siting plans for each lot in the subdivision prior to final plat approval.

Our horrible mistake and misjudgment are our responsibility, and we obviously are not asking you to undo what can't be undone; regardless, the unique landmark home, one of the tallest spruce trees in the city, and all the north perimeter trees are already gone, even before Dr. and Mrs. Hilts' request comes before you. We also are not saying a landowner has no rights to develop, regardless of what we believed to be their intent.

Development is not synonymous with progress, and bad development is the antithesis of progress. In our judgment, and we hope yours, this is not good development.

Protection provided by a permanent greenbelt easement, appropriate setbacks, and reduced density will not only help protect the existing neighborhood, but also assure greater value to future residents of Rocky Heights. Sometimes less is more, and good development that is safe and appealing will have greater value than one fraught with problems.

Sincerely,

Paul and Jennifer (Montz) Rechlin

**Major Permit Activity
December 2010**

Non-deeded Owner: St. Alexius Medical Center
Address: 900 East Broadway Avenue
Cost: \$496,860.00
Description: 4th floor oncology room

Non-deeded Owner: Bell Castle Apartments
Address: 1804 East Capitol Avenue
Cost: \$2,902,829.00
Description: 42 unit, 3 story apartment building

DATE SELECTION 12/2010

Permit Type	City		County		ETA		City		County			
	12/2010	Valuation	12/2009	Valuation	12/2010	Valuation	12/2009	Valuation	12/2010	Valuation		
SINGLE FAMILY DETACHED	7	667,122.00	3	620,302.00	1	224,197.00	1	129,554.00	0	.00	1	138,321.00
SINGLE FAMILY ATTACHED	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
TWO UNIT	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
THREE & FOUR FAMILY	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
FIVE & MORE FAMILY	1	2,902,029.00	0	.00	0	.00	0	.00	0	.00	0	.00
CONDO/TOWNHOUSE-1 BR.WALL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MANUFACTURED HOMES	1	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITHOUT EXTRA	0	.00	2	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITH EXTRAS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME MISCELLANEOUS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
HOTELS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
HOTELS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
GROUP QUARTERS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
STRUCTURE OTHER THAN BLDG	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
AMUSEMENT & RECREATION	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
CHURCHES AND RELIGIOUS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
INDUSTRIAL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
RESEARCH & DEVELOPMENT	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
AUTO SERVICE AND REPAIR	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
HOSPITALS & INSTITUTIONAL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OFFICE, BANK & PROFESSION	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
SCHOOLS AND EDUCATIONAL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
COMM (RETAIL SALES)	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER (PUBLIC PARKING GAR	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER STRUCTURE:	8	476,944.00	0	.00	0	.00	0	.00	0	.00	0	.00
PUBLIC BUILDING	0	.00	1	313,250.00	0	.00	0	.00	0	.00	0	.00
ROOM ADDITIONS	2	18,557.00	1	8,064.00	0	.00	0	.00	0	.00	0	.00
RESIDENTIAL GARAGES	0	.00	0	.00	0	.00	1	24,000.00	0	.00	0	.00
PATIO AND COVERS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
SWIMMING POOLS AND SPAS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER	6	113,200.00	4	21,100.00	1	2,500.00	1	8,000.00	0	.00	0	.00
HOME OCCUPATIONS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
STORAGE SHEDS	0	.00	0	.00	0	.00	1	2,000.00	0	.00	0	.00
BASEMENT FINISH	11	60,434.00	20	147,389.00	1	4,750.00	5	30,262.00	0	.00	1	6,175.00
INDUSTRIAL BUILDINGS	1	321,178.00	0	.00	0	.00	1	4,250.00	0	.00	0	.00
COMMERCIAL BUILDINGS	4	329,049.00	1	284,506.00	0	.00	0	.00	0	.00	0	.00

DATE SELECTION 12/2010

Permit Type	City		ETA		County	
	12/2010	12/2009	12/2010	12/2009	12/2010	12/2009
	Permits	Valuation	Permits	Valuation	Permits	Valuation
OFFICE & PROFESSIONAL BLD	5	439,885.00	3	132,900.00	0	.00
OWNER	1	496,860.00	1	1,900.00	0	.00
ALTER PUBLIC	0	.00	0	.00	0	.00
APTS TO CONDO	0	.00	0	.00	0	.00
TO/FROM RESIDENTIAL	0	.00	0	.00	0	.00
RESIDENTIAL	0	.00	0	.00	0	.00
OTHER	0	.00	1	.00	0	.00
CHRISTMAS TREE SALES	0	.00	0	.00	0	.00
FIREWORKS SALES	0	.00	0	.00	0	.00
NURSERY STOCK SALES	0	.00	0	.00	0	.00
TEMPORARY STRUCTURE PERM	0	.00	0	.00	0	.00
CIRCUS/CARNIVAL	0	.00	0	.00	0	.00
MOVE OUT OF PMT LOCATION	0	.00	0	.00	0	.00
MOVE INTO PERMIT LOCATION	0	.00	0	.00	0	.00
MOVE WITHIN PMT LOCATION	0	.00	0	.00	0	.00
NEW SIGN PERMIT	4	78,019.00	2	11,162.00	1	500.00
SIGN ALTERATION	0	.00	0	.00	0	.00
ELECTRONIC MESSAGE CENTER	0	.00	0	.00	0	.00
Permit Type Total	47	5,583,672.00	38	1,540,613.00	4	231,947.00
					10	262,866.00
					0	.00
					2	148,726.00

DATE SELECTION 12/2010

Permit Type	City		ETA		County	
	12/2010 Permits	12/2009 Permits	12/2010 Permits	12/2009 Permits	12/2010 Permits	12/2009 Permits
Plumbing	20	15	2	5	1	0
Electrical	78	108	0	0	0	0
Mechanical	118	73	19	14	1	1
Drain Field	0	0	4	1	0	0
Flood Suppression	0	2	0	0	0	0
SprinklerStandpipe	3	1	0	0	0	0
Alarm Detection	1	0	0	0	0	0
Total	220	199	34	22	2	1

DATE SELECTION 12/2010

Living Units	City		ETA		County	
	Units 12/2010	Units 12/2009	Units 12/2010	Units 12/2009	Units 12/2010	Units 12/2009
SINGLE FAMILY DETACHED	2	3	1	1	0	1
FIVE & MORE FAMILY	42	0	0	0	0	0
MOBILE HOME WITHOUT EXTRA	0	1	0	0	0	0
TOTAL	44	4	1	1	0	1

PERMIT LOCATION	PERMIT NUMBER	PROPERTY ADDRESS	DATE SELECTION	OWNERS NAME CONTRACTOR	VALUATION
CITY OF BISMARCK	2010-0001734	1804 E CAPITOL AV	12/2010	BELL CASTLE APARTMENTS NORTHWEST CONTRACTING INC	2,902,829.00

