



**5. Meadow Lark Hill 2<sup>nd</sup> Addition Replat (G<sup>2</sup>)**

a. Zoning Change (Lot 1 – RT to CG).....13

*Staff recommendation: approve*      approve    continue    table    deny

b. Minor Subdivision Final Plat.....17

*Staff recommendation: approve*      approve    continue    table    deny

**OTHER BUSINESS**

**6. Planning Commission Vacancies**

**7. Other**

**ADJOURNMENT**

**8. Adjourn.** The next regular meeting date is scheduled for Wednesday, June 22, 2011.

Enclosure:      Minutes of the April 27, 2011 meeting  
                         Major Building Permits Report for April 2011  
                         Building Permit Activity Report for April 2011

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

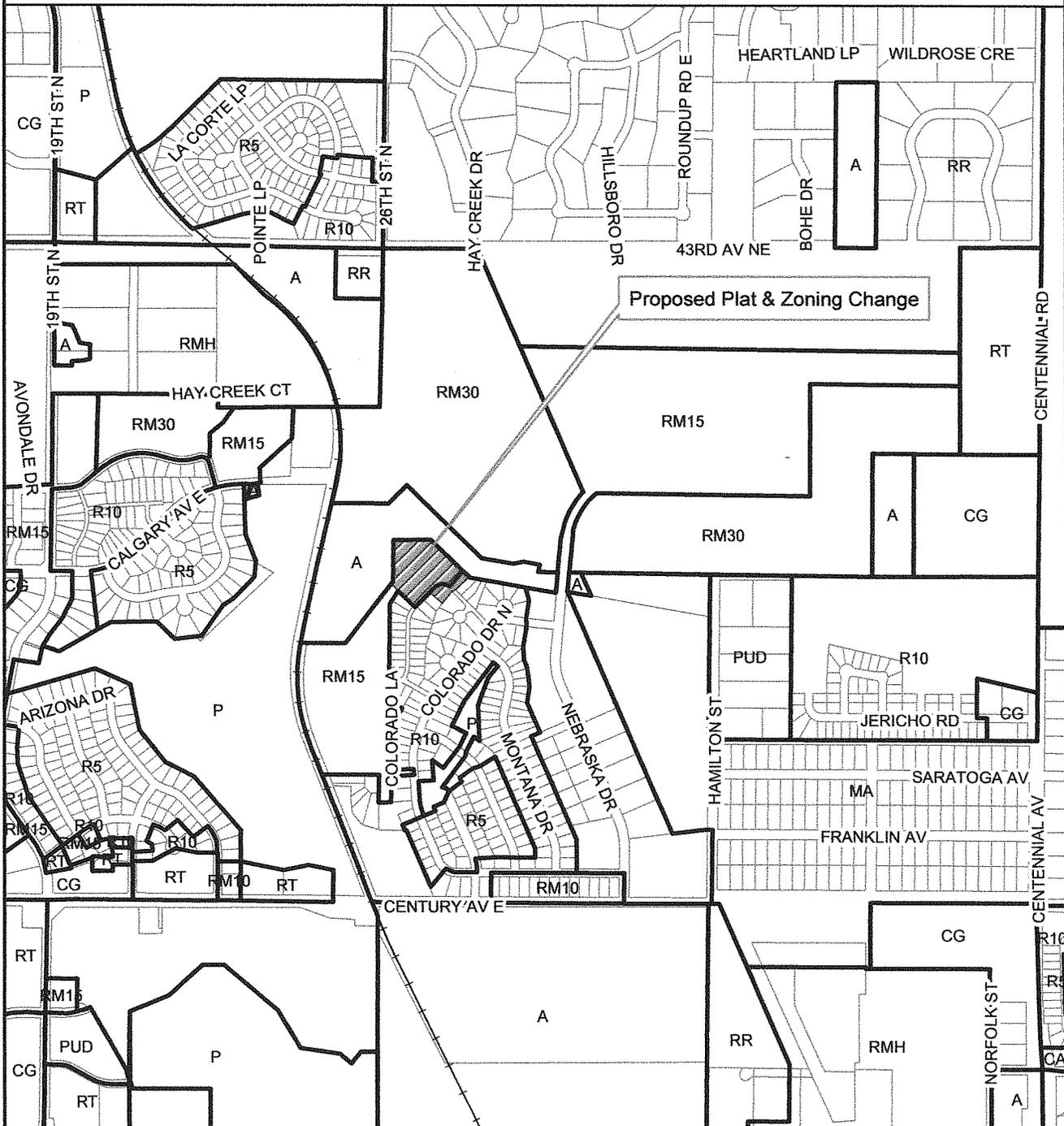
<b>BACKGROUND:</b>		
<b>Title:</b> Edgewood Village Fifth Addition – Zoning Change (RM15 & R10 to R10)		
<b>Status:</b> Planning Commission – Consideration	<b>Date:</b> May 25, 2011	
<b>Owner(s):</b> Edgewood Village 2 <sup>nd</sup> Addition, LLLP	<b>Engineer:</b> Swenson, Hagen & Company	
<b>Reason for Request:</b> The proposed zoning change is in conjunction with a minor plat which subdivides an existing platted lot into 18 new lots; 16 of which would be residential lots, one undevelopable lot and one lot as a private roadway.		
<b>Location:</b> In northeast Bismarck, north of Century Avenue, between Colorado Drive and Nebraska Drive (a replat of Lots 11, 18, 65 and part of Lot 64, Block 1, Edgewood Village Second Addition, in part of the W ½ of Section 23, T139N-R80W/Hay Creek Township).		
<b>Project Size:</b> 6.25 acres	<b>Number of Lots:</b> 19 lots in 1 block	
<b>EXISTING CONDITIONS:</b>		
<b>Land Use:</b> Vacant/Undeveloped	<b>PROPOSED CONDITIONS:</b>	
<b>Zoning:</b> RM15 – Residential R10 – Residential	<b>Land Use:</b> Single and two-family residential	
<b>Uses Allowed:</b> RM15 – Multi-family dwellings R10 – Single and two-family residential	<b>Zoning:</b> R10 – Residential	
<b>Maximum Density Allowed:</b> RM15 – 15 units per acre R10 – 10 units per acre	<b>Uses Allowed:</b> R10-Single and two-family residential	
<b>PROPERTY HISTORY:</b>		
<b>Zoned:</b> March 2008	<b>Platted:</b> March 2008	<b>Annexed:</b> March 2008
<b>ADDITIONAL INFORMATION:</b>		
1. The large lot (Lot 18) along the west side of the property would be combined with Lot 65, Block 2, Edgewood Village Second Addition.		
2. The design of the subdivision includes the use of a private drive (Lot 17).		
<b>FINDINGS:</b>		
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).		
<i>continued...</i>		

- 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.
- 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:**

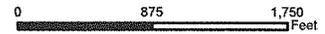
Based on the above findings, staff recommends scheduling a public hearing for the zoning change for Edgewood Village Fifth Addition from RM15-Residential and R10-Residential to R10-Residential.

# Proposed Minor Subdivision Plat & Zoning Change (RM & R10 to R10) Edgewood Village Fifth Addition



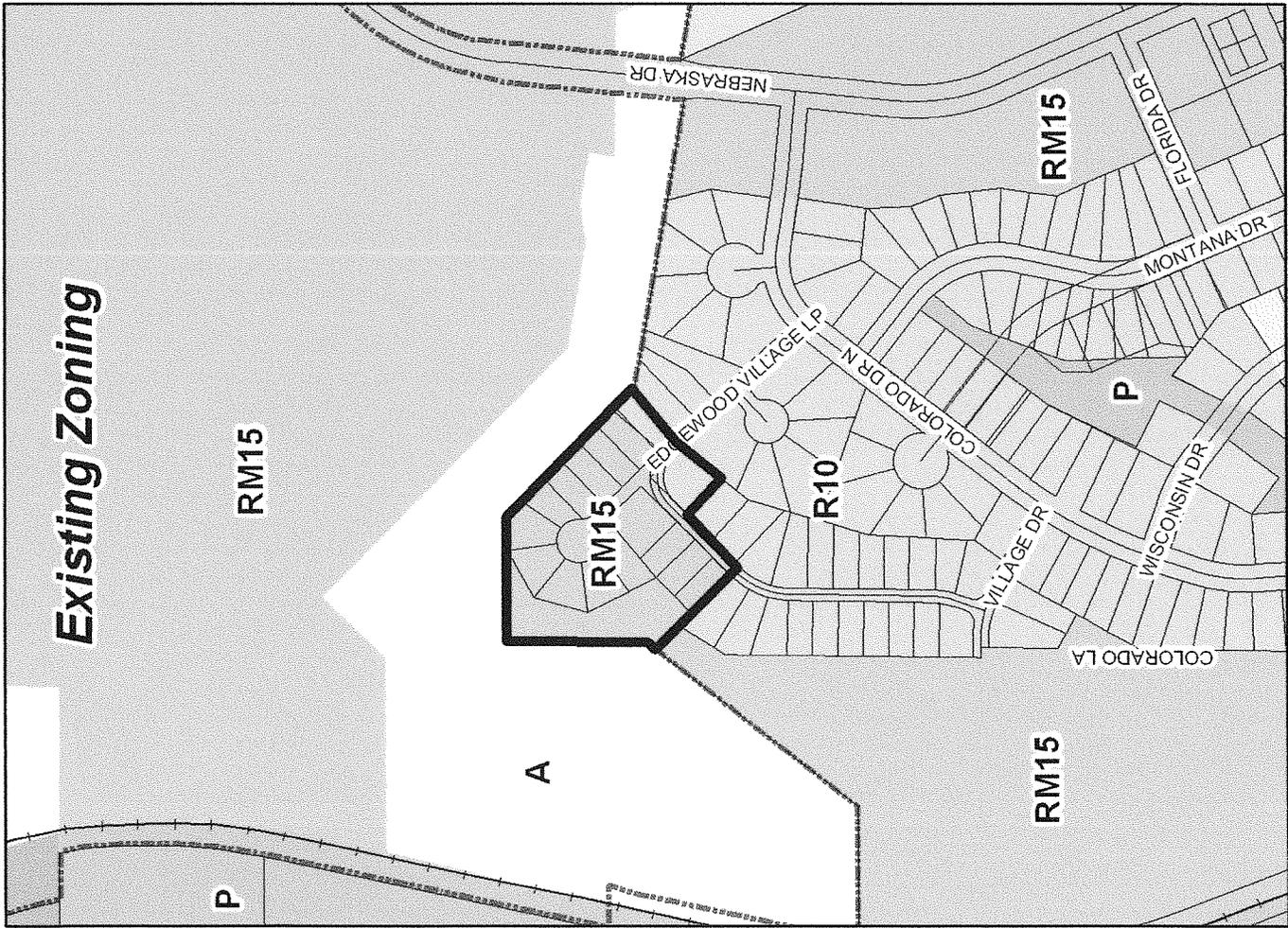
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Map was Updated/Created: April 27, 2011 (kdj)

