

Community Development Department

BISMARCK PLANNING AND ZONING COMMISSION
MEETING AGENDA
August 24, 2011

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

Item No. Page

MINUTES

- 1. Consider the approval of the minutes of the July 27, 2011 meeting of the Bismarck Planning and Zoning Commission.

CONSENT AGENDA

CONSIDERATION

The following items are requests for a public hearing.

- 2. Lot 1, Block 1, Schilling First Subdivision - PUD Amendment (JT)..... 1
Staff recommendation: schedule a hearing [] schedule a hearing [] table [] deny
3. Stormwater Management Ordinance - Zoning Ordinance Text Amendment (Klee).....23
Staff recommendation: schedule a hearing [] schedule a hearing [] table [] deny

REGULAR AGENDA

FINAL CONSIDERATION/PUBLIC HEARINGS

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

- 4. Lot 2, Block 1, Country West IV 2nd Replat - Special Use Permit (Church) (G2)67
Staff recommendation: approve with conditions [] approve [] continue [] table [] deny
5. Promontory Point IV Addition 1st Replat - Minor Subdivision Final Plat (G2).....73
Staff recommendation: approve [] approve [] continue [] table [] deny



6. **Miriam Industrial Park 2nd Addition 1st Replat – Minor Subdivision Final Plat (JT).....79**

Staff recommendation: continue approve continue table deny

7. **Lots 1-3 and 18-23, Block 5, Shannon Valley Addition – Zoning Change
(R5, RM5 & RM10 to R10) (Klee).....85**

Staff recommendation: approve approve continue table deny

OTHER BUSINESS

8. **Other**

ADJOURNMENT

9. **Adjourn.** The next regular meeting date is scheduled for Wednesday, September 28, 2011.

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

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

BACKGROUND:		
Title: Lot 1, Block 1, Schilling First Addition – Major PUD Amendment		
Status: Planning Commission – Consideration	Date: August 24, 2011	
Owner(s): Schilling Properties, LLC	Engineer: None	
Reason for Request: The applicant wishes to develop the remaining portion of the property with a five-story mixed use building that would include below-grade parking, offices, document and record storage and three residential units on the fifth floor.		
Location: Along the north side of 43 rd Avenue NE just east of US Highway 83(1400 43 rd Avenue NE).		
Project Size: 4.386 acres	Number of Lots: 1 lots in 1 block	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Six cold-storage buildings	Land Use: Five-story, mixed-use building to include offices, three condos, document and record storage and six cold-storage units as constructed	
Zoning: PUD – Planned Unit Development	Zoning: PUD – Planned Unit Development	
Uses Allowed: PUD – One residential unit, office facilities and interior and exterior storage buildings	Uses Allowed: PUD- Five-story, mixed-use building to include offices, three condos, document and record storage and six cold-storage units as constructed	
Maximum Density Allowed: PUD – One residential unit	Maximum Density Allowed: PUD – Two condo units	
PROPERTY HISTORY:		
Zoned: 09/96	Platted: 09/96	Annexed: 09/96
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> 1. The property was zoned as a PUD in 1996 for the purposes of creating a storage facility with up to 12 buildings and one single-family dwelling to be constructed on-site. 2. In 2003 the owners submitted an application for an amendment to the PUD to allow the construction of an “over and under” storage building and installing landscaping in-lieu of a previously-proposed security wall. It was determined that the applicant’s proposal did not constitute a major change from the original PUD. No action was taken on the request and the application was withdrawn. 3. Currently there are six storage buildings located on the eastern 320 feet of the parcel. The west 334 feet is vacant and undeveloped. The site is accessed by a single approach off of 43rd Avenue NE. The site plan included with the application indicates the continued use of the existing driveway. 		
<i>continued...</i>		

4. 14-04-18 of the Bismarck Code of Ordinances (Zoning) indicates that the intent of the City's Planned Unit Development district is "to encourage flexibility in development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the adequate and economical provision of streets and utilities; and to preserve the natural and scenic features of open space." A copy of this section is attached.
5. The first two storage buildings in the original PUD were constructed in 1997. In 2003 a site plan was submitted and approved for the second phase of buildings; the plan included landscaping throughout the property. At this time, no landscaping has been installed on the property. Information and correspondence from the applicant in the project file states "We will commit to planting trees and shrubbery around the perimeter of the PUD at a time when we and the City Forester feel confident that we will not disrupt services provided by the cable company and most of the additional fill has been placed next to the PUD."
6. The site plan that was submitted in conjunction with the special use permit application in 1996 demonstrated a series of storage buildings, a residential dwelling and screening/security walls around the facility. The development of the current facility has deviated slightly from the original proposal.