DATE SELECTION 12/2010

Permit Type	City		ETA		County							
	12/2010	12/2009	12/2010	12/2009	12/2010	12/2009						
	Permits	Valuation	Permits	Valuation	Permits	Valuation						
SINGLE FAMILY DETACHED	240	42,411,858.00	158	27,413,139.00	81	15,168,767.00	65	12,070,560.00	10	1,899,221.00	11	2,221,679.00
SINGLE FAMILY ATTACHED	79	11,491,708.00	28	4,230,364.00	0	.00	0	.00	0	.00	0	.00
TWO UNIT	2	456,971.00	2	345,090.00	0	.00	0	.00	0	.00	0	.00
THREE & FOUR FAMILY	3	1,720,000.00	11	3,413,925.00	0	.00	0	.00	0	.00	0	.00
FIVE & MORE FAMILY	4	5,650,120.00	3	4,008,000.00	0	.00	0	.00	0	.00	0	.00
CONDO/TOWNHOUSE-1 HR.WALL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MANUFACTURED HOMES	24	5,100.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITHOUT EXTRA	8	4,095.00	29	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITH EXTRAS	2	.00	5	6,420.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME MISCELLANEOUS	2	31,516.00	5	8,587.00	0	.00	0	.00	0	.00	0	.00
HOPELS	1	4,362,000.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOTELS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
GROUP QUARTERS	3	652,434.00	2	327,693.00	0	.00	0	.00	0	.00	0	.00
STRUCTURE OTHER THAN BLDG	3	7,915,111.00	3	14,571,030.00	0	.00	0	.00	0	.00	0	.00
AMUSEMENT & RECREATION	1	475,000.00	1	2,898,625.00	1	560.00	0	.00	0	.00	0	.00
CHURCHES AND RELIGIOUS	1	120,000.00	0	.00	0	.00	0	.00	0	.00	0	.00
INDUSTRIAL	11	4,766,519.00	17	1,945,871.00	8	949,956.00	15	2,054,960.00	0	.00	1	210,887.00
RESEARCH & DEVELOPMENT	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
AUTO SERVICE AND REPAIR	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
HOSPITALS & INSTITUTIONAL	0	.00	2	38,648,660.00	0	.00	0	.00	0	.00	0	.00
OFFICE, BANK & PROFESSION	9	20,461,482.00	1	764,372.00	0	.00	0	.00	0	.00	0	.00
SCHOOLS AND EDUCATIONAL	0	.00	2	10,323,743.00	0	.00	1	44,075.00	0	.00	0	.00
COMM (RETAIL SALES)	6	2,771,193.00	1	13,606.00	0	.00	0	.00	0	.00	0	.00
OTHER (PUBLIC PARKING GAR	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER STRUCTURES	38	2,322,681.00	15	549,741.00	5	2,500.00	2	155,000.00	0	.00	0	.00
PUBLIC BUILDING	7	1,901,683.00	16	15,042,095.00	0	.00	3	4,490,342.00	0	.00	1	22,786.00
ROOM ADDITIONS	27	565,266.00	28	1,021,714.00	25	1,535,791.00	17	841,339.00	2	97,680.00	2	12,064.00
RESIDENTIAL GARAGES	14	641,176.00	80	1,111,893.00	73	1,242,387.00	95	1,515,602.00	20	527,090.00	10	208,320.00
PATIOS AND COVERS	116	392,454.80	124	608,012.00	15	98,517.00	21	80,515.00	4	17,265.00	2	18,560.00
SWIMMING POOLS AND SPAS	2	71,592.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER	175	1,827,396.00	175	1,296,305.00	15	306,801.00	17	321,694.00	4	12,500.00	2	3,800.00
HOME OCCUPATIONS	4	.00	2	.00	1	.00	2	.00	0	.00	0	.00
STORAGE SHEDS	97	101,646.00	75	135,353.00	12	37,754.00	10	19,463.00	1	5,129.00	0	.00
BASEMENT FINISH	139	665,059.00	138	795,063.00	48	268,378.00	59	357,109.00	4	23,575.00	2	13,115.00
INDUSTRIAL BUILDINGS	21	2,580,571.00	19	1,311,037.00	1	5,606.00	1	64,250.00	0	.00	0	.00
COMMERCIAL BUILDINGS	19	5,276,253.00	32	2,640,929.00	1	988,684.00	2	336,000.00	1	77,903.00	0	.00

Permit Type	DATE SELECTION 12/2010											
	City				STA				County			
	12/2010		12/2009		12/2010		12/2009		12/2010		12/2009	
Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	
OFFICE & PROFESSIONAL BLD	77	10,860,775.00	80	10,910,389.00	1	97,000.00	6	1,011,737.00	0	.00	0	.00
OTHER	15	5,992,226.00	17	2,932,693.00	1	16,995.00	0	.00	0	.00	0	.00
ALTER PUBLIC	16	7,145,679.00	7	363,886.00	0	.00	1	10,000.00	0	.00	0	.00
APPS TO CONDO	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
TO/FROM RESIDENTIAL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
RESIDENTIAL	11	.00	10	.00	0	.00	0	.00	0	.00	0	.00
OTHER	11	.00	16	.00	0	.00	1	.00	0	.00	0	.00
CHRISTMAS TREE SALES	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
FIREWORKS SALES	2	.00	1	.00	10	.00	9	.00	0	.00	0	.00
BURSERY STOCK SALES	3	.00	5	.00	0	.00	0	.00	0	.00	0	.00
TEMPORARY STRUCTURE PERMITS	4	.00	15	.00	5	.00	3	.00	0	.00	0	.00
CIRCUS/CARNIVAL	1	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOVE OUT OF PMT LOCATION	3	.00	5	.00	0	.00	0	.00	0	.00	0	.00
MOVE INTO PERMIT LOCATION	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOVE WITHIN PMT LOCATION	2	.00	2	.00	0	.00	0	.00	0	.00	0	.00
NEW SIGN PERMIT	69	663,826.00	58	766,840.00	2	2,445.00	0	.00	0	.00	1	911.00
SIGN ALTERATION	1	26,915.00	5	110,895.00	0	.00	0	.00	0	.00	0	.00
ELECTRONIC MESSAGE CENTER	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
	1149	154,754,309.00	1150	130,644,899.00	305	20,675,133.00	323	23,402,586.00	46	2,680,954.00	32	2,711,402.00

DATE SELECTION 12/2010

Permit Type	City		ETA		County	
	12/2010 Permits	12/2009 Permits	12/2010 Permits	12/2009 Permits	12/2010 Permits	12/2009 Permits
Plumbing	533	436	107	103	12	11
Electrical	1002	1031	0	0	0	0
Mechanical	1090	987	212	220	22	13
Drain Field	0	0	4	2	0	0
Hood Suppression	0	2	0	0	0	0
SprinklerStandpipe	3	1	0	0	0	0
Alarm Detection	1	0	0	0	0	0
Total	2780	2514	425	422	49	36