Source: City of Bismarck

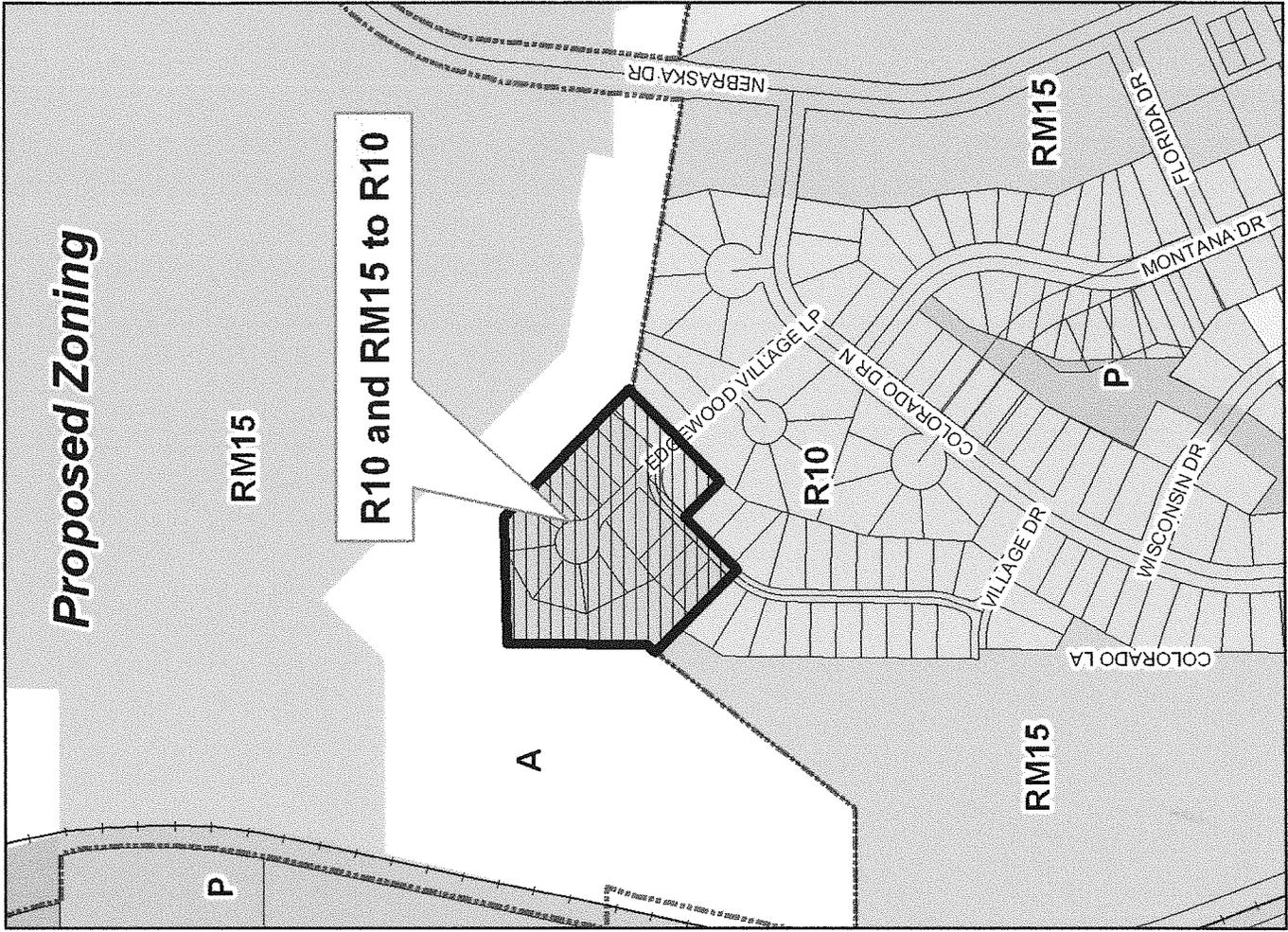


# Edgewood Village Fifth Addition

## Existing Zoning



## Proposed Zoning



0 125 250 500  
Feet  
May 2011

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

<b>BACKGROUND:</b>		
<b>Title:</b> Part of the SE¼ of Section 30, T139N-R80W/Hay Creek Township – Zoning Change (RT & R5 to P)		
<b>Status:</b> Planning Commission – Consideration	<b>Date:</b> May 25, 2011	
<b>Owner(s):</b> Bismarck State College	<b>Engineer:</b> None	
<b>Reason for Request:</b> City-initiated zoning change to make the zoning for the property consistent with the rest of the Bismarck State College campus.		
<b>Location:</b> In northwest Bismarck on the campus of Bismarck State College, along the south side of Canary Avenue approximately 200-feet west of Schafer Street (an unplatted portion in SE ¼ of Section 30, T139N-R80W/Hay Creek Township).		
<b>Project Size:</b> 2.95 acres	<b>Number of Lots:</b> Part of 1 lot	
<b>EXISTING CONDITIONS:</b>	<b>PROPOSED CONDITIONS:</b>	
<b>Land Use:</b> BSC Campus/BSC Aquatic & Wellness Center	<b>Land Use:</b> BSC Campus/BSC Aquatic & Wellness Center	
<b>Zoning:</b> R5 – Residential RT – Residential	<b>Zoning:</b> P-Public	
<b>Uses Allowed:</b> R5 – Single and two-family residential RT – Multi-family dwellings and office uses	<b>Uses Allowed:</b> Public uses	
<b>Maximum Density Allowed:</b> R5 – 5 units per acre RT – 30 units per acre	<b>Maximum Density Allowed:</b> N/A	
<b>PROPERTY HISTORY:</b>		
<b>Zoned:</b> Pre-1980	<b>Platted:</b> N/A	<b>Annexed:</b> Pre-1980
<b>FINDINGS:</b>		
<ol style="list-style-type: none"> <li>1. This area is outside of the area covered by the Bismarck-Mandan Regional Land Use Plan.</li> <li>2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include the BSC Aquatic &amp; Wellness Center, the Bismarck State College campus, the Frances Leach High Prairie Arts and Science Complex, and office buildings.</li> <li>3. The property is already annexed; therefore the proposed zoning change would not place an undue burden on public services.</li> <li>4. The proposed zoning change would not adversely affect property in the vicinity.</li> </ol>		
<i>continued...</i>		

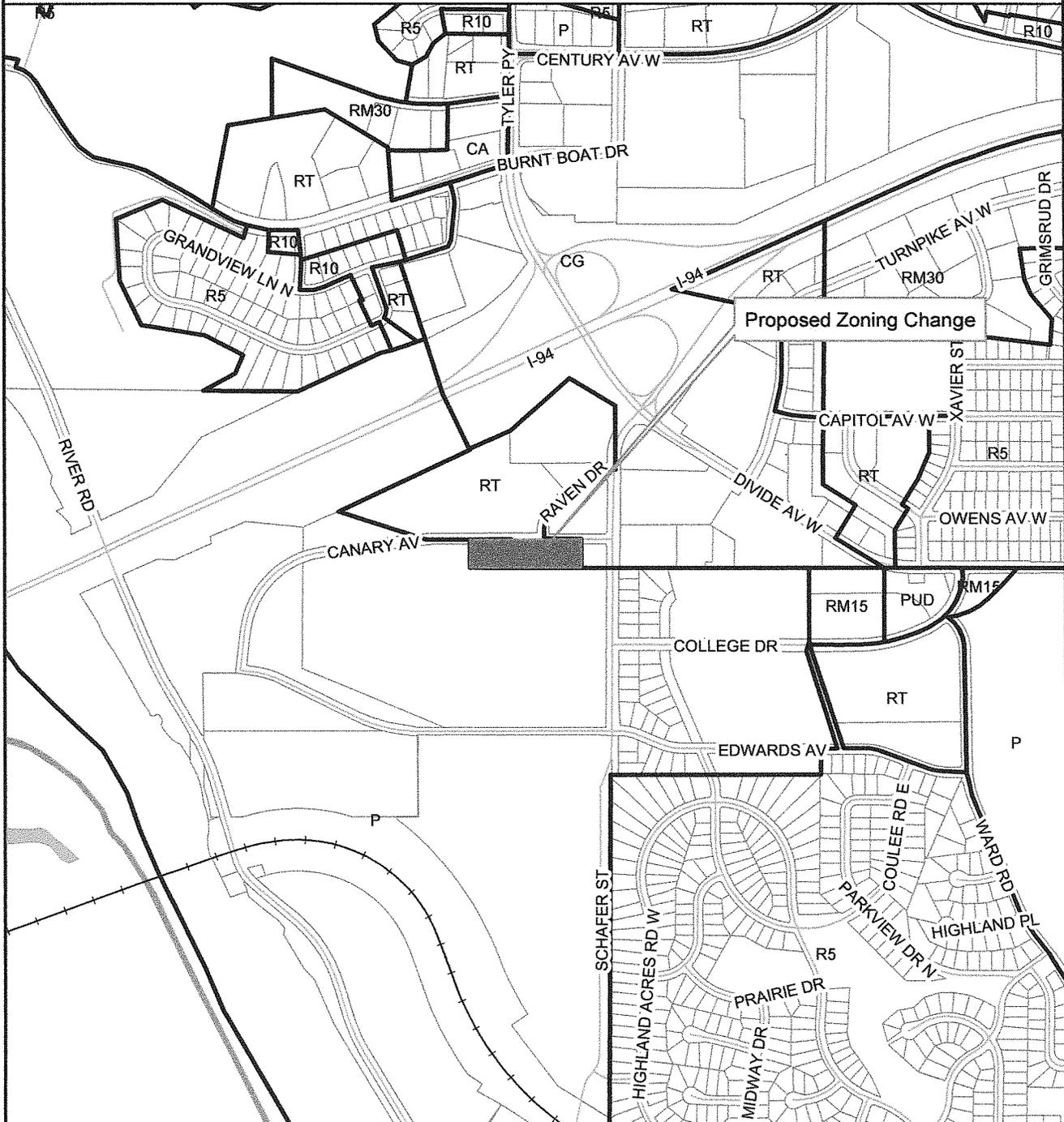
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

**RECOMMENDATION:**

Based on the above findings, staff recommends scheduling a public hearing for the zoning change for part of the SE $\frac{1}{4}$  of Section 30, T139N-R80W/Hay Creek Township more specifically described as tthe West 715.29 feet of the East 924 feet of the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 30 from RT-Residential and R5-Residential to P-Public.

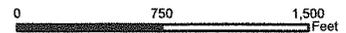
# Proposed Zoning Change (R5 & RT to P)