FINDINGS:

1. The proposed amendment to the PUD would be consistent with the US Highway 83 Corridor Transportation Study recommendations, which identifies this area as commercial and mixed uses. Mixed uses include residential, office and commercial uses.
2. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include partially-developed commercial property to the north, undeveloped, commercially-zoned property to the east, office uses south of 43rd Avenue NE and US Highway 83 to the west.
3. The area is already annexed; therefore the proposed amendment would not place an undue burden on public services.
4. The proposed amendment would not adversely affect property in the vicinity.
5. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed amendment is consistent with all adopted plans, policies and accepted planning practice.

RECOMMENDATION:

Based on the above findings, staff recommends scheduling a public hearing for the major PUD amendment for Schilling First Subdivision. A draft PUD amendment document is attached.

**SCHILLING FIRST SUBDIVISION PLANNED UNIT DEVELOPMENT
ORDINANCE NO. 4783 (Adopted August 13, 1996)
MAJOR PUD AMENDMENT (Adopted _____)**

WHEREAS, Ordinance No. 4783 was adopted by the Board of City Commissioners on August 13, 1996; and

WHEREAS, the ordinance indicates that any change in the uses outlined in the ordinance requires an amendment to the PUD; and

WHEREAS, Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments) outlines the requirements for amending a PUD; and

WHEREAS, Schilling Properties, LLC has requested an amendment to the Planned Unit Development for Schilling First Subdivision.

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

Lots 1, Block 1, Schilling First Subdivision

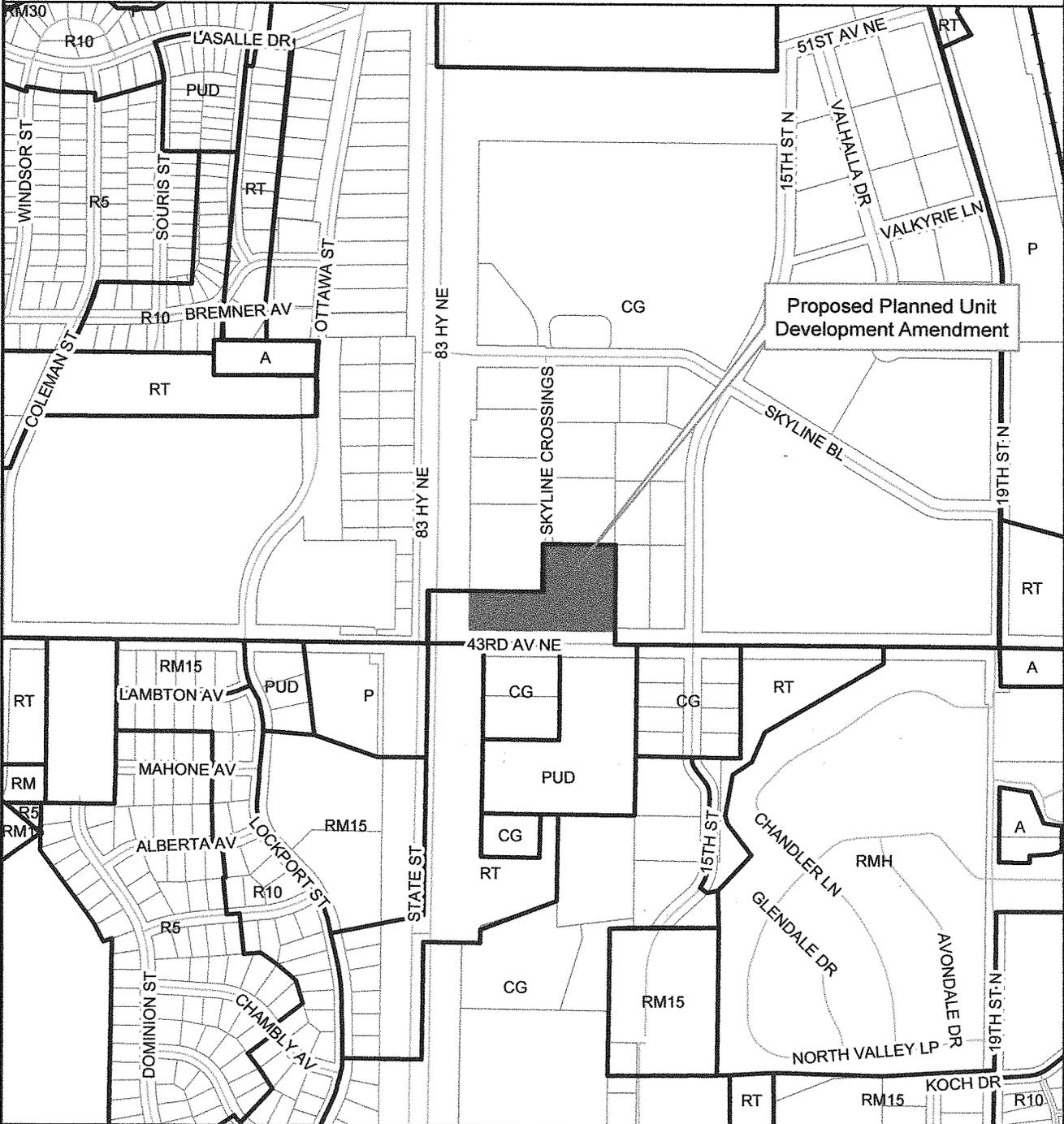
is hereby approved and this PUD is now subject to the following development standards:

1. *Uses Permitted.* ~~One residential unit, office facilities and interior & exterior storage facilities.~~ Uses permitted include a mixed use development, including the six storage facilities as constructed in 1997 & 2003, and a 5-story building containing office uses, document and record storage, a maximum of 3 residential units and below-grade parking. The configuration of the buildings on-site shall closely resemble the site plan submitted with the application. Any change in the use of any building from that indicated above will require an amendment to this PUD.
2. *Residential Development Standards.* The maximum allowable density shall be 3 units.
3. *Commercial Development Standards.* The mixed-use building on the west 334 feet of Lot 1 shall be no larger than 56,000 square feet in size and no taller than five stories with below-grade parking. The setbacks for the 5-story building shall be a minimum front yard setback of 50 feet along 43rd Avenue NE, a minimum front yard setback of 50 feet along US HWY 83, a minimum side yard setback of 10 feet on the east and a minimum rear yard setback of 10 feet north. The minimum building setback requirements for the existing storage facilities adjacent to 43rd Avenue NE shall be a front yard setback of 15 feet along 43rd Avenue NE, a minimum rear yard setback of 10 feet, and a

minimum side yard setback of 10 feet. Setbacks between buildings within the PUD shall be the minimum allowed under the City's building code.

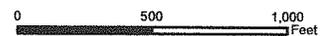
4. *Parking.* Parking and Loading. Parking and loading areas shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. All off-street parking spaces required and all driveways on private property leading to such parking areas shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock or gravel shall not be considered an acceptable surfacing material. All parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement.
5. *Landscaping and Screening.* Landscaping shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).
6. *Screening of Mechanical Equipment and Solid Waste Collection Areas.* Mechanical equipment and solid waste collections areas shall be screened in accordance with Section 14-03-12 of the City Code of Ordinances (Screening of Mechanical Equipment and Solid Waste Collection Areas).
7. *Signage.* Signage for the development may be installed in accordance with the provisions of Sec14-03-05 (9) (Residential Area Identification Signs). Off-premise advertising signs (billboards) are specifically prohibited within this development.
8. *Changes.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and a majority vote of the Bismarck Planning & Zoning Commission.