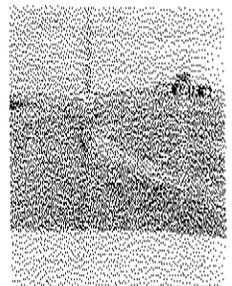
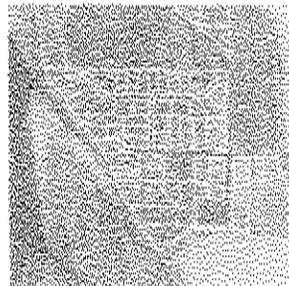
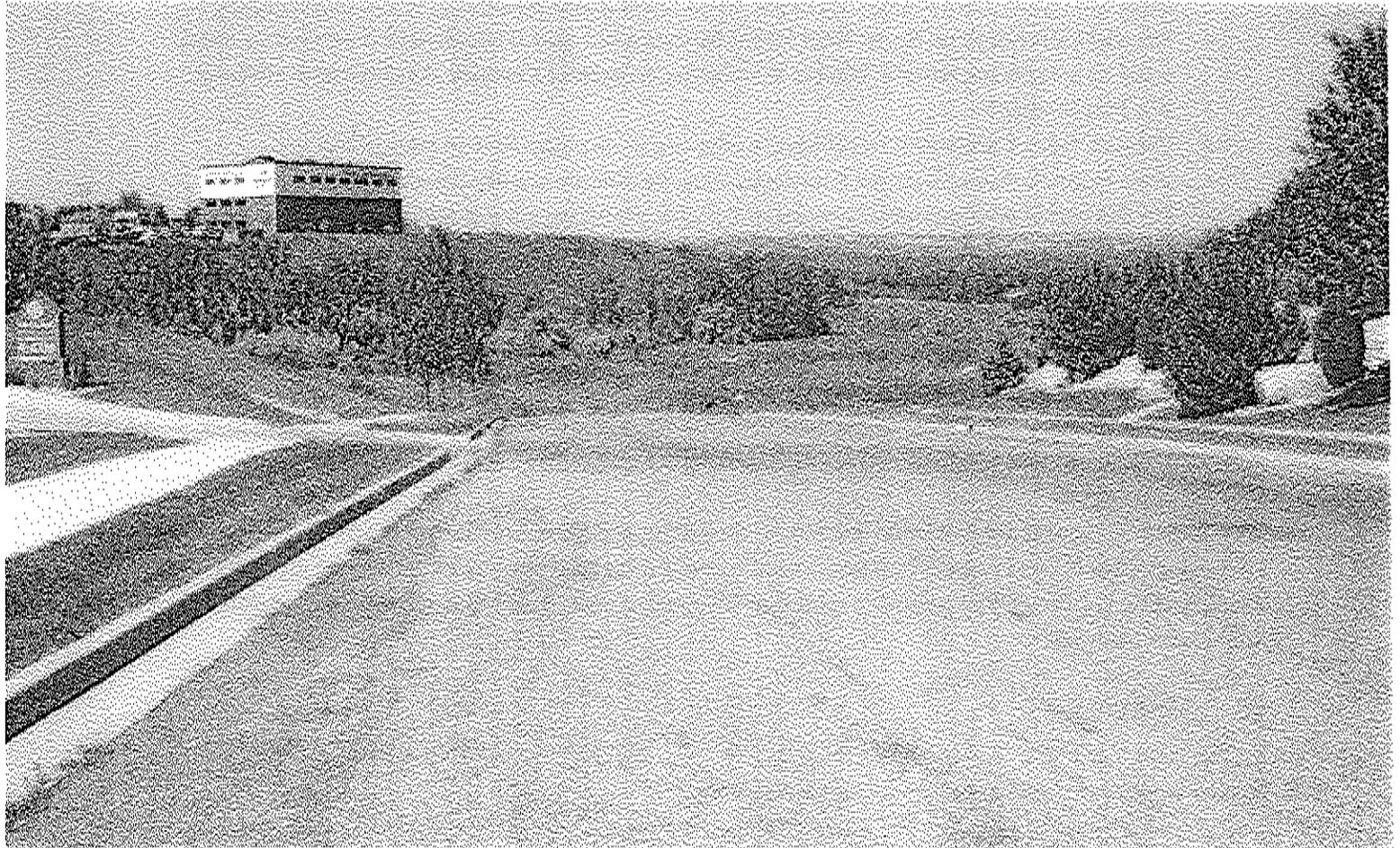
DATE SELECTION 12/2010

Living Units	City		ETA		County	
	Units 12/2010	Units 12/2009	Units 12/2010	Units 12/2009	Units 12/2010	Units 12/2009
SINGLE FAMILY DETACHED	740	158	81	65	10	11
SINGLE FAMILY ATTACHED	79	38	0	0	0	0
TWO UNIT	4	2	0	0	0	0
THREE & FOUR FAMILY	12	26	0	0	0	0
FIVE & MORE FAMILY	70	80	0	0	0	0
MANUFACTURED HOMES	2	0	0	0	0	0
MOBILE HOME WITHOUT EXTRA	0	4	0	0	0	0
MOBILE HOME WITH EXTRAS	1	3	0	0	0	0
MOBILE HOME MISCELLANEOUS	0	1	0	0	0	0
GROUP QUARTERS	9	4	0	0	0	0
AMUSEMENT & RECREATION	4	0	0	0	0	0
HOSPITALS & INSTITUTIONAL	0	294	0	0	0	0
ROOM ADDITIONS	0	0	6	4	3	0
RESIDENTIAL GARAGES	1	1	1	2	1	1
PATIO'S AND COVERS	1	1	0	2	0	0
OTHER	7	2	1	1	0	1
STORAGE SHEDS	2	0	0	0	0	0
BASEMENT FINISH	9	0	1	3	1	0
COMMERCIAL BUILDINGS	0	1	0	23	0	0
ALTER PUBLIC	0	7	0	0	0	0
RESIDENTIAL	0	1	0	0	0	0
STREWORKS SALES	0	0	0	1	0	0
TOTAL	441	612	90	102	13	13



Northwest Bismarck Sub-area Study Executive Summary

prepared for



I. Introduction and Background

Over the past few years, local staff and elected officials have been faced with numerous questions relative to development in and around northwest Bismarck:

- What should be done to address traffic along Ash Coulee Drive, and how will future extension of the corridor and associated development be handled?
- Can River Road handle future growth in the area below the bluffs, and where, when and how can future connections be made from River Road to the top of the escarpment?
- Should Golf Drive or Burnt Boat Drive be extended and if so, should it serve as a local road or a collector street? Would it be better to extend Century Avenue west through the Fire Station?
- Should Tyler Parkway be extended to the north as suggested in past plans?
- Will Tyler Parkway's current configuration be able to handle future traffic?
- Do the corridor alignments proposed by past planning efforts adequately address the needs of the area? Some past plans only took a broad brush look at northwest Bismarck.

In response to these questions, the Bismarck Northwest Sub-Area Study was initiated by the City of Bismarck and the Bismarck-Mandan Metropolitan Planning Organization. Local staff and government officials desire to have a plan in place to effectively manage future development proposals so that important transportation corridors may be preserved. Their goal is to create a comprehensive plan for transportation facilities northwest of Bismarck.

This area has significant potential for future development. Yet, within the Study Area, the natural and built environment offers limited opportunity to extend or expand existing corridors. Therefore, it is critical that future corridors with good connectivity to the existing transportation system be planned.

II. Issues

Issues were identified in the following categories:

- Access & Distribution of Traffic
- Accommodation of utilities
- Barriers to development
- Corridor preservation
- Costs, funding and project programming
- Environmental impacts
- Harsh terrain
- Land use and timing for development
- Pedestrian and bicycle mobility
- Property and corridor impacts

III. Proposed Corridor Alignments

Corridor alignment alternatives were derived from the technical analysis with input from the Study Review Committee. Proposed corridor alignments are shown in Figures 1EX, 2EX and 3EX.

Profiles were prepared to examine the approximate grades that could be established for some of the individual corridors. Areas showing a significant amount of cut or fill are indicators of the need for drainage facilities, potential structures, and possibly additional right of way.

The following paragraphs provide an overview of the pros and cons associated with individual alignments. Local technical staffs gave feedback on which alignments they support, and their positions are reflected in the narrative for each corridor that follows.