## Part of the SE1/4 of Sec. 30, T139N-R80W/Hay Creek Township

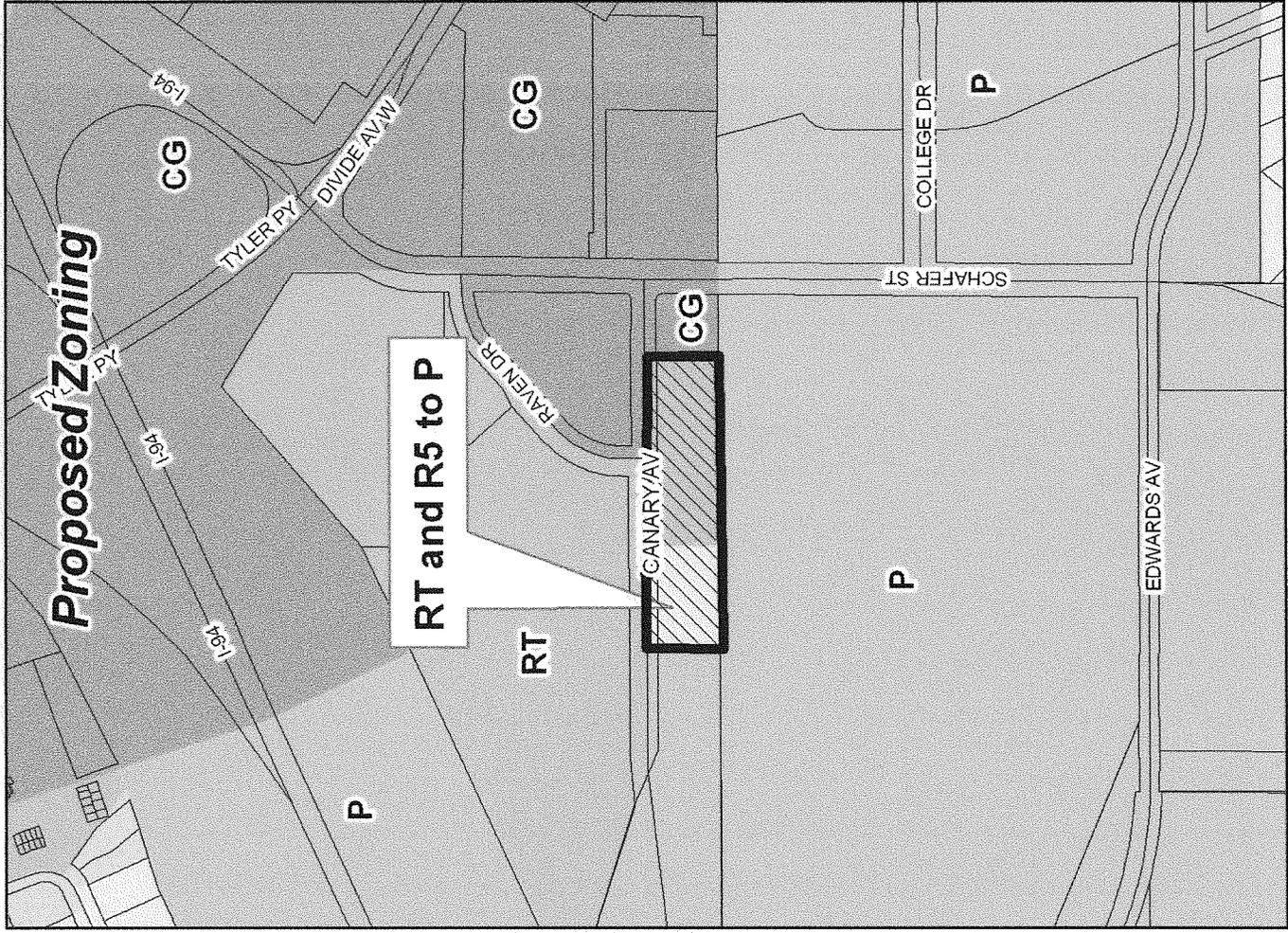
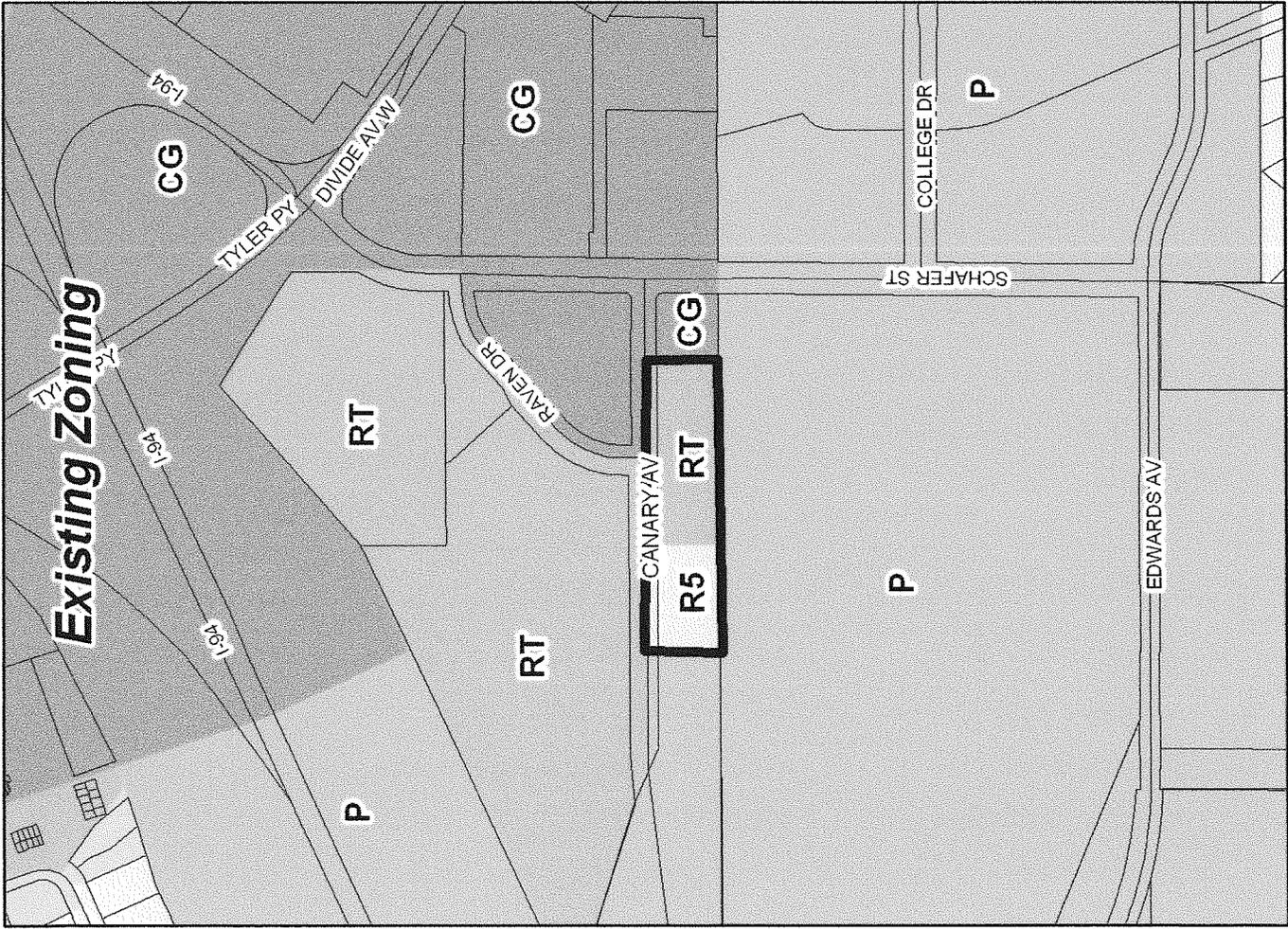


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Source: City of Bismarck



# Part of the SE1/4 of Section 30 - Hay Creek Township



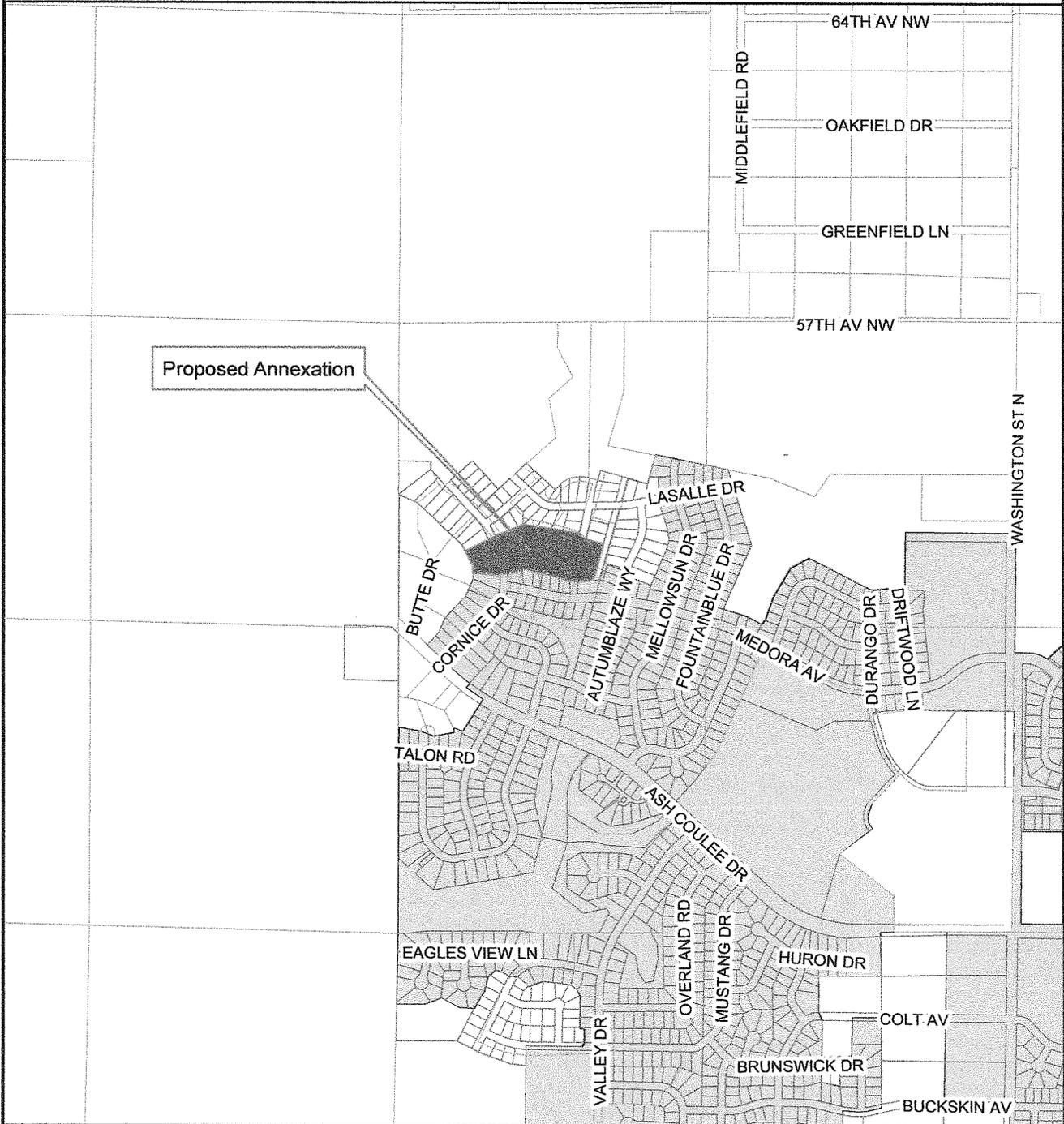
May 2011

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

<b>BACKGROUND:</b>		
<b>Title:</b> Horizon Heights Addition – Annexation (part)		
<b>Status:</b> Planning Commission – Final Consideration	<b>Date:</b> May 25, 2011	
<b>Owner(s):</b> Mitzel Builders, Inc.	<b>Engineer:</b> Kadmas, Lee & Jackson	
<b>Reason for Request:</b> To annex a portion of the subdivision for phased improvements to this single-family residential development.		
<b>Location:</b> In northwest north of Medora Avenue, northwest of Horizon Middle School (Part of Section 17 T139N-R80W/Hay Creek Township)		
<b>Project Size:</b> 9.11 acres	<b>Number of Lots:</b> 22 lots in 4 blocks	
<b>EXISTING CONDITIONS:</b>	<b>PROPOSED CONDITIONS:</b>	
<b>Land Use:</b> Undeveloped	<b>Land Use:</b> Single-family residential	
<b>Zoning:</b> R5 – Residential	<b>Zoning:</b> R5 – Residential	
<b>Uses Allowed:</b> R5 – Single-family residential	<b>Uses Allowed:</b> R5 – Single-family residential	
<b>Maximum Density Allowed:</b> R5 – 5 units/acre	<b>Maximum Density Allowed:</b> R5 – 5 units/acre	
<b>PROPERTY HISTORY:</b>		
<b>Zoned:</b> May 2011	<b>Platted:</b> May 2011	<b>Annexed:</b> N/A
<b>FINDINGS:</b>		
<ol style="list-style-type: none"> <li>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.</li> <li>2. The proposed annexation would not adversely affect property in the vicinity.</li> <li>3. The proposed annexation is consistent with the general intent and purpose of Title 14 of the City Code of Ordinances.</li> <li>4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.</li> </ol>		
<b>RECOMMENDATION:</b>		
Based on the above findings, staff recommends annexation of a portion of Horizon Heights Fifth Addition (Lots 10-12, Block 1; Lots 11-18, Block 4; Lots 1-7, Block 5 and Lots 1-4, Block 6).		

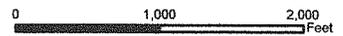
# Proposed Annexation L10-12, B1; L11-18, B4; L1-7, B5 & L1-4, B6 Horizon Heights Fifth Addition



Proposed Annexation

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Map was Updated/Created: April 20, 2011 (kdg)

Source: City of Bismarck



APR 14 2011

**ANNEXATION EXHIBIT**  
 HORIZON HEIGHTS FIFTH ADDITION  
 BISMARCK, NORTH DAKOTA  
 04/04/2011

Annexation Statement:

The Applicant, Mitzel Builders, Inc., requests that the City of Bismarck annex the following lots contained in the Horizon Heights Fifth Addition:

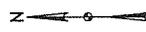
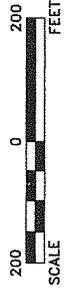
- Block 1, Lots 10-12
- Block 4, Lots 11-18
- Block 5, Lots 1-7
- Block 6, Lots 1-4

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

The requested area is shown in hatching on this exhibit.