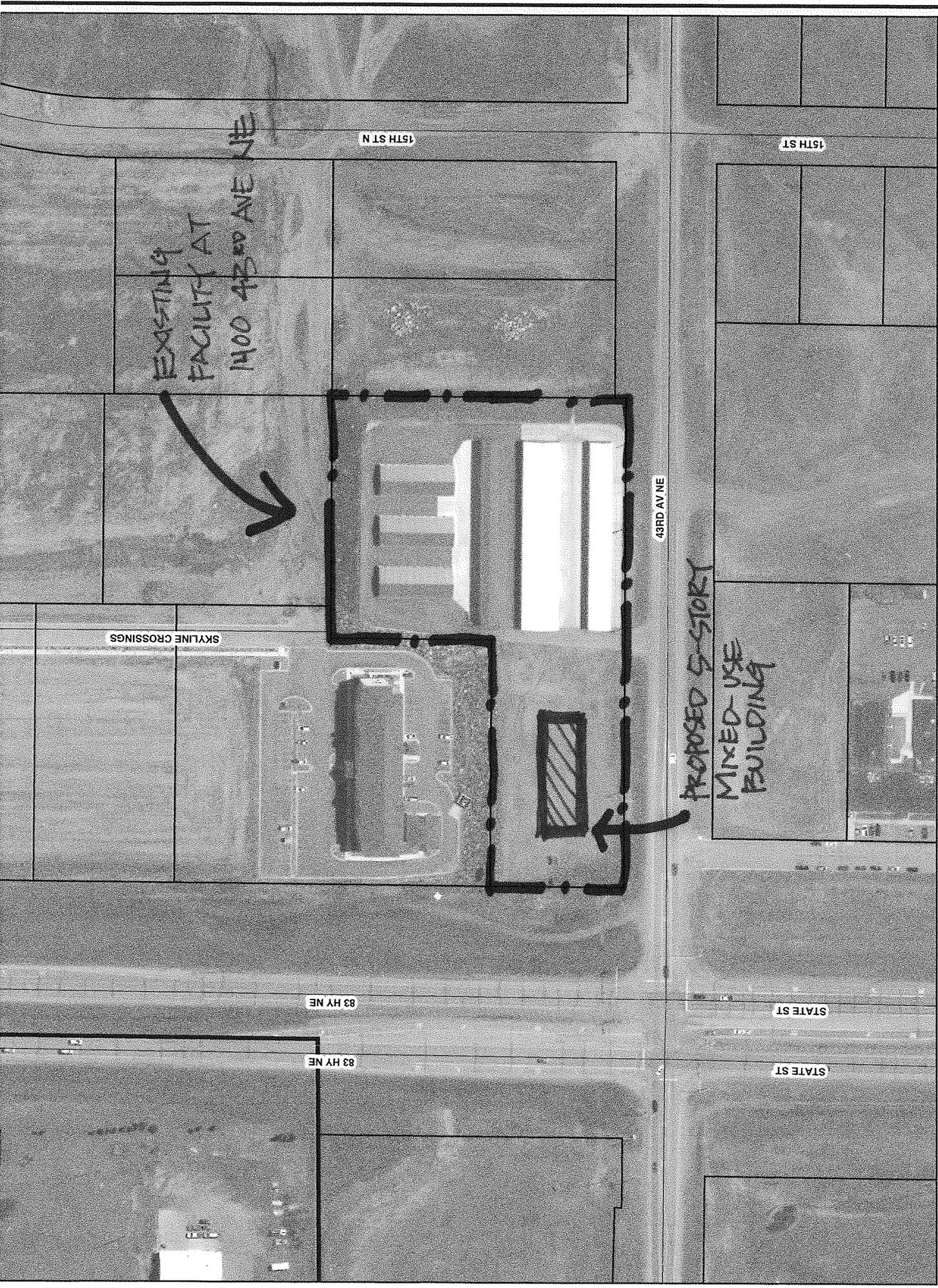
Proposed Planned Unit Development Amendment Lot 1, Block 1, Schilling First Subdivision



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: July 6, 2011 (kdg)