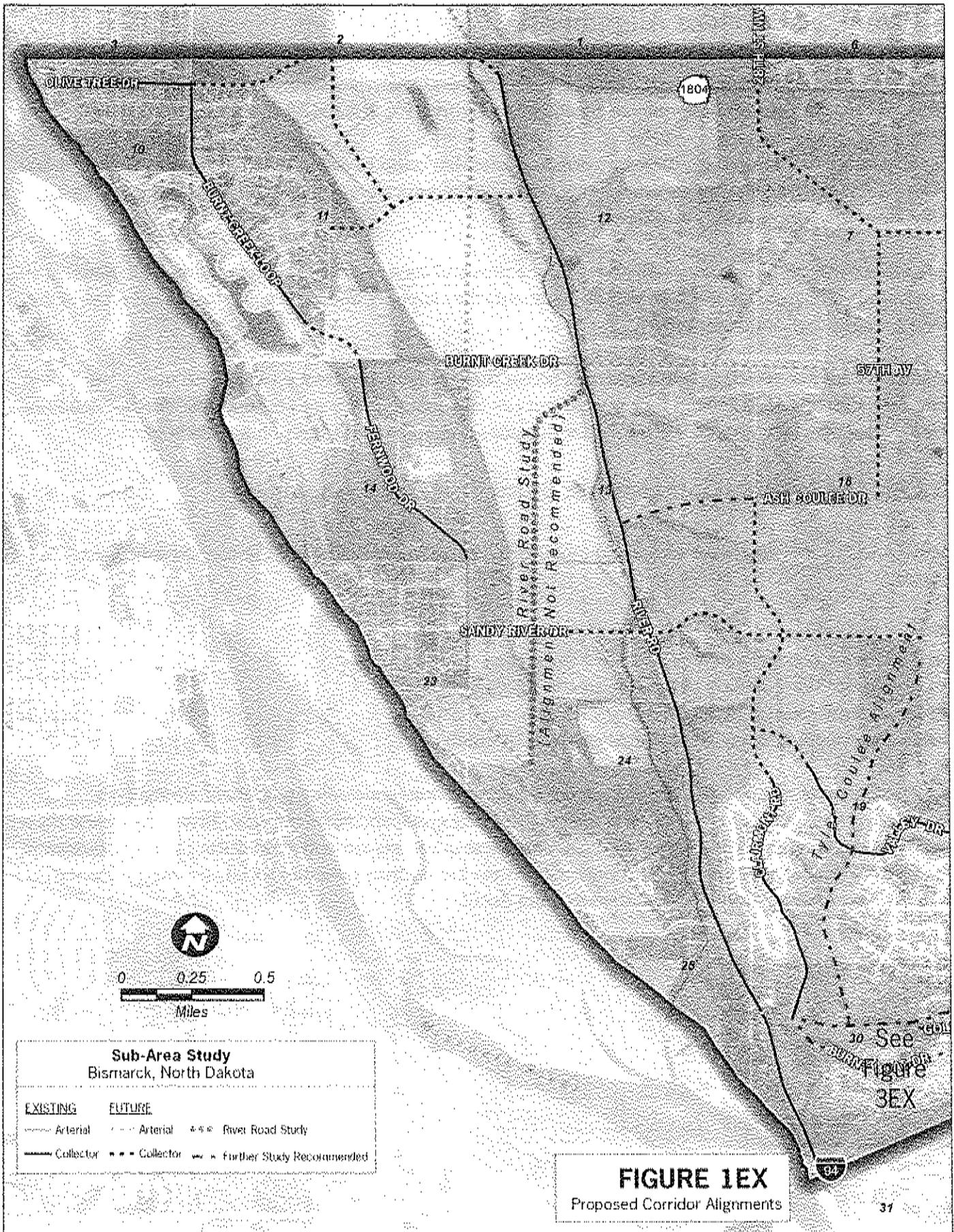
Issues such as corridor speed, type of turn lanes, access management, on-street parking, and use by trucks and other modes of travel are addressed through current city and county policy and ordinances. Further definition of corridor attributes may occur as each corridor develops and with input from public stakeholders.

A. Century Avenue, Golf Drive, & Burnt Boat Drive Alignments

Five options to improve east-west access and mobility by extending or realigning Century Avenue were considered:

- Option A – Do Nothing
- Option B – Extend West off Century Avenue Alignment
- Option C – Extend West off Golf Drive Alignment
- Option D – Extend West off Burnt Boat Drive Alignment
- Option E – Conduct Additional Study of Alignment Alternatives

Option E is recommended because there are unanswered questions concerning alignment alternatives. Concerns were raised regarding potential archaeological site, visual and noise impacts. Efforts to answer these questions were beyond the scope of this study. Often, these questions are answered during the environmental process for a proposed project. The environmental process can address potential social and environmental concerns while examining design alternatives in more detail.



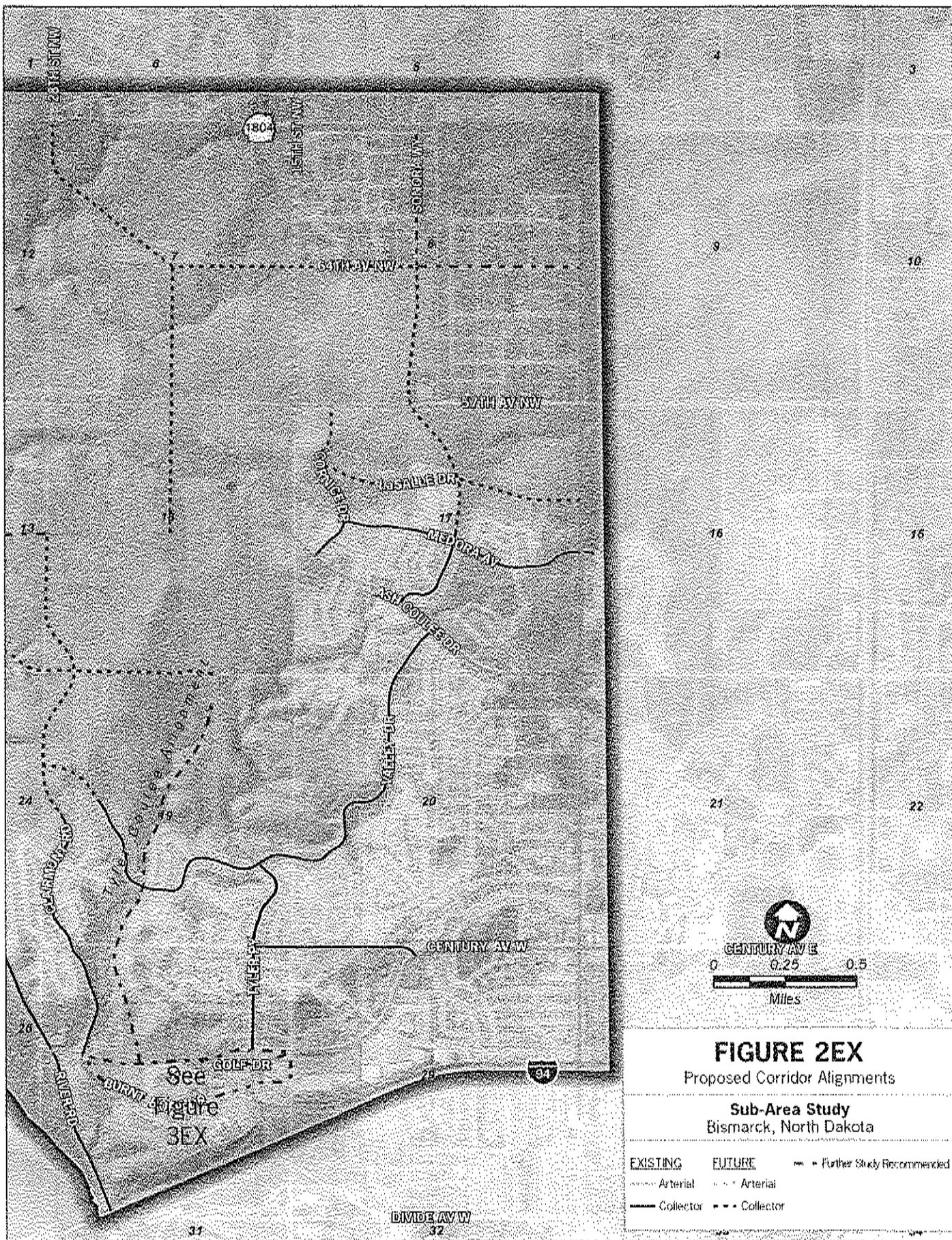


FIGURE 2EX

Proposed Corridor Alignments

Sub-Area Study
Bismarck, North Dakota

EXISTING	FUTURE	Further Study Recommended
--- Arterial	- - - Arterial	--- Further Study Recommended
— Collector	- - - Collector	--- Further Study Recommended