Total area of annexation including ROW is 9.11 acres ±

**Kadmas**  
**Lee &**  
**Jackson**  
 Engineers Surveyors  
 Planners



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

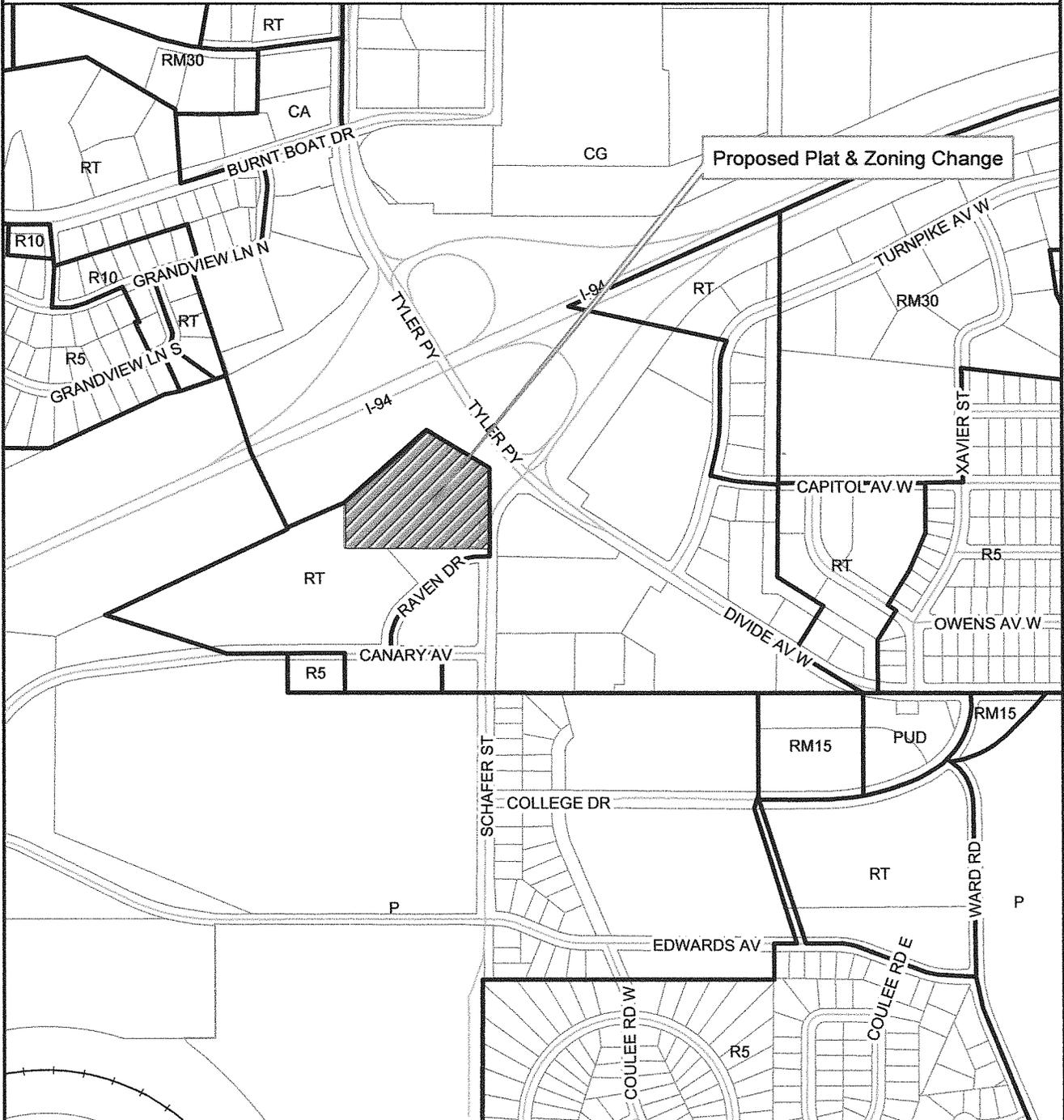
<b>BACKGROUND:</b>		
<b>Title:</b> Meadow Lark Hill Second Addition Replat - Zoning Change (RT to CG for Lot 1, Block 1)		
<b>Status:</b> Planning Commission – Consideration	<b>Date:</b> May 25, 2011	
<b>Owner(s):</b> Westphal Holding (George Westphal)	<b>Engineer:</b> Swenson, Hagen & Co. P.C.	
<b>Reason for Request:</b> The proposed zoning change is in conjunction with a minor plat which subdivides an existing platted lot. The new lot (Lot 1) would function as the site for a commercial development. Over six years ago this same zoning change and minor plat were approved by the Planning Commission and the City Commission, but were never submitted for filing. If approved plats are not submitted within 180-days of final approval, they must be reapproved.		
<b>Location:</b> This minor plat is located in northwest Bismarck directly west of the intersection of Divide Avenue and Schafer Street.		
<b>Project Size:</b> The minor plat contains 6.2-acres The new Lot 1 would be 1.8-acres	<b>Number of Lots:</b> 2 lots in 1 block	
<b>EXISTING CONDITIONS:</b>	<b>PROPOSED CONDITIONS:</b>	
<b>Land Use:</b> undeveloped	<b>Land Use:</b> motel or office building	
<b>Zoning:</b> RT – Residential	<b>Zoning:</b> CG – Commercial for Lot 1 RT – Residential for Lot 2	
<b>Uses Allowed:</b> RT = Multi-family homes and offices	<b>Uses Allowed:</b> CG = A variety of commercial uses incl. motels RT = Multi-family homes and offices	
<b>Maximum Density Allowed:</b> RT = 16 units per acre	<b>Maximum Density Allowed:</b> RT = 16 units per acre CG = 42 units per acre	
<b>PROPERTY HISTORY:</b>		
<b>Zoned:</b> 1980	<b>Platted:</b> 1980	<b>Annexed:</b> 1980
<b>ADDITIONAL INFORMATION:</b>		
<ol style="list-style-type: none"> <li>The existing subdivision plat “Meadow Lark Hill Second Addition” is zoned RT-Transitional.</li> <li>The proposed zoning for the new lot (Lot 1) created by this replat is CG-Commercial; the lot containing the Dakota Collectibles office building would remain as RT zoning.</li> </ol>		
<b>FINDINGS:</b>		
<ol style="list-style-type: none"> <li>The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include: the existing office building to the southwest, a bar/restaurant to the southeast, and a grocery store to the east.</li> </ol>		
<i>(continued)</i>		

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

**RECOMMENDATION:**

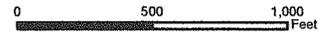
Based on the above findings, staff recommends approval of the zoning change from RT-Transition to CG-Commercial for Lot 1 of Block 1, Meadow Lark Hill Second Addition Replat.

# Proposed Plat & Zoning Change (RT to RT & CG) Meadow Lark Hill Second Addition Replat

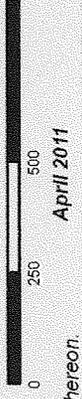
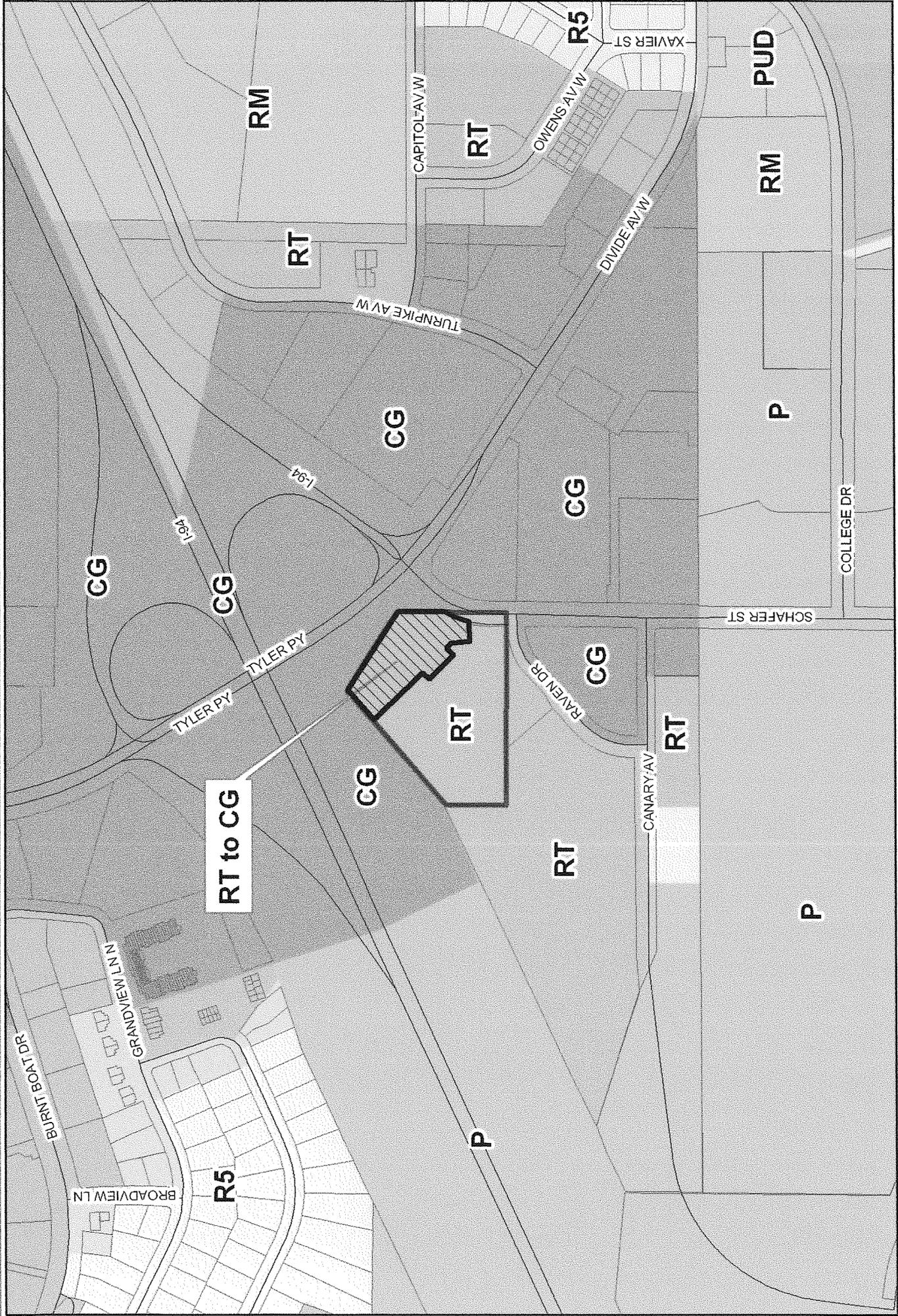


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Source: City of Bismarck



# Meadow Lark Hills 2nd Addition Replat - Zoning Change - RT to CG



April 2011

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

<b>BACKGROUND:</b>		
<b>Title:</b> Meadow Lark Hill Second Addition Replat – Minor Plat		
<b>Status:</b> Planning Commission – Public Hearing	<b>Date:</b> May 25, 2011	
<b>Owner(s):</b> Westphal Holding (George Westphal)	<b>Engineer:</b> Swenson, Hagen & Co. P.C.	
<b>Reason for Request:</b> The proposed minor plat subdivides an existing one-lot subdivision into two lots. The new lot (Lot 1) would be the site of a future commercial development. Over six years ago this same minor plat was approved by the Planning Commission and the City Commission, but it was never submitted for filing. If plats are not submitted within 180-days of final approval, they must be reapproved.		
<b>Location:</b> This minor plat is located in northwest Bismarck directly west of the intersection of Divide Avenue and Schafer Street.		
<b>Project Size:</b> The minor plat contains 6.2-acres total The new Lot 1 would be 1.8-acres	<b>Number of Lots:</b> 2 lots in 1 block	
<b>EXISTING CONDITIONS:</b>		
<b>Land Use:</b> area of the new Lot 2 is undeveloped	<b>PROPOSED CONDITIONS:</b>	
<b>Zoning:</b> RT – Residential	<b>Land Use:</b> motel or office building	
	<b>Zoning:</b> CG – Commercial for Lot 1 RT – Residential for Lot 2	
<b>Uses Allowed:</b> RT = Multi-family homes and offices	<b>Uses Allowed:</b> CG = A variety of commercial uses incl. motels RT = Multi-family homes and offices	
<b>Maximum Density Allowed:</b> RT = 16 units per acre	<b>Maximum Density Allowed:</b> RT = 16 units per acre CG = 42 units per acre	
<b>PROPERTY HISTORY:</b>		
<b>Zoned:</b> 1980	<b>Platted:</b> 1980	<b>Annexed:</b> 1980
<b>ADDITIONAL INFORMATION:</b>		
<ol style="list-style-type: none"> <li>1. The line which subdivides this existing one-lot subdivision into two lots splits the existing parking lot of the Dakota Collectibles Building.</li> <li>2. The required parking for Dakota Collectibles is 114 off-street spaces. The location of the new lot line reduces the number of parking spaces to 93, requiring 21 additional spots to eventually be provided.</li> <li>3. Some existing hard-surfaced areas could be used for the additional required parking for the Dakota Collectibles Building. The developer has indicated that additional parking will be provided in conjunction with development of the new lot.</li> <li>4. A formal agreement will establish the terms for interim off-street parking, allowing the existing parking lot to be used for parking required by the Dakota Collectibles Building until development of the new lot requires additional parking to be created on the Dakota Collectibles lot.</li> </ol>		
<i>(continued)</i>		

5. At your last meeting, there were questions regarding the possibility for future improvements to the I-94 interchange located adjacent to the proposed plat. The questions were based on concerns that a new development such as a motel at this location could increase future right-of-way acquisition costs, if additional right-of-way were ever needed.
6. The City of Bismarck's Traffic Engineer indicated that if and when traffic volumes may require it, a future widening of the overpass bridge from 4-lanes to 6-lanes could be achieved within the existing right-of-way.
7. The ND DoT Bismarck District Engineer was also contacted for comment. He indicated that his Department is not aware of or taking part in any long-range planning that would involve changes to the southwest quadrant of the interchange. He added that there *is* a safety project coming up in the near future to improve the area near the Divide/Schafer intersection (see attached).
8. In reference to the safety project referred to above by the ND DoT District Engineer, the Bismarck-Mandan Metropolitan Planning Organization has been in contact with the Local Government Division of the ND DoT to determine whether future improvements along the west side of Schafer Street will impact this plat. More information will be available for you at your May 25<sup>th</sup> meeting.