Source: City of Bismarck





EXISTING FACILITY AT 1400 43RD AVE NE



15TH ST

15TH ST

43RD AV NE

SKYLINE CROSSINGS

PROPOSED 9-STORY MIXED-USE BUILDING

83 HY NE

STATE ST

83 HY NE

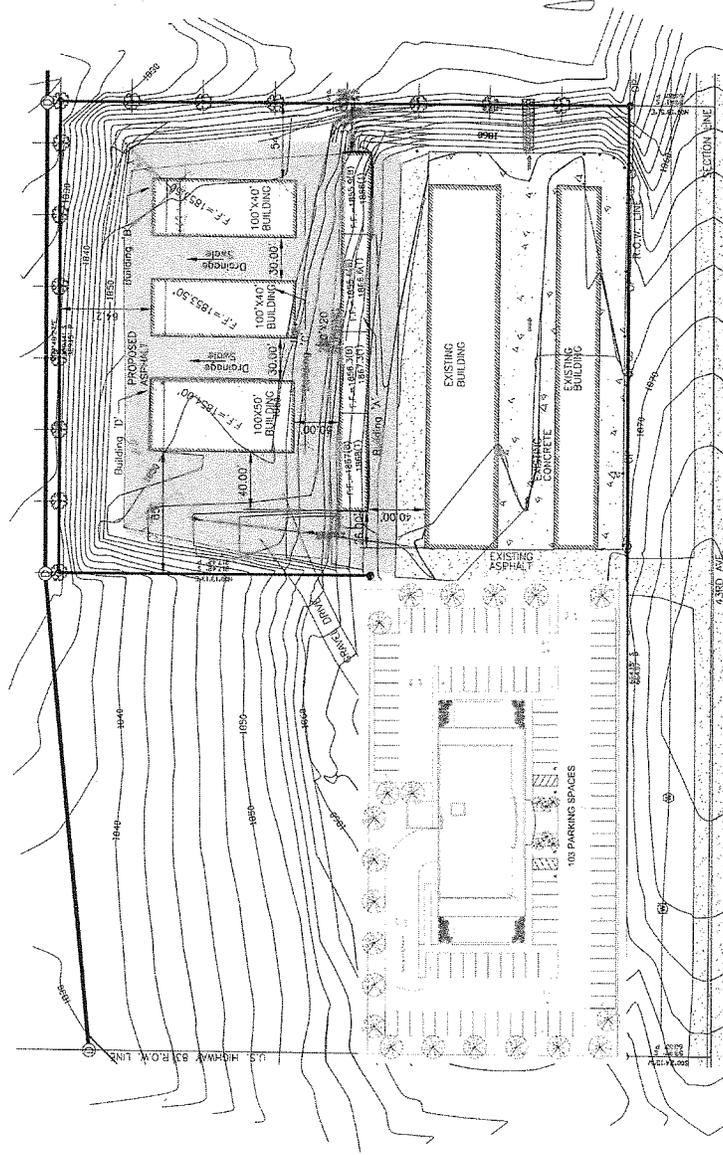
STATE ST

RECEIVED

AUG 03 2011

SW 1/4, SW 1/4, SECTION 15, T 139 N, R 80 W
ADDRESS: 1440 43RD AVE. NORTH
BISMARCK, NORTH DAKOTA

PROPOSED SITE





Energy Vista