1. Optional Alignment Comparisons and Evaluations

The options for extending Century Avenue were evaluated and compared based on a number of traffic and socio-economic criteria (See Table 1). These criteria and discussion of their evaluations are provided in the following paragraphs. The table compares the options more from a system level than from a level focused only on the Tyler Parkway area. The top two option rankings in Table 1 are highlighted in green and the bottom two option rankings are highlighted in red.

Table 1

Alignment Option	Traffic Evaluation Criteria									Socio-Economic Criteria				
	Intersection LOS	Signal Progression	Vehicle Storage	Tyler Pkway Impacts	Multimodal Opportunities	Interchange Impacts	Traffic Capacity	Traffic Safety	Access Impacts	Visual Impacts	Noise Impacts	Residential Land Purchased	Business & Economic Impacts	Project Cost
Option A - Do Nothing	3	1	4	4	3	2	4	4	4	1	4	1	1	1
Option B - Century Avenue Extension	1	2	1	1	1	1	1	1	1	4	3	2	1	3
Option C - Golf Drive Alignment	1	3	2	2	1	3	2	2	2	3	1	1	3	4
Option D - Burnt Boat Alignment	2	4	3	3	2	4	3	3	3	2	2	1	2	2

- 1 - Top ranked or best option
- 4 - Lowest ranked or worst option

a. Traffic Evaluation Criteria

i. Intersection Level of Service

Intersection Level of Service pertains to the amount of vehicular traffic delay at a given intersection. It is influenced by a number of factors, but primarily it is influenced by the number of vehicles at an intersection, the number of lanes and whether the intersection is signalized. Another factor to consider is the number of left turning vehicles, particularly those that don't have a designated left turn lane or those occurring at unsignalized intersections.

Based on our analysis, the Century Avenue and Golf Drive extension alignments performed equally well. The Burnt Boat Drive intersection operates poorly today, and the intersection delay will continue to increase unless substantial improvements are made. The ability to make these improvements is uncertain.

Future traffic levels at Burnt Boat Drive would be higher than other options primarily because the roadway would carry more traffic from existing developments. This would result in lower intersection performance than occurs with Options A or B. The Do Nothing option operated most poorly because of added pressure it placed on a multitude of other intersections

within the study area.

ii. Signal Progression

The ability of traffic to move through a number of signalized intersections along a corridor is influenced by a number of factors. These factors include the number and spacing of signalized intersections, as well as the turning movements by cars moving along the corridor.

Generally speaking, traffic will more easily progress along a corridor that has less traffic and has fewer signalized intersections that are well spaced, as opposed to more signalized intersections that are busier and more closely spaced.

Based on our analysis, the Do Nothing alternative performed the best because poor access to Tyler Parkway would result in little change in traffic conditions along the corridor. An argument could be made that signal progression could be significantly impacted elsewhere, but this has not been studied.

The Century Avenue Extension performed well because it maintains good spacing for the signalized intersections and does the best at spreading heavy volumes of traffic along the Tyler Parkway Corridor. The Golf Drive extension spreads the traffic but not as much. Plus it adds another signalized intersection. The Burnt Boat Drive extension, because of heavier traffic at the intersection and its proximity to the interchange, has the potential to cause greater signal progression problems in the future.

iii. Vehicle Storage

Adequate vehicle storage is needed for traffic using through and turn lanes. When inadequate storage is available, left and right turning traffic can stack into the through traffic lanes, rendering those lanes inoperable. Similarly, through traffic can stack to block access to turn lanes they become inoperable as well.

The need for vehicle storage is dependent upon the amount of traffic and whether the traffic is turning or going straight. Both storage needs and availability factored into our analysis.

There are storage tradeoffs with each of the alignment alternatives. For example, the direct extension of Century Avenue has ample storage room on the east, west and south approaches, but is limited by proximity to the Pinto Place intersection to the north.

The Golf Drive intersection is limited by proximity to the Burnt Boat Drive intersection and both the Fire Station and Pinto Place. The Burnt Boat Drive intersection is limited by proximity to the interchange and driveways on the east and west approaches. Given current vehicle storage issues at Burnt Boat Drive and the importance of the interchange, vehicle storage issues were considered as major issues with this alternative in comparison to other alternatives.

iv. Tyler Parkway Impacts

Our analysis assumed full build-out of traffic lanes along Tyler Parkway, and 30% of full build-out for area development. Under these conditions, each alignment alternative performed relatively the same, with Tyler Parkway operating at near-capacity.

It is important to recognize that should area development exceed the 30% full build out scenario, or should localized high traffic generating development occur, higher traffic volumes would result in more pronounced differences in how well each of the alignment options perform.

Relative impacts to the Tyler Parkway corridor are a function of most of the other traffic analysis criteria examined. The Do Nothing option was considered to perform the worst, assuming that the Tyler Parkway extension is made with no extension of Century Avenue. The heaviest impacts would occur in existing developed areas north of Century Avenue.

With the Burnt Boat Drive alignment option, traffic concerns relate to the high traffic volumes at the Burnt Boat Drive intersection and limitations on vehicle storage between Burnt Boat Drive and the I-94 Interchange.

v. Multimodal Opportunities

Multimodal opportunities relates to the ability to provide or improve non-motorized travel within the study area. In this regard, the Do Nothing option ranked lowest because there would be no provision to extend existing bicycle or pedestrian facilities west of Tyler Parkway. The Century Avenue extension and Golf Drive extension alternatives would provide equal capabilities to extend these facilities, whereas the Burnt Boat corridor has right of way limitations that reduce the ability to adequately provide these amenities.

vi. Interchange Impacts

Analysis of the I-94 Interchange was not included within the scope of this Study. However, placement of major intersections in close proximity to interchange ramps typically creates queues at the interchange that are detrimental to interchange traffic operations. From this standpoint, traffic turning movements that are further from the interchange have fewer impacts. Therefore, the Burnt Boat Drive option raises the greatest concern.

vii. Traffic Capacity

Traffic capacity is influenced by many factors, including vehicle storage, intersection spacing and geometrics. The direct extension of Century Avenue provides the best spacing for major intersections, more room for vehicle storage, and the most corridor capacity for both Tyler Parkway and Century Avenue.