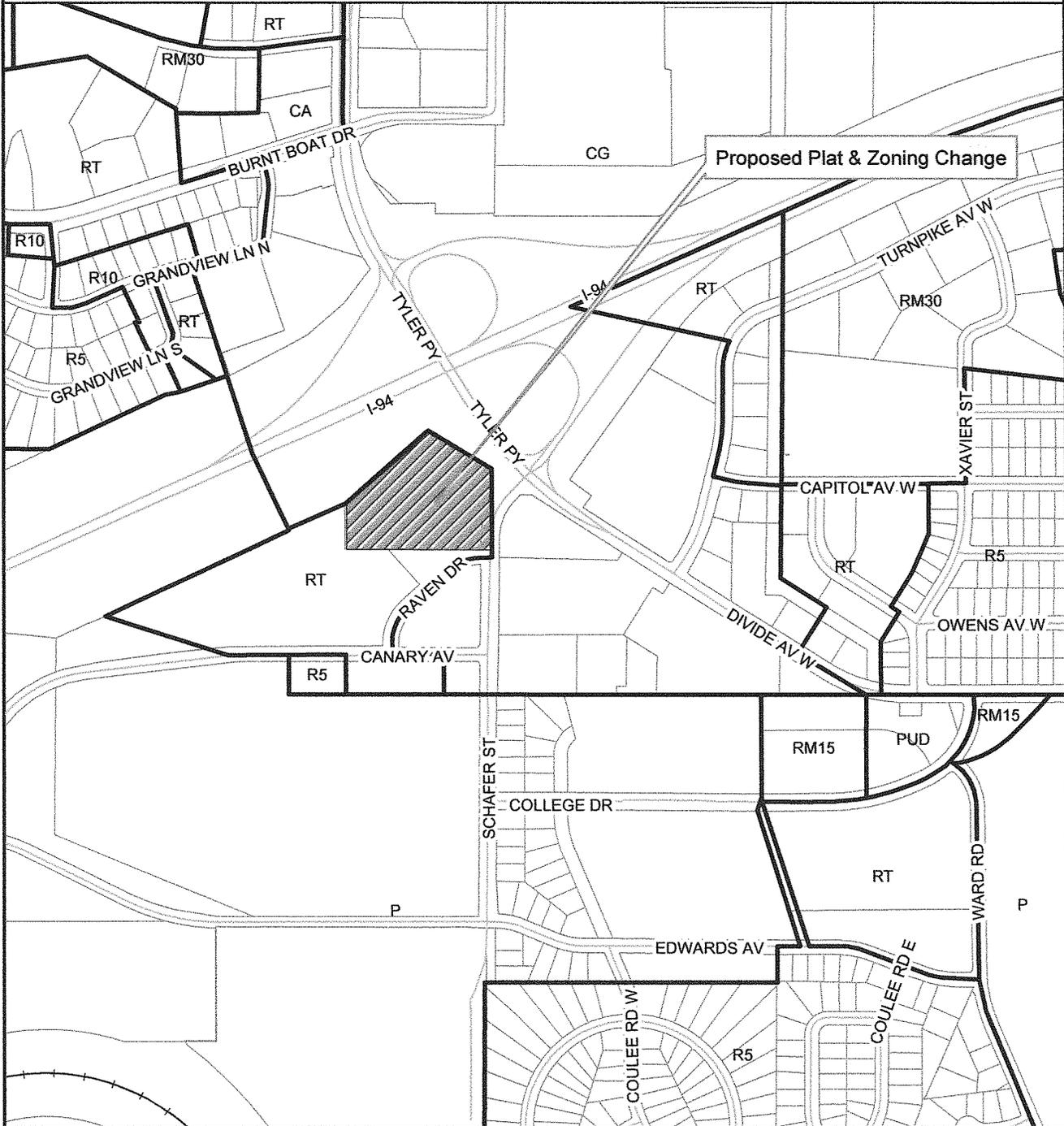
#### **FINDINGS:**

1. The proposed plat meets the criteria for a minor subdivision final plat.
2. All technical requirements for approval of a minor subdivision final plat have been met.
3. The storm water management plan has been approved by the City Engineer.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include the existing office building to the southwest. A bar/restaurant is located across Schafer Street to the southeast, a grocery store is located across Divide Avenue to the east, and the I-94/Divide Avenue interchange right-of-way is along the north sides of the proposed minor plat.
5. The property is already annexed; therefore, the proposed subdivision would not place an undue burden on public services.
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations, provided adequate off-street parking occurs on each lot.
7. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

#### **RECOMMENDATION:**

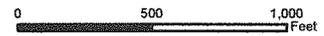
Based on the above findings, staff recommends approval of the minor subdivision final plat Meadow Lark Hill Second Addition Replat with the understanding that an acceptable parking agreement is provided prior to this item being forwarded to City Commission.

# Proposed Plat & Zoning Change (RT to RT & CG) Meadow Lark Hill Second Addition Replat

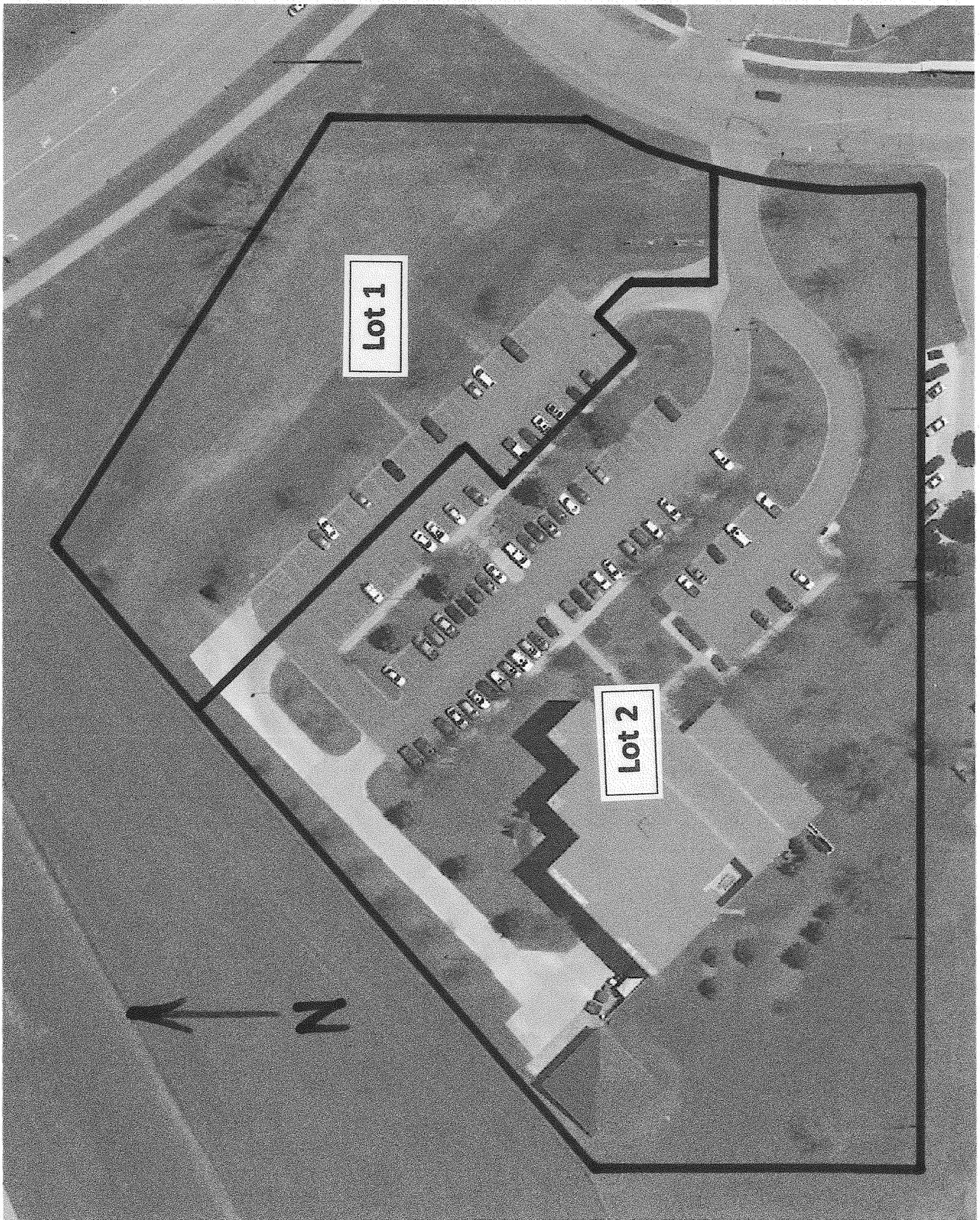


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Map was Updated/Created: March 30, 2011 (kdg)

Source: City of Bismarck







Lot 1

Lot 2

N



## Gregg Greenquist

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**Subject:** Meadow Lark Hill 2nd Replat

North Dakota Department of Transportation response below.

**From:** Levi, Kevin J. [mailto:klevi@nd.gov]  
**Sent:** Wednesday, May 11, 2011 11:01 AM  
**To:** Greenquist, Gregg L.  
**Subject:** RE: Meadow Lark Hill 2<sup>nd</sup> Replat

Gregg

The Department is not aware of or taking part of any long - range planning that would involve changes to the southwest quadrant of the interchange. There is a safety project coming up in the next few years to improve the area where the existing ramp ties into Divide Avenue.

Thank you.

Kevin J. Levi

**CITY PLANNING & ZONING COMMISSION  
MEETING MINUTES  
April 27, 2011**

The Bismarck Planning & Zoning Commission met on April 27, 2011, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Chairman Yeager presided.

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

Commissioner Curt Juhala was absent.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Gregg Greenquist – Planner, Jason Tomanek – Planner, Kimberley Gaffrey– Office Assistant III and Paul Fraase – Assistant City Attorney.

Others present were Harvey Schneider (Toman Engineering) – 501 1<sup>st</sup> Street Northwest, Mandan, Dave Patience (Swenson Hagen & Co.) – 909 Basin Avenue, Wade Felton – 503 Greenfield Lane, Ben White and Brad Krogstad (Kadrmass Lee & Jackson) – 128 Soo Line Drive, Bruce Strinden - 3800 Commerce Street #D (Newman Outdoor Advertising) and Leo Ness (Newman Outdoor Advertising) – 1606 6<sup>th</sup> Avenue SW, Jamestown.

**MINUTES**

Chairman Yeager called for consideration of the minutes of the April 27, 2011 meeting.