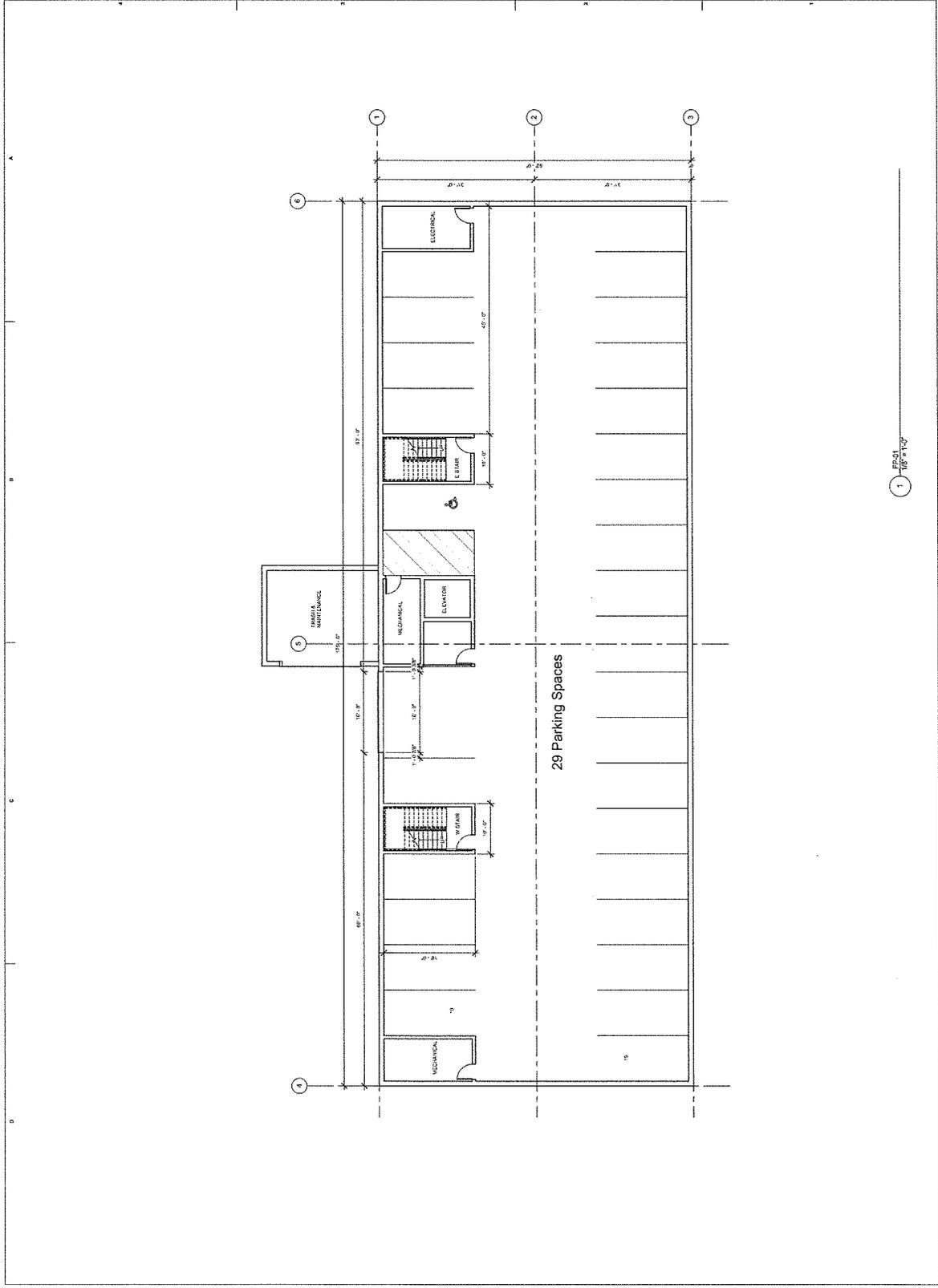
Bismarck, North Dakota

May 18, 2011

Conceptual Rendering

109-0081

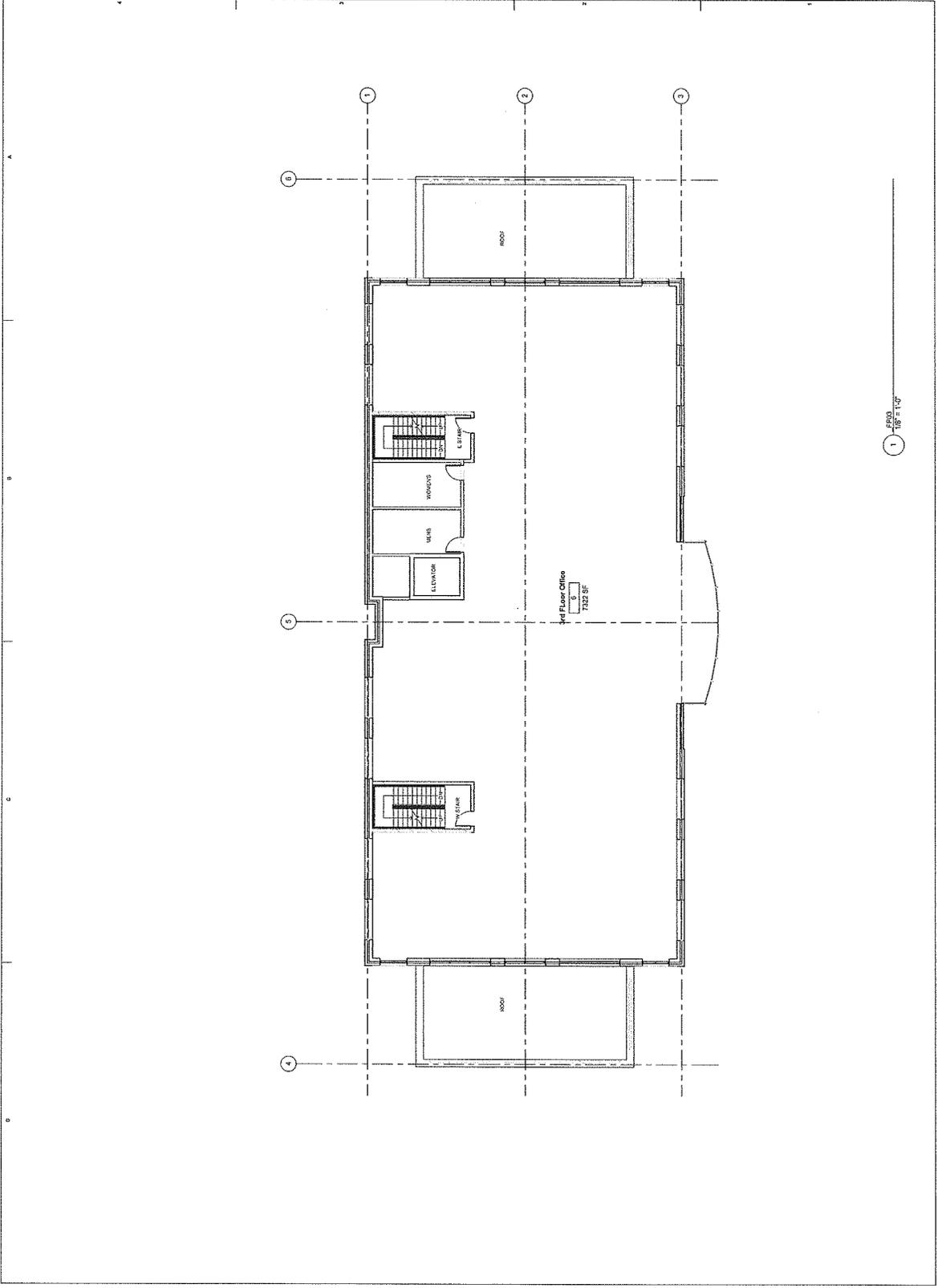
DATE: 08.27.11
PROJECT: BISMARCK OFFICE BUILDING
DRAWN BY: [Name]
CHECKED BY: [Name]
SCALE: AS SHOWN
SHEET: 100-100-100-100
REVISIONS:
NO. DATE DESCRIPTION
1 08.27.11



Bismarck Office Building
145 EAST AVENUE, NORTH BISMARCK, ND
PROJECT MANAGER: NOT FOR CONSTRUCTION