Golf Drive ranks next, since it results in more available lanes than the Burnt Boat Drive option and keeps Century Avenue traffic separate from Burnt Boat Drive traffic. Burnt Boat Drive operates with less capacity since there are fewer lanes and adjacent intersections are in close proximity to Burnt Boat Drive.

viii. Traffic Safety

There are a number of corridor design and intersection geometric features that influence traffic safety. They include curvilinear alignment, steep grades, skewed intersections, excess access, driver confusion, sight distances and regional safety impacts among others.

The options for extending Century Avenue were evaluated and compared based on a number of traffic safety evaluation criteria. These criteria relate to all modes of travel. A summary of how the alignment options compare is provided in Table 2. The top two option rankings in Table 2 are highlighted in green and the bottom two option rankings are highlighted in red.

Table 2

Alignment Option	Safety Evaluation Criteria						
	Curvilinear Alignment	Steep Grades	Skewed Intersections	Excess Access	Driver Confusion	Sight Distances	Regional Safety Impacts
Option A – Do Nothing	1	1	1	1	4	2	4
Option B – Century Avenue Extension	2	2	1	1	1	2	1
Option C – Golf Drive Alignment	3	2	2	2	2	1	2
Option D – Burnt Boat Alignment	4	3	2	3	3	3	3

- 1 - Top ranked or best option
- 4 - Lowest ranked or worst option

Overall, the direct extension of Century Avenue is the safest option because it offers a better route when looking at these criteria. The Do Nothing option was the bottom ranked option primarily because of anticipated safety impacts on the overall transportation system. Golf Drive ranked higher than Century Avenue from a sight distance standpoint due to the vertical curve on Tyler Parkway.

ix. Access Impacts

Access impacts have both traffic and socio-economic ramifications. From the traffic side, accesses located too close to major intersections can have a detrimental impact on intersection operations and safety. Furthermore, these accesses can become blocked and experience significant delays when the major intersection traffic gets backed up.

From the socio-economic standpoint, both residential and business property owners appreciate having driveways that are readily accessible. When their driveways (accesses) become blocked, drivers become frustrated and businesses can lose patrons.

The direct extension of Century Avenue has the least impact on access, with access impacts being limited to Golf Drive and Pinto Place. The Golf Drive option would require closure of the east bank driveway and would impact business accesses east of Tyler Parkway through the north-south connection to Century Avenue. Additionally, access to the fire station may become blocked by queues from the Golf Drive intersection.

With the Burnt Boat Drive option, accesses on the east, west and south approaches may become blocked during peak traffic periods. Also, adjacent businesses and Grand View Lane would have detrimental mobility and safety impacts on the Burnt Boat Drive intersection.

b. Socio-Economic Criteria

i. Visual Impacts

Comparisons of visual impacts are subjective and require some assumptions. From the perspective of the Pinto Place neighborhood, negative visual impacts from greatest to least impacting would be the Century Avenue extension alternative, followed by the Golf Drive extension, with the Burnt Boat Drive extension being a distant third. This is the order the options were ranked.

We believe these opinions are subjective because the assumption is made that the valley west of Tyler Parkway remains undeveloped, and the undeveloped look is considered more visually appealing than a developed alternative. If the valley is developed, land use and vegetation adjacent to the streets in the valley could be more influential on the area's visual appeal than choice of alignment options.

ii. Noise Impacts

Noise impacts are proportional to the distance between a roadway and adjacent properties. The closer the roadway, the greater the potential for traffic noise. This study did not conduct noise analysis for the various alignment options.

Therefore, it is not known whether there is a significant difference in noise impacts on Pinto Place residents when comparing the Century Avenue and Golf Drive extension options. Given the distance principle, the Century Avenue option would have a greater noise impact than the Golf Drive option.

It is, however, reasonable to conclude that the Burnt Boat Drive option, while resulting in little if any impact on Pinto Place, would have greater impacts on properties in the vicinity of Burnt Boat Drive. Since most of these properties are more commercial in nature, these impacts were considered lower than the other two alignment options. A noise analysis would need to verify this conclusion.

iii. Residential Land Purchased

Since only the direct extension of Century Avenue resulted in the purchase of residential land (two twin homes), all other options were considered equal.

iv. Business Land Purchased / Impacted

Businesses may be impacted from changes in access, new traffic congestion, or buyouts. The option with the greatest impact on businesses is the Golf Drive option, where a full half block of established businesses would be bought out. This option also impacts the funeral home and the bank located west of Tyler Parkway. Queues from Golf Drive could also impact access to the Fire Station.

The option with the second highest impacts on business is the Burnt Boat Drive option. This option would result in at least two buyouts to address access issues on the east side of Tyler Parkway. Further study is needed to identify exactly which businesses would be impacted. In addition, business impacts associated with the realignment of Century Avenue would occur.

The direct extension of Century Avenue would result in relocation of the Fire Station and impacts to the funeral home. No other business impacts are anticipated.

v. Project Cost

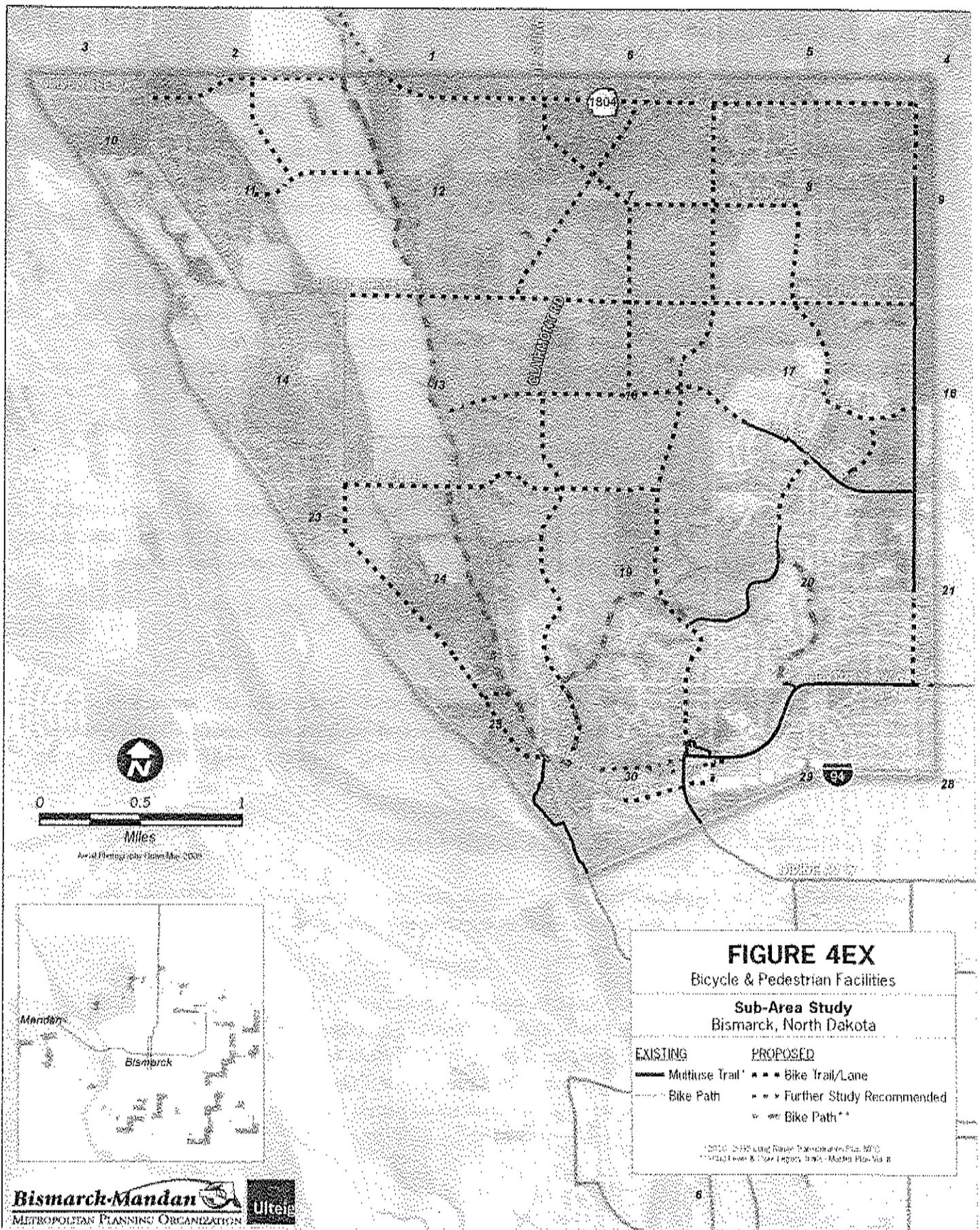
It is difficult to establish detailed cost estimates for these alternatives given the property acquisition required for some. The cost of each alignment option is ranked as follows:

Option A – Do Nothing	Lowest Cost
Option B – Century Avenue Extension	Second Highest Cost
Option C – Golf Drive Extension	Highest Cost
Option D – Burnt Boat Drive Extension	Second Lowest Cost

B. Pedestrian and Bicycle Facility Alignments

Existing and recommended pedestrian and bicycle facility alignments are shown in Figure 4EX. These alignments follow the roadway alignment locations shown and discussed earlier in this chapter. For sidewalks and multi-use trails, it is generally preferable to construct these along roadways because of available right of way. Further, street lighting and the presence of pass-by traffic provides a sense for added safety.

These alignments may be considered candidates for construction of either bike trails or bike lanes. However, bike lanes should be considered where traffic volumes and speeds are lower and more experienced bike riders are anticipated.



IV. Public and Agency Involvement

A. Public Input Meetings

The first public input meeting was held on June 30, 2009 at the Good Shepherd Lutheran Church. Seventy-five property owners and business representatives were in attendance. The purpose of this meeting was to present and receive feedback on preliminary alignments and corridor issues.

A second public input meeting was held on September 16, 2010 at Horizon Middle School. The purpose of this meeting was to present and receive feedback on the draft Northwest Bismarck Sub-Area Study Report and its recommendations. 119 property and business representatives were in attendance. Significant feedback was received in opposition to the direct extension of Century Avenue and the extension of 64th Avenue NW.

B. Developer and Landowner Meetings

Notices of the public input meetings were sent to area landowners and developers in advance of the meetings. Efforts were made to meet with some stakeholders with interest in large tracts of land in the Study Area. Their ideas and feedback were relayed to the Study Review Committee for further consideration.

C. Study Review Committee

A Study Review Committee (SRC) was formed to guide the study process. The SRC was a technical committee having the task of reviewing study information and analysis, considering alternatives and study recommendations, and providing insight into City, County, State and Federal desires and expectations.

D. Coordination with City and County Officials

Two newsletters were distributed to City and County planning commissioners and elected officials. These newsletters were intended to give them an opportunity to become informed of project objectives and ongoing activities.

Presentations to City and County elected officials were scheduled to occur throughout the study process. The first set was conducted early in the process to introduce them to the study and ask whether there were any initial concerns that the consultant should be aware of. Two additional presentations were provided to the Bismarck City Commission. These were held prior to and following the second public input meeting. The final set of presentations was provided during the adoption phase of the project.

E. NDDOT Management Presentation

An NDDOT Management Presentation was held on August 16, 2010. The purpose of this presentation was to inform NDDOT management on the findings of the draft Report and to receive any feedback they wished to provide. It also informed them of study content so that they could respond to questions from the public involvement process.

F. MPO TAC and Policy Board Meetings

Progress and status reports have been provided on a monthly basis to the MPO Technical Advisory Committee (TAC) and Policy Board. Summaries of these meetings are available upon request from the MPO.

These meetings serve an important purpose in that they enable local officials and technical staff to stay involved with ongoing study activities. It also benefits the study when local technical staffs use their knowledge and expertise to provide guidance to the consultant.

V. Northwest Subarea Recommendations

A. Priority Corridors and Timing of Development

Burleigh County has identified the need to construct an east-west roadway from Washington Street west to River Road. This study identified the 57th Avenue corridor as the optimum location for this alignment. Since this appears to be a high County priority, its construction may occur prior to development.

The availability of roads and utilities, as well as the cost of infrastructure expansion, are factors that impact the cost of development. Therefore, these factors have a great influence on the timing of development. The timing of development is important because it will largely determine which roads get built first and which roads are available to serve the additional traffic.

The following observations were made concerning the timing of development and potential priority corridors:

- 57th Avenue will likely be constructed by Burleigh County within the next five years. This may lead to surrounding development.
- Developers are planning to extend Clairmont Road to the north to service new residential subdivisions. This will place added pressure on the Burnt Boat Drive/Tyler Parkway intersection, possibly heightening the need to extend Century Avenue.
- The public perceives that congestion and safety issues exist at the Ash Coulee Drive and Washington Street intersection. Further analysis should be undertaken to determine whether these issues occur for more than brief periods during the day. Washington Street corridor upgrades that have been programmed should address this intersection.

- Congestion during the morning drop off of the students at Horizon Middle School exists along Ash Coulee Drive. This congestion can be attributed to only one access to the school. An additional access point to Medora Avenue should be developed. There has been a joint effort between the school board and city to improve access to the school.
- Extension of Tyler Parkway or a corridor in the vicinity of Century Avenue would be an expensive endeavor for the City of Bismarck. It may be many years before either or both corridors can be funded. Therefore, choice of which one comes first appears to be an important decision for the City to make.
- A corridor extension in the vicinity of Century Avenue would pay the greatest dividends toward improving access to the Missouri River lowlands, and reducing congestion at Tyler Parkway and Burnt Boat Drive. Tyler Parkway would take the most traffic pressure off the Ash Coulee and Clairmont Road corridors.

B. Recommended City Actions

The City of Bismarck has the ability to use this Report as an important tool in responding to future development proposals in Northwest Bismarck. Yet, this alone does not adequately position the City to preserve future corridors and associated opportunities that exist today. There are a number of steps the City may consider in order to be more proactive in guiding optimum use of the undeveloped land in Northwest Bismarck:

1. Selection of Alternatives

A specific recommendation was not provided to select some alternatives alignments because selection could not be made without further analysis beyond the scope of the Study. Decisions for some corridor alignments will need to be made pending further analysis. These corridors include:

- Extension of Century Avenue (Burnt Boat Drive, Golf Drive and Direct Extension along current Century Avenue alignment remain options)
- Extension of 64th Avenue NW and Sonora Way
- Construction of the Tyler Coulee Corridor
- Extension of Ash Coulee Drive west of the Clairmont Road extension to River Road

2. Complete Environmental Documentation for Century Avenue and Tyler Parkway /Tyler Coulee Corridors

Environmental documentation activities for the Century Avenue and Tyler Parkway / Tyler Coulee corridors should be undertaken to ascertain that these corridors are viable and that the NEPA environmental process is followed.

3. Consider Policies that Promote a Mix of Employment Centers within Planned Residential Land Use

If current plans to develop the Northwest Subarea as primarily residential land become a reality, a high amount of future commuter traffic may result in traffic congestion on much of Bismarck's north side. Ideally, more people would have the opportunity to find work without having to leave northwest Bismarck when traveling to their work place.

Changes in policies and/or modifications in land use plans can be adopted to promote more mixed use development northwest of Bismarck. This could reduce traffic projections, resulting in less future traffic pressure on the entire transportation system.

4. Consider Policies and New Design Standards that Promote Context Sensitive Solutions and Complete Streets

Current City of Bismarck roadway Design Standards and policies do not specifically address context sensitive solutions and complete streets practices. Design elements including right of way needs, lane widths, placement of multimodal facilities and other design elements could be reassessed in relation to future land use and environmental characteristics.

Establishment of new standards and policies requires careful consideration and stakeholder involvement that was beyond the scope of this study. Therefore, it is recommended that the City of Bismarck review current standards and policies to improve the ability for future developments to incorporate context sensitive solutions and complete streets strategies.

5. Acquire Land for Fire Station Relocation (If Applicable)

This study considers an alternative that would extend Century Avenue directly west of Tyler Parkway (with no realignment). In order for this to occur, the City would need to relocate the fire station from the west side of Tyler Parkway.

The Fire Department personnel have indicated that the Fire Department's optimum service area would benefit by relocating to south of the Divide Avenue Interchange. Available vacant locations appear to be few, and unless the City acts in the near future, the cost of acquiring the needed land may increase significantly. Therefore, if the Century Avenue direct extension option is selected, it might be in the City's best interest to acquire property for a relocated fire station sooner rather than later.

6. Acquire Land for Century Avenue Extension (If Applicable)

Corridor right of way is often acquired through the platting process. In the case of the Century Avenue extension, it is unlikely that the land would be dedicated as street right of way through the platting process. It is unlikely because the Century Avenue extension would have limited developable property on either side of the extension.

Therefore, if the Century Avenue extension is to be constructed, the City may need to purchase the right of way for the roadway corridor.

7. Access Management During Platting and Development

This Report discusses the need for corridor preservation, while acknowledging that the understanding of ideal corridor development is changing with the advent of Complete Streets philosophy. Still, the existing north end of the Tyler Parkway corridor serves as a vivid reminder that unless access is managed, the ability for collector and arterial roads to safely and efficiently move future traffic can be left in doubt.

Until a more clear understanding of how additional access can be allowed in a complete streets context without significantly impeding the safety and mobility of vehicular traffic, it is advisable to follow current City ordinances pertaining to access control.

8. Identify Special Transportation Funding Mechanisms

There are limited financial resources available to construct new transportation facilities. Most often, available funding is spent to improve existing infrastructure rather than to build new roads. Therefore, it is common for new roads, roadway extensions, and other new transportation facility improvements to be made when land develops. This allows adjacent landowners to bear some (or all) of the cost for the improvements.

For future corridor improvement projects such as the extension or realignment of Century Avenue or the extension of Tyler Parkway, the City's current funding mechanisms may not work. In order for the City to fund these improvements, there may need to be new funding resources and/or mechanisms identified.

9. Plan for Orderly Extension of Utilities

This study recommends new transportation corridor alignments for northwest Bismarck. These new alignments may influence the desired locations for future utility extensions into northwest Bismarck (See Appendix C). Therefore, it would be prudent to revisit existing master plans and determine whether proposed future utility alignments should be modified to be more consistent with the recommended transportation corridor alignments identified in the northwest Bismarck Subarea Study.

10. Plan and/or Acquire Land for Future Parks and Schools

If northwest Bismarck ever completely fills in with urban residential development, there is potential for as many as 50,000 people to reside there. The 2007 Regional Future Land Use Plan has identified green space within northwest Bismarck that could be used for parks. However, almost all of this land is located in ravines, where grades are not conducive to certain types of park amenities, such as ball fields.

Ideally, there should be a regional park located in northwest Bismarck at some time in the future. This park should have 120 acres or more set aside with adequate flat land available to serve various desirable park functions. This regional park could use some of the flat land that overlooks ravines where additional green space and possible cultural resources are located.

Additionally, future schools will be needed to accommodate the students located within the new developments. Bismarck School District representatives should consider the need for future schools in this area and incorporate site acquisitions in their school development plans.

11. Prepare a Policy for Roundabout Implementation

Arterial and collector street intersections can be ideal locations for placement of a roundabout. Currently, there is no City or County policy to suggest if or where roundabouts should be considered, and what steps should be taken if a roundabout becomes the preferred method for traffic control.

Without a policy in place, it is likely that developers will choose to prepare plats with insufficient right of way and to implement traffic control that has lower initial costs. This could all occur to the detriment of traffic safety and mobility, as well as reduced aesthetics and sustainability for the region. Some municipalities and state governments have adopted policies that require roundabouts to be considered along with other forms of traffic control. Some entities have even gone as far as to require that other forms of traffic control must be proven more effective than roundabouts.

It is recommended that a new City/County policy be adopted that lays out the steps for roundabout consideration, as well as right of way requirements and how future plats will accommodate them.

12. Context Sensitive Corridor Recommendations

This study recommends that future corridor studies and development proposals within the study area incorporate a Complete Streets/Context Sensitive Solutions based approach to more effectively integrate a multi-modal transportation system into the study area. Prime corridors and locations which may especially benefit from this approach include:

- River Road, where strong consideration should be given to maintaining a two lane, limited access scenic route. Implementation of land use policies to preserve this scenic resource by limiting development within eyesight of the roadway in wooded areas is encouraged.
- Clairmont Road and Ash Coulee Drive, where the future development pattern is likely to remain largely residential; and opportunities exist to create a residential avenue that enhances or establishes a strong neighborhood character similar to the Historic Cathedral District.
- All functionally classified intersections of the recommended roadways in the Study Area where there is a strong opportunity to create effective neighborhood service centers that enhance or define the character of their neighborhoods.
- The recommended roadways located between 57th Avenue, Highway 1804, 15th Street NW and 28th Street NW (in Section 12 in Hay Creek Township) where a future commercial and mixed use center is identified in the Regional Future Land Use Plan.

13. Corridor Preservations Recommendations

This study recommends that future corridors be preserved through the platting and development processes. A summary list of the corridor alignment recommendations is provided as follows:

Corridor	Issue/Constraint	Study Review Committee Preferred Alignment	Study Recommendation	Fatal Flaw
Ash Coulee Drive	Optional extension to Clairmont Drive	SRC ✓		
Ash Coulee Drive	Optional extension to River Road		SRC	✓
Burnt Boat Drive	Proximity to Interchange and Business Impacts		SRC	✓
Golf Drive Extension	Business Impacts East of Tyler Parkway		SRC	✓
Century Avenue Extension	Fire Station and Pinto Place Impacts	SRC		✓
Fernwood Drive Extension	Existing Alignment is Central / Parallels River	SRC ✓		
River Road Expansion	Environmental & Physical Constraints		SRC X	
Sandy River Road Extension	Need a Second Connection from Valley	SRC ✓		
57th Avenue North	Section Line / Limited Existing Development	SRC ✓		
64th Avenue North	Connection Need is Uncertain	SRC		✓
Clairmont Road	Planned North-South Traffic Carrier	SRC ✓		
Tyler Coulee	Cost / Environmental / Constructability Concerns		SRC	✓
Tyler Parkway	Direct Connection to Interchange / Limited Options	SRC ✓		

KEY

SRC = Study Review Committee Preferred Alignment

✓ = Study Recommendation

X = Fatal Flaw