**MOTION:** Commissioner Warford made a motion to approve the minutes of the April 27, 2011 meeting as received. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

**CONSIDERATIONS –**

**ZONING CHANGE FROM A AND RR TO RR AND PRELIMINARY PLAT – ROCK CREEK 3<sup>RD</sup> SUBDIVISION**

**ZONING CHANGE FROM A TO RR AND PRELIMINARY PLAT – COPPER RIDGE 3<sup>RD</sup> SUBDIVISION**

**PRELIMINARY PLAT – GCC 1<sup>ST</sup> ADDITION**

**ZONING CHANGE FROM RT TO RT & CG – MEADOWLARK HILL 2<sup>ND</sup> ADDITION**

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

- A. A zoning change from the A-Agricultural and RR-Residential zoning districts to the RR-Residential zoning district and preliminary plat for Rock Creek 3<sup>rd</sup> Subdivision. The

property is 1 lot in 1 block on 2.34 acres, located 4.6 miles east of US Highway 83, north of 71<sup>st</sup> Avenue NE (part of the SE¼ of Section 5, T139N-R79W/ Gibbs Township, including a replat of Lot 1 Block 5, Rock Creek 2<sup>nd</sup> Subdivision).

- B. A zoning change from the A-Agricultural zoning district to the RR-Residential zoning district and preliminary plat for Copper Ridge 3<sup>rd</sup> Subdivision. The property is 161 lots in 9 blocks on 367.75 acres, located south of 62<sup>nd</sup> Avenue SE between 52<sup>nd</sup> Street SE and 66<sup>th</sup> Street SE (Section 31, T138N-R79W/Apple Creek Township, less those parts previously platted as Copper Ridge Subdivision and Copper Ridge 2<sup>nd</sup> Subdivision).
- C. A preliminary plat for GCC First Addition. The property is 1 lot in 1 block on 2.21 acres, located along the west side of Yegen Road south of Apple Creek Road and north of Morrison Avenue (an unplatted portion of the NE¼ of Section 11, T138-R80W/ Lincoln Township).
- D. A zoning change for Meadow Lark Hill Second Addition Replat. The property is 2 lots in 1 block, located along Schafer Street west of the intersection with Divide Avenue and is a replat of Lot 1, Block 1, Meadow Lark Hill Second Addition.

**MOTION:** Based on the findings in the staff reports, Commissioner Armstrong made a motion to approve Consent Agenda items A, B, C and D, tentatively approving the preliminary plats calling for a public hearing on all items. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

#### **FINAL CONSIDERATION – ANNEXATION – LOTS 1-3, BLOCK 1, OXENTENKO COMMERCIAL PROPERTIES SUBDIVISION**

Chairman Yeager called for the final consideration for the annexation for Lots 1-3, Block 1, Oxentenko Commercial Properties Subdivision, the south half of the adjacent Calgary Avenue right-of-way and all of the adjacent St. Lawrence Street. The property is located along the south side of Calgary Drive between 14<sup>th</sup> Street and St. Lawrence Street.

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

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation, as the property is already developed.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.

4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee then provided the additional information:

1. City services were provided to this property in December 2007 with an annexation agreement between the property owner and the City agreeing that the property would be annexed in three years.

Ms. Lee said based on the above findings, staff recommends annexation of Lots 1-3, Block 1, Oxentenko Commercial Properties Subdivision, along with the south half of the adjacent Calgary Avenue and all of the adjacent St. Lawrence Street.

**MOTION:** Commissioner Laning made a motion to approve the annexation Lots 1-3, Block 1, Oxentenko Commercial Properties Subdivision, along with the south half of the adjacent Calgary Avenue and all of the adjacent St. Lawrence Street. Commissioner Conmy seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

**FINAL CONSIDERATION – ANNEXATION – LOTS 1-10, BLOCK 1; LOT 1, BLOCK 2; LOTS 1-2, BLOCK 3; LOTS 1-2, BLOCK 4; LOT 1, BLOCK 5 AND LOT 1, BLOCK 7, SATTLETT'S SUNRISE SIXTH ADDITION**

Chairman Yeager called for the final consideration for the annexation for Lots 1-10, Block 1; Lot 1, Block 2; Lots 1-2, Block 3; Lots 1-2, Block 4; Lot 1, Block 5 and Lot 1, Block 7, Sattler's Sunrise Sixth Addition. The property is located in northeast Bismarck, one-half mile east of Centennial Road and north of Century Avenue, along the east edge of existing Sattler's developments (part of Section 24, T139N-R80W/Hay Creek Township).

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

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the 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.

Mr. Greenquist said based on the above findings, staff recommends annexation of Lots 1-10, Block 1; Lot 1, Block 2; Lots 1-2, Block 3; Lots 1-2, Block 4; Lot 1, Block 5 and Lot 1, Block 7, Sattler's Sunrise Sixth Addition.

**MOTION:** Commissioner Warford made a motion to approve the annexation of Lots 1-10, Block 1; Lot 1, Block 2; Lots 1-2, Block 3; Lots 1-2, Block 4; Lot 1, Block 5 and Lot 1, Block 7, Sattler's Sunrise Sixth Addition. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

**FINAL CONSIDERATION – ANNEXATION – LOTS 19-25, BLOCK 2 AND LOTS 1-3, BLOCK 4, SATTLETER'S SUNRISE EIGHTH ADDITION**

Chairman Yeager called for the final consideration for the annexation for Lots 19-25, Block 2 and Lots 1-3, Block 4, Sattler's Sunrise Eighth Addition. The property is located in northeast Bismarck, one-half mile east of Centennial Road and north of Century Avenue, along the east edge of existing Sattler's developments (Part of Section 24, T139N-R80W/Hay Creek Township).

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

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the 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.

Mr. Greenquist said based on the above findings, staff recommends annexation of Lots 19-25, Block 2 and Lots 1-3, Block 4, Sattler's Sunrise Eighth Addition.

**MOTION:** Commissioner Armstrong made a motion to approve the annexation of Lots 19-25, Block 2 and Lots 1-3, Block 4, Sattler's Sunrise Eighth Addition. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

## **PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT – MEADOW LARK HILL 2<sup>ND</sup> ADDITION REPLAT**

Chairman Yeager called for the public hearing for the minor subdivision final plat for Meadow Lark Hill 2<sup>nd</sup> Addition Replat. The property is located along Schafer Street west of the intersection with Divide Avenue (a replat of Lot 1, Block 1, Meadow Lark Hill Second). The proposed subdivision will create two lots from one lot and will utilize the existing access on Schafer Street.

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

1. The proposed plat meets the criteria for a minor subdivision final plat.
2. All technical requirements for approval of a minor subdivision final plat have been met.
3. The storm water management plan has been approved by the City Engineer.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include the existing office building to the southwest. A bar/restaurant is located across Schafer Street to the southeast, a grocery store is located across Divide Avenue to the east, and the I-94/Divide Avenue interchange right-of-way is along the north sides of the proposed minor plat.
5. The property is already annexed; therefore, the proposed subdivision would not place an undue burden on public services.
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.

Mr. Greenquist said based on the above findings, staff recommends approval of minor subdivision final plat of Meadow Lark Hill 2<sup>nd</sup> Addition Replat.

Commissioner Armstrong asked if there is a four leaf clover interchange planned for this area that would impact the proposed plat. Mr. Greenquist responded by saying he is unaware of any such plans.

Commissioner Armstrong expressed his concern with the future roads and if there will be enough space in this area to widen the roads if there will be buildings in this space. Mr. Greenquist commented that the North Dakota Department of Transportation and the Metropolitan Planning Organization are both on the distribution list for proposed plats and no comments were received from either entity with regards to this proposed plat.

Chairman Yeager opened the public hearing for the minor subdivision final plat for Meadow Lark Hill 2<sup>nd</sup> Addition Replat.

Dave Patience with Swenson Hagen & Co. said that this is not the first time that a building has been proposed for this location. The plat and zoning change were previously approved but the mylar was never recorded. He went on to say that because of the fact that there is a steep slope going to the west, it is doubtful that a ramp can be constructed to be level with the finished grade of the overpass without some serious changes to the existing interstate. Mr. Patience concluded by saying he would not have a problem waiting for approval of the proposed plat at the May meeting when the public hearing on the zoning change will be held.

Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Armstrong made a motion to continue the public hearing for the minor subdivision final plat for Meadow Lark Hill 2<sup>nd</sup> Addition Replat to the May 25, 2011 Bismarck Planning & Zoning Commission meeting. Commissioner Conmy seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

#### **PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT – NORTH HILLS FIFTEENTH ADDITION REPLAT**

Chairman Yeager called for the public hearing for the minor subdivision final plat for North Hills Fifteenth Replat. The property is located approximately 1/8 mile south of 43<sup>rd</sup> Avenue between Normandy and Dominion Streets (a replat of Lots 1-3 and part of Lot 4, Block 1, North Hills Fifteenth Addition).

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

1. The proposed plat meets the criteria for a minor subdivision final plat.
2. All technical requirements for approval of a minor subdivision final plat have been met.
3. The storm water management plan amendment has been approved by the City Engineer.
4. The proposed subdivision is compatible with adjacent land uses; adjacent land uses include partially developed, multi-family zoned property to the south and west, a developing office complex and undeveloped RT-zoned land to the north, developed single-family residential to the east and undeveloped, agriculturally-zoned land to the south.
5. The proposed minor subdivision is already annexed, therefore; it would not place an undue burden on public services.

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.

Mr. Tomanek then provided the following additional information:

1. There is a 15-foot landscape buffer yard easement along the easternmost property line of Lot 1, Block 1. The easement is appropriate due to the single-family dwelling directly to the east. The easement was also part of the original North Hills 15<sup>th</sup> Addition.

Mr. Tomanek said based on the above findings, staff recommends approval of the minor subdivision final plat of North Hills Fifteenth Addition Replat.

Chairman Yeager opened the public hearing for the minor subdivision final plat for North Hills Fifteenth Addition Replat.

There was no public comment.

Chairman Yeager closed the public hearing.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve the minor subdivision final plat for North Hills Fifteenth Addition Replat. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE FROM R5-RESIDENTIAL, R10-RESIDENTIAL, RT-RESIDENTIAL AND CG-COMMERCIAL TO PUD-PLANNED UNIT DEVELOPMENT, R10-RESIDENTIAL, RT-RESIDENTIAL AND CG-COMMERCIAL AND FINAL PLAT – SONNET HEIGHTS SUBDIVISION FIFTH REPLAT**

Chairman Yeager called for the public hearing for the zoning change from the R5-Residential, R10-Residential, RT-Residential and CG-Commercial zoning districts to the PUD-Planned Unit Development, R10-Residential, RT-Residential and CG-Commercial zoning districts and final plat for Sonnet Heights Subdivision Fifth Replat. The property is 37 lots in 3 blocks on 13.25 acres and is located along the west side of Ottawa Street between LaSalle Drive and 43<sup>rd</sup> Avenue NE (a replat of Lot 4, Block 23, Lots 1-3, Block 24, Lots 10-27, Block 25, Lots 9-18, Block 26 and Lots 1-4, Block 27, Sonnet Heights Subdivision).

Mr. Tomanek 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 US Highway 83 Corridor Transportation Study recommendations, which identifies this area as urban residential and mixed uses. Mixed uses include residential, office and commercial uses.
2. The proposed zoning change is compatible with adjacent land uses. There is partially-developed single-family residential to the west, partially-developed single and two-family residential to the north, undeveloped property that is zoned RT – Residential to the south and commercial development to the east. There is one established, single-family dwelling unit directly adjacent to the southeast corner of the proposed subdivision. Should the property adjacent to the single-family dwelling be developed, vegetative buffer yards would be required on the south 20-feet of Lots 1 and 4, Block 1 and the east 20-feet of Lot 5, Block 4 that is adjacent to the single-family dwelling. A 20-foot landscape buffer yard is shown in the appropriate location on the plat.
3. The area is already annexed; 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 all adopted plans, policies and accepted planning practice.