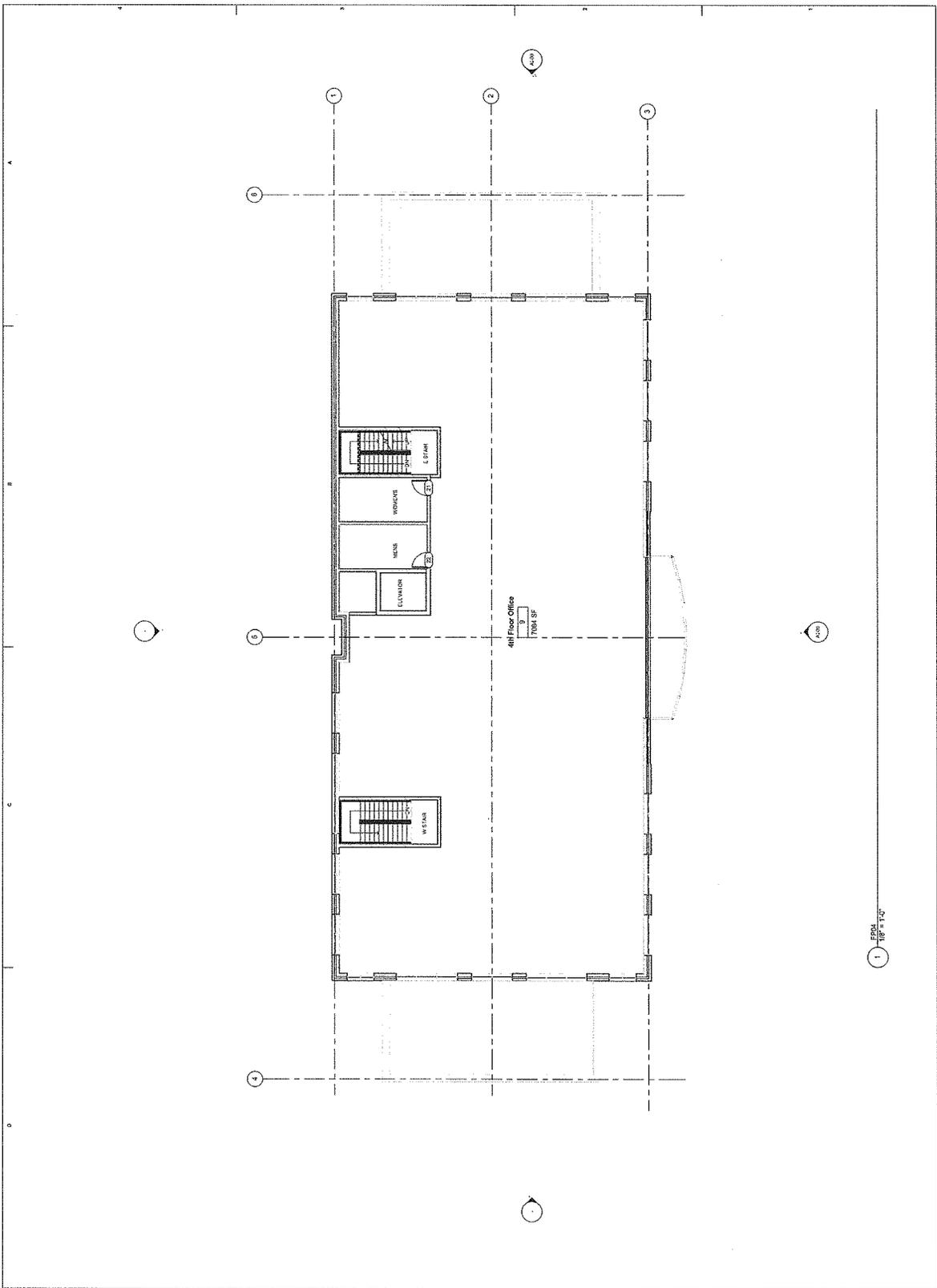
DATE	05/27/11
DESIGNED BY	AD/MS
CHECKED BY	AD/MS
PROJECT NO.	109081.0
DATE	05/27/11
DESIGNED BY	AD/MS
CHECKED BY	AD/MS
PROJECT NO.	109081.0

DJR ARCHITECTURE, INC.
107 1/2 S. 2ND AVENUE, SUITE 200
BISMARCK, ND 58101
701.782.2222



1/8" = 1'-0"

Project: 10-000-0
 Date: 02.27.11
 Drawn By: ADP
 Checked By: ADP
 Scale: 1/8" = 1'-0"
 Project Location: 10000 W. 10th Ave., Suite 1000, Denver, CO 80202
 Client: Energy Vista Office Building
 Architect: DJR Architecture, Inc.
 10000 W. 10th Ave., Suite 1000, Denver, CO 80202
 Phone: 303.733.1111
 Fax: 303.733.1112
 Website: www.djrarch.com



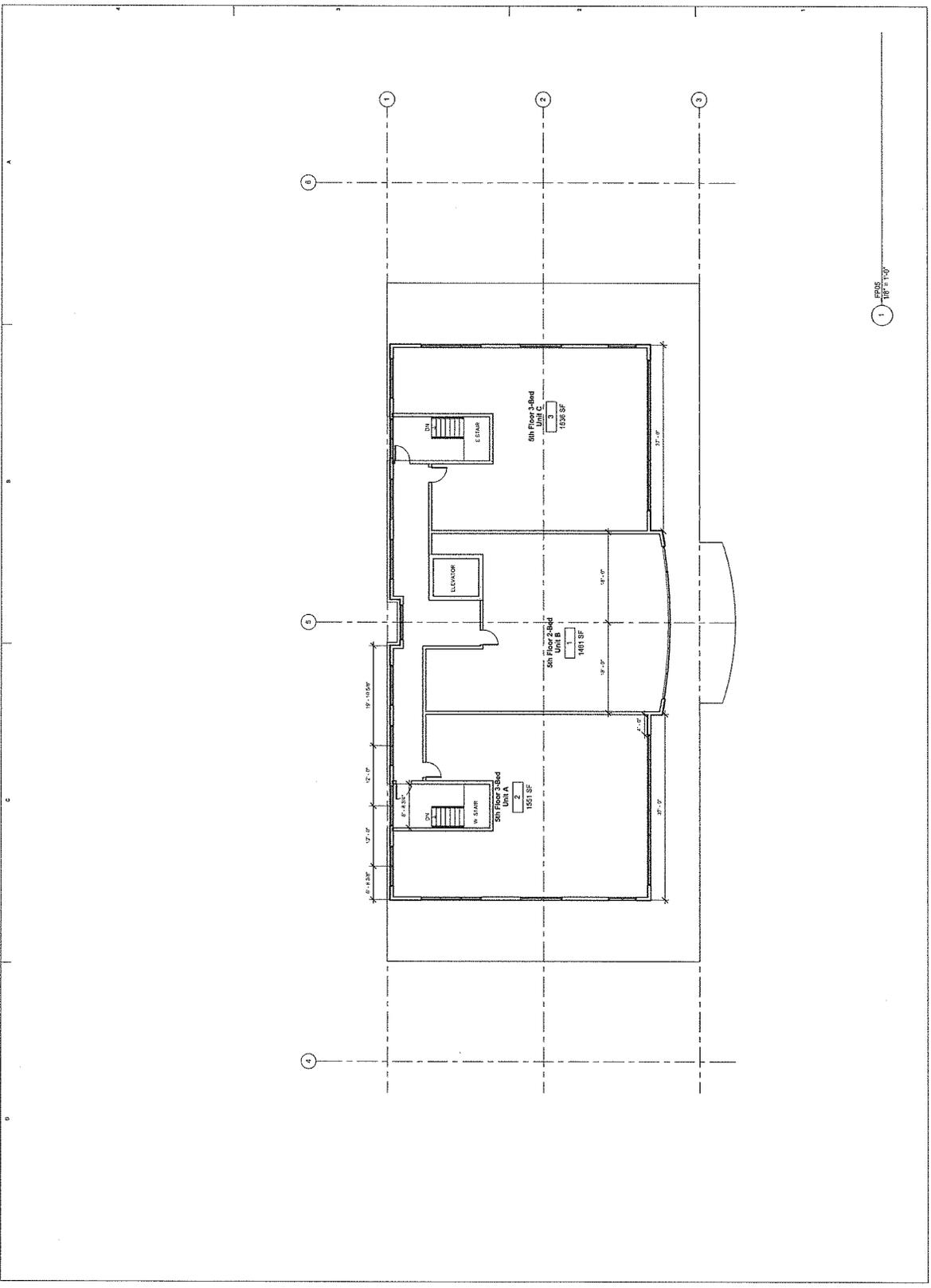
A150

Fifth Floor Plan
1100 AVENUE NORTH BISMARCK, ND

Bismarck Office Building
PERMANENTLY NOT FOR CONSTRUCTION

DATE: 08/27/11
DRAWN BY: ADAM
CHECKED BY: CHADWICK
PROJECT: 09-0017-0
SHEET: 05/21/11

DJR
ARCHITECTURE, INC.
201 WEST 10TH AVENUE, SUITE 200
BISMARCK, ND 58102
PHONE: 701.223.1111
WWW.DJRARCHITECTURE.COM



feet. Accessory buildings for the above computations shall include the following buildings: barns, stables and storage buildings, attached and detached garages. Attached garages are