Mr. Tomanek then listed the following findings for the plat:

1. All technical requirements for consideration of a final plat have been met.
2. The proposed subdivision is consistent with the Fringe Area Road Master Plan, which identifies Ottawa Street as a north-south collector roadway for Section 16.
3. The storm water management plan has been approved by the City Engineer.
4. The proposed subdivision is compatible with adjacent land uses. There is partially-developed single-family residential to the west, partially-developed single and two-family residential to the north, undeveloped property that is zoned RT – Residential to the south and commercial development to the east. There is one established, single-family dwelling unit directly adjacent to the southeast corner of the proposed subdivision. Should the property adjacent to the single-family dwelling be developed while the residence is occupied; vegetative buffer yards would be required on the south 20-feet of

Lots 1 and 4, Block 1 and the east 20-feet of Lot 5, Block 4 that is adjacent to the single-family dwelling.

5. The proposed subdivision is already a completely annexed; 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.

Mr. Tomanek then listed the following additional information:

1. There is a 35-foot strip of land within Lots 1-2, Block 1 and Lot 1, Block 2 that is currently part of the Ottawa Street right-of-way. Owners along Ottawa Street have petitioned to vacate the east 35-feet and the west 35-feet of the Ottawa Street right-of-way. The Board of City Commissioners will be acting on this request during the regular meeting of April 26, 2011.
2. Sonnet Heights Subdivision 3<sup>rd</sup> Replat was created in 2009 with similar a PUD zoning classification. The PUD for Sonnet Heights 3<sup>rd</sup> Replat is the model for the proposed PUD zoning for Lots 1-24, Block 3; in which single-family dwellings is the sole permitted use. Each dwelling unit is adjacent to a private, 20-foot wide access easement/alleyway with a 20-foot front yard setback requirement.

Mr. Tomanek said based on the above findings, staff recommends approval of the zoning change from the from the R5-Residential, R10-Residential, RT-Residential and CG-Commercial zoning districts to the PUD-Planned Unit Development zoning district for Lots 1-24, Block 3 as outlined in the PUD ordinance or Lots 1-4, Block 7, to the R10-Residential zoning district for Lots 5-9, Block 1, to the RT-Residential zoning district for Lots 3-4, Block 1 and Lots 2-4, Block 2 and to the CG-Commercial zoning district for Lots 1-2, Block 1 and Lot 1, Block 2 and final plat for Sonnet Heights Subdivision Fifth Replat, removing the condition that the west 35-feet and the east 35-feet of right-of-way along Ottawa Street has been vacated by the Board of City Commissioners, because the vacation was approved by the Board of City Commissioners on April 26, 2011.

Chairman Yeager called for the public hearing for the zoning change from the R5-Residential, R10-Residential, RT-Residential and CG-Commercial zoning districts to the PUD-Planned Unit Development, R10-Residential, RT-Residential and CG-Commercial zoning districts as outlined in the ordinance included in the packet and final plat for Sonnet Heights Subdivision Fifth Replat.

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 R5-Residential, R10-Residential, RT-Residential and CG-Commercial zoning districts to the PUD-Planned Unit Development zoning district for Lots 1-24, Block 3 as outlined in the PUD ordinance or Lots 1-4, Block 7, to the R10-Residential zoning district for Lots 5-9, Block 1, to the RT-Residential zoning district for Lots 3-4, Block 1 and Lots 2-4, Block 2 and to the CG-Commercial zoning district for Lots 1-2, Block 1 and Lot 1, Block 2 and final plat for Sonnet Heights Subdivision Fifth Replat. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

**FINAL CONSIDERATION – ANNEXATION AND PUBLIC HEARING – ZONING CHANGE FROM A-AGRICULTURAL AND R5-RESIDENTIAL TO R5-RESIDENTIAL AND FINAL PLAT – EAGLE CREST FOURTH ADDITION**

Chairman Yeager called for the final consideration of the annexation and public hearing for the zoning change from the A-Agricultural and R5-Residential zoning districts to the R5-Residential zoning district and final plat for Eagle Crest Fourth Addition. The property is 56 lots in 5 blocks on 26.11 acres and is located in north Bismarck along the west side of Valley Drive between Tyler Parkway and Mustang Drive (a replat of Auditor's Lot A1 of the NW¼ and SW¼ of Section 20, T139N-R80W/Hay Creek Township).

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

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the 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.

Mr. Greenquist 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 and open space (Bismarck-Mandan Regional Land Use Plan).
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include undeveloped agricultural land to the south, west, and north. There is public land to the east and a park to the northeast.
3. The subdivision proposed for this property would 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 would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
6. The proposed zoning change is consistent the master plan, other adopted plans, policies and accepted planning practice.

Mr. Greenquist then listed the following findings for the plat:

1. All technical requirements for approval of a final plat have been met.
2. The City Engineer has approved the Storm Water Management Plan.
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.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include undeveloped agricultural land to the south, west, and north. There is public land to the east and a public park to the northeast.
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; public access has been provided to the adjoining property west of this plat.
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.

Mr. Greenquist then listed the following additional information:

1. There is an adjoining area of developable land along the west side of this plat. Conceptual plans for development of this land have been prepared. Proper access has been provided for that land which would otherwise be landlocked because of steep terrain.
2. The westward projection of the future street providing this access, High Creek Place, is approximately centered on the high ground of the existing topography. This location should allow new lots to be created along the future westward extension of that street.
3. The future westward extension of High Creek Place will require cooperation between existing adjacent land owners. High Creek Place is centered on the quarter line which is also a property ownership boundary, with different land owners on each side of the quarter line for the property directly west of this plat.
4. The main east/west street in this plat is improperly named Round Top Road. At the intersection with Valley Drive, the existing street coming in from the east is named Daytona Drive. The name Daytona Drive should be maintained for the westward continuation from that intersection. Using the name Daytona Drive will avoid confusion for public sector emergency services, private sector services, deliveries etc., and better serve the future residents of this area. This is supported by the zoning ordinance.

*14-09-05 (6)(n) "No street names will be used that will duplicate or be confused with the names of existing streets. Streets that are now or will eventually be continuations of existing streets shall be called by the names of the existing streets. The city shall make at least general recommendations for street names."*

Mr. Greenquist said based on the above findings, staff recommends approval of the annexation of Lots 1-5, Block 1 and Lots 16-19, Block 2, the zoning change from the A-Agricultural and R5-Residential zoning districts to the R5-Residential zoning district and final plat for Eagle Crest Fourth Addition, with the condition that the street name be changed from Round Top Road to Daytona Drive prior to the plat being forwarded to the Board of City Commissioners for final action.

Commissioner Laning asked if there would be any legal issue regarding the name change that would be a concern. Mr. Greenquist answered by saying he spoke with the Director of Bismarck Parks and Recreation and they do not have any issues with changing the street name to Daytona Drive so it is consistent with the street on the other side of Valley Drive. Bismarck Parks and Recreation is the current owner of the land. Mr. Greenquist added that after reviewing the purchase agreement, there were not any stipulations listed to keep the street name of Round Top Road.

Commissioner Laning asked if Lots 1-5, Block 1 and 16-19, Block 2 are the only lots to be annexed. Mr. Greenquist confirmed that those will be the only annexed lots at this time.

Chairman Yeager called for the public hearing for the zoning change from the A-Agricultural and R5-Residential zoning districts to the R5-Residential zoning district and final plat for Eagle Crest Fourth Addition.

Dave Patience with Swenson Hagen & Co. stated that the current developers of the proposed plat for Eagle Crest Fourth Addition have an option to purchase the land on the west and south side of the proposed future cul-de-sac for High Creek Place. He continued by saying the Crouse Family Trust owns the north half of that property and Wade Felton can make his own comments regarding that. Mr. Patience went on to say that per Bill Clairmont, it was part of his agreement with Bismarck Parks and Recreation that the street name remain Round Top Road. He concluded by saying there are several streets that are different names on the opposite sides of a road.

Wade Felton said he represents Crouse Family limited partnership and they own the land to the north of the proposed High Creek Place cul-de-sac. His request is to include the cul-de-sac with the proposed Eagle Crest Fourth Addition so both sides can be developed at the same time. He thinks that it would be easier to include it in the proposed plat now, instead of fighting about it three or four years down the road.

Chairman Yeager closed the public hearing.

There was a brief discussion regarding the street name change from Round Top Road to Daytona Drive.

**MOTION:** Based on the findings contained in the staff reports, Commissioner Laning made a motion to approve the annexation of Lots 1-5, Block 1 and Lots 16-19, Block 2, the zoning change from the A-Agricultural and R5-Residential zoning districts to the R5-Residential zoning district and final plat for Eagle Crest Fourth Addition, with the condition that the street name be changed from Round Top Road to Daytona Drive prior to the plat being forwarded to the Board of City Commissioners for final action. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conmy, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

#### **PUBLIC HEARING – SPECIAL USE PERMIT FOR LOTS 10-12, BLOCK 5, HAIGHT & LITTLE’S ADDITION (1804 NORTH 13<sup>TH</sup> STREET)**

Chairman Yeager called for the public hearing for a special use permit to allow the south face of the existing billboard on Lots 10-12, Block 5, Haight and Little’s Addition to be replaced with a digital billboard. The property is located along the east side of State Street between Divide Avenue and Spaulding Avenue (1804 North 13<sup>th</sup> Street).

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

1. The proposed digital billboard does not meet the provisions outlined in Section 4-04-12(5). In particular, the digital billboard is not oriented away from the residential property and the sign face or viewing surface of the digital billboard sign is clearly visible from the residential property located within 300 feet of the sign.
2. The proposed special use is not in harmony with the purpose and intent of the zoning ordinance and the master plan of the City of Bismarck. In particular, the provisions established for granting a special use permit for a digital billboard in this location have not been met.
3. The proposed special use may adversely affect the public health, safety and general welfare.
4. The proposed special use may be detrimental to the use or development of adjacent properties.
5. The proposed special use will not comply with all special regulations established by Section 14-03-08 of the City Code of Ordinances, and all special conditions necessary for the safety and welfare of the public.

Ms. Lee then listed the following additional information:

1. Section 4-04-12 of the City Code of Ordinances (Special Provisions for Digital Billboard Signs) includes a provision that digital billboards must be located at least 300 feet from any RR, RR5, R5, R10, RM or RMH zoning district, as measured from any part of the sign to the nearest property line in any residential zoning district. This distance may be reduced to 150 feet provided the following requirements are met:
  - a. The digital billboard is oriented away from the residential property;
  - b. No portion of the sign face or viewing surface of the digital billboard is visible from the residential property; and
  - c. A special use permit is approved by the Planning & Zoning Commission in accordance with the provisions of Section 14-03-08.
2. A permit for the existing billboard structure was issued in 1987. The existing billboard structure is located within 300 feet of property in a residential zoning district. The applicants are requesting the special use permit to reduce this distance to 150 feet in accordance with the provisions of Section 4-04-12 (Special Provisions for Digital Billboards), subsection 5.

Ms. Lee said that based on the above findings, staff recommends denial of the special use permit to allow the south face of the existing billboard on Lots 10-12, Block 5, Haight and Little's Addition to be replaced with a digital billboard.

Commissioner Laning asked if any amount of shrouding would help with the visibility of the sign face. Ms. Lee responded by saying that any visibility of sign faces are not allowed within 300 feet of a residential property and that is a requirement of the sign ordinance.

Chairman Yeager opened the public hearing for the special use permit to allow the south face of the existing billboard on Lots 10-12, Block 5, Haight and Little's Addition (1804 North 13<sup>th</sup> Street) to be replaced with a digital billboard.

Bruce Strinden with Newman Outdoor Advertising said he is requesting approval of a special use permit to install a digital billboard face on one of the existing billboard face. Mr. Strinden continued by saying that digital billboards are the latest technology in the industry and there are currently digital billboards operating in Fargo and Grand Forks. He went on to say that the intent is to provide the same cutting edge technology in Bismarck, in the interest of offering local businesses greater flexibility in their advertising. Mr. Strinden added that digital billboards offer local law enforcement officials and emergency management the ability to instantly display amber alerts and other public safety messages at no charge to public entities. He noted that digital billboards are different than the electronic message centers that many businesses use because digital billboards do not do flash, scroll, or display animation. He also said that if you look at a digital billboard from an angle, you cannot see the face of the sign and would only see black. The sign in question is positioned so that the best read is on States Street.

Leo Ness with Newman Outdoor Advertising said he agrees the house on 13<sup>th</sup> Street North is within 300 feet of the sign, but the houses within 300 feet located on 14<sup>th</sup> Street North would not be able to see the digital billboard because of the angle of the sign and the angle of the houses to the sign. He continued by saying that he has read all 45 pages of the City of Bismarck's Master Plan two or three times, and to the best of his knowledge, his business is the only one singled out in the Plan as far as planning staff's goal to limit. Mr. Ness stated that he has never met a planner that is pro outdoor advertising and those planners go to planning school and take a class called "We Hate Billboards". He went on to say that in 1996 the Federal Highway Administration said that electronic signs are legal on any state or federally funded highway because they do not show intermittent lighting or video streaming. Mr. Ness said that there is nothing changing with this billboard, it is already sitting there, it is going to stay there, they just want to change it to a digital billboard to display ads.

Mr. Strinden then presented a video of an operational digital billboard.

There was some discussion regarding the lighting used with digital billboards and the brightness of the lighting.

Chairman Yeager closed the public hearing.

Commissioner Warford asked the Assistant City Attorney if the proposed sign would be in violation of Section 4-04-12 of the City Code of Ordinances. Mr. Fraase responded by saying that the City Attorney Charlie Whitman's position is that digital billboard must be located 300 feet away from a residential zoned property and in order to go to the 150 feet distance, there

needs to be a factual call made. The factual call has to be that the digital billboard is oriented away from the residential property and no portion of the sign face viewing surface of the digital billboard is visible from the residential property in order to allow it at 150 feet.

Commissioner Warford said that even though he is a proponent and user of billboards, but this digital billboard would be in violation of the City Code of Ordinances and planning staff are just following those ordinances.

**MOTION:** Based on the findings contained in the staff report, Commissioner Warford made a motion to deny the special use permit to allow the south face of the existing billboard on Lots 10-12, Block 5, Haight and Little's Addition to be replaced with a digital billboard. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Conny, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

## **OTHER BUSINESS**

### **RESOLUTION FOR JACK HEGEDUS**

Chairman Yeager read the resolution of appreciation for Jack Hegedus.

## **ADJOURNMENT**

There being no further business Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 6:28 p.m. to meet again on May 25, 2011.

Respectfully submitted,

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Kimberley Gaffrey  
Recording Secretary

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Wayne Yeager  
Chairman

**Major Permit Activity  
April 2011**

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Non-deeded Owner: Apex Development, LLC  
Address: 3210 Rock Island Place  
Cost: \$700,000.00  
Description: 120' x 140' single story building

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Non-deeded Owner: Advanced Business Methods  
Address: 4480 Coleman Street  
Cost: \$785,600.00  
Description: 8040 square foot building with mezzanine

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Non-deeded Owner: Bis-Man Transit  
Address: 3750 East Rosser Avenue  
Cost: \$1,902,100.00  
Description: 197' x 90' single story addition

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Non-deeded Owner: Apex Development, LLC  
Address: 3210 Rock Island Place  
Cost: \$600,000.00  
Description: 80' x 140' single story building

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Non-deeded Owner: St. Alexius Medical Center  
Address: 900 East Broadway  
Cost: \$932,057.00  
Description: 4400 square foot, 1st floor CT area alteration

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Non-deeded Owner: Bismarck Airport  
Address: 2200 Maverick Avenue  
Cost: \$1,744,612.00  
Description: 2405 square foot building

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DATE SELECTION 4/2011

Permit Type	City		ETA		County							
	4/2011	4/2010	4/2011	4/2010	4/2011	4/2010						
Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation					
SINGLE FAMILY DETACHED	51	9,070,261.00	36	6,210,664.00	29	5,073,207.00	29	5,011,400.00	3	662,029.00	1	177,051.00
SINGLE FAMILY ATTACHED	6	855,302.00	27	4,188,312.00	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	0	.00	0	.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	2	.00	1	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITHOUT EXTRA	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITH EXTRAS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME MISCELLANEOUS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
HOTELS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOTELS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
GROUP QUARTERS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
NON-STRUCTURAL DEVELOPMENTS	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	2	2,598,100.00	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	1	20,000.00	2	657,214.00	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 STRUCTURES	2	1,300,000.00	0	.00	0	.00	0	.00	0	.00	0	.00
PUBLIC BUILDING	1	1,744,612.00	1	4,500.00	0	.00	0	.00	0	.00	0	.00
ROOM ADDITIONS	3	28,080.00	4	76,944.00	2	35,934.00	2	158,888.00	1	21,306.00	1	15,000.00
RESIDENTIAL GARAGES	7	58,792.00	15	140,384.00	10	216,416.00	12	197,816.00	1	20,480.00	7	106,952.00
PATIOS AND COVERS	11	25,428.00	19	60,720.00	2	7,440.00	1	6,000.00	0	.00	0	.00
SWIMMING POOLS AND SPAS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER	7	44,250.00	13	165,232.00	4	157,145.00	2	21,700.00	0	.00	2	6,500.00
HOME OCCUPATIONS	1	.00	1	.00	1	.00	0	.00	0	.00	0	.00
STORAGE SHEDS	3	5,412.00	20	36,657.00	0	.00	3	8,664.00	0	.00	0	.00
BASEMENT FINISH	22	124,664.00	9	40,304.00	3	21,712.00	5	27,915.00	0	.00	0	.00
INDUSTRIAL BUILDINGS	2	102,000.00	5	287,099.00	0	.00	0	.00	0	.00	0	.00
COMMERCIAL BUILDINGS	5	1,128,097.00	3	71,550.00	0	.00	1	988,684.00	0	.00	0	.00



DATE SELECTION 4/2011

Permit Type	***** City *****		***** ETA *****		***** County *****	
	Permits 4/2011	Permits 4/2010	Permits 4/2011	Permits 4/2010	Permits 4/2011	Permits 4/2010
Plumbing	25	36	12	12	0	1
Electrical	88	89	0	0	0	0
Mechanical	72	79	13	17	0	4
Drain Field	0	0	6	11	1	0
Hood Suppression	1	3	0	0	0	0
SprinklerStandpipe	1	3	0	0	0	0
Alarm Detection	2	0	0	0	0	0
Total	189	210	31	40	1	5

DATE SELECTION 4/2011

Living Units	***** City *****		***** ETA *****		***** County *****	
	Units 4/2011	Units 4/2010	Units 4/2011	Units 4/2010	Units 4/2011	Units 4/2010
SINGLE FAMILY DETACHED	51	36	29	29	3	1
SINGLE FAMILY ATTACHED	6	27	0	0	0	0
MANUFACTURED HOMES	1	0	0	0	0	0
RESIDENTIAL GARAGES	0	1	0	1	0	1
OTHER	0	3	0	0	0	0
STORAGE SHEDS	0	1	0	0	0	0
BASEMENT FINISH	0	1	0	0	0	0
RESIDENTIAL	1	0	0	0	0	0
Total	59	69	29	30	3	2

DATE SELECTION 4/2011

Permit Type	***** City *****				***** ETA *****				***** County *****			
	4/2011		4/2010		4/2011		4/2010		4/2011		4/2010	
	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation
SINGLE FAMILY DETACHED	59	10,348,839.00	50	8,385,654.00	43	7,337,213.00	35	6,050,043.00	3	662,029.00	2	363,115.00
SINGLE FAMILY ATTACHED	6	855,302.00	33	5,174,423.00	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	0	.00	1	950,000.00	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	4	2,520.00	3	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITHOUT EXTRA	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME WITH EXTRAS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOBILE HOME MISCELLANEOUS	0	.00	1	31,516.00	0	.00	0	.00	0	.00	0	.00
HOTELS	0	.00	1	4,362,000.00	0	.00	0	.00	0	.00	0	.00
MOTELS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
GROUP QUARTERS	0	.00	2	144,700.00	0	.00	0	.00	0	.00	0	.00
NON-STRUCTURAL DEVELOPMEN	0	.00	2	4,380,824.00	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	3	2,975,717.00	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	1	20,000.00	2	657,214.00	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	1	189,256.00	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	2	1,300,000.00	1	85,114.00	0	.00	0	.00	0	.00	0	.00
PUBLIC BUILDING	5	45,046,164.00	1	4,500.00	0	.00	0	.00	0	.00	0	.00
ROOM ADDITIONS	4	70,980.00	4	76,944.00	2	35,934.00	4	385,003.00	1	21,306.00	1	15,000.00
RESIDENTIAL GARAGES	8	73,128.00	18	175,538.00	12	258,016.00	15	230,456.00	4	156,660.00	11	280,040.00
PATIOS AND COVERS	11	25,428.00	24	70,165.00	2	7,440.00	1	6,000.00	0	.00	0	.00
SWIMMING POOLS AND SPAS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER	23	281,850.00	47	999,954.00	4	157,145.00	5	98,200.00	0	.00	3	11,500.00
HOME OCCUPATIONS	1	.00	3	.00	1	.00	0	.00	0	.00	0	.00
STORAGE SHEDS	4	6,212.00	22	39,782.00	0	.00	4	10,164.00	0	.00	0	.00
BASEMENT FINISH	74	376,274.00	51	239,871.00	14	83,308.00	20	99,523.00	0	.00	2	12,650.00
INDUSTRIAL BUILDINGS	3	112,800.00	7	563,681.00	0	.00	0	.00	0	.00	0	.00
COMMERCIAL BUILDINGS	19	3,055,723.00	10	304,528.00	1	84,100.00	1	988,684.00	0	.00	0	.00

DATE SELECTION 4/2011

Permit Type	***** City *****		***** ETA *****		***** County *****							
	4/2011	4/2010	4/2011	4/2010	4/2011	4/2010	4/2011	4/2010				
	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation				
OFFICE & PROFESSIONAL BLD	12	2,472,612.00	28	2,694,052.00	0	.00	0	.00	0	.00	0	.00
OTHER	2	943,057.00	3	396,803.00	0	.00	0	.00	0	.00	0	.00
ALTER PUBLIC	5	2,330,729.00	3	440,000.00	0	.00	0	.00	0	.00	0	.00
APTS 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	2	.00	10	.00	0	.00	0	.00	0	.00	0	.00
OTHER	6	.00	4	.00	0	.00	0	.00	0	.00	0	.00
CHRISTMAS TREE SALES	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
FIREWORKS SALES	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
NURSERY STOCK SALES	3	.00	3	.00	0	.00	0	.00	0	.00	0	.00
TEMPORARY STRUCTURE PERMI	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
CIRCUS/CARNIVAL	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOVE OUT OF PMT LOCATION	0	.00	1	.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	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
NEW SIGN PERMIT	27	392,923.00	13	71,062.00	0	.00	1	1,945.00	0	.00	0	.00
SIGN ALTERATION	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
ELECTRONIC MESSAGE CENTER	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
	281	67,714,541.00	352	33,413,298.00	79	7,963,156.00	86	7,870,018.00	8	839,995.00	19	682,305.00

DATE SELECTION 4/2011

Permit Type	***** City *****		***** ETA *****		***** County *****	
	4/2011 Permits	4/2010 Permits	4/2011 Permits	4/2010 Permits	4/2011 Permits	4/2010 Permits
Plumbing	89	99	20	18	0	1
Electrical	332	268	0	0	0	0
Mechanical	396	315	58	50	2	9
Drain Field	0	0	6	11	1	0
Hood Suppression	1	3	0	0	0	0
SprinklerStandpipe	1	3	0	0	0	0
Alarm Detection	2	0	0	0	0	0
Total	836	697	86	80	3	10

DATE SELECTION 4/2011

Living Units	***** City *****		***** ETA *****		***** County *****	
	Units 4/2011	Units 4/2010	Units 4/2011	Units 4/2010	Units 4/2011	Units 4/2010
SINGLE FAMILY DETACHED	58	50	43	35	3	2
SINGLE FAMILY ATTACHED	6	33	0	0	0	0
FIVE & MORE FAMILY	0	9	0	0	0	0
MANUFACTURED HOMES	1	0	0	0	0	0
GROUP QUARTERS	0	2	0	0	0	0
RESIDENTIAL GARAGES	0	1	0	1	0	1
OTHER	0	3	0	0	0	0
STORAGE SHEDS	0	1	0	0	0	0
BASEMENT FINISH	5	4	0	1	0	0
RESIDENTIAL	1	0	0	0	0	0
Total	71	103	43	37	3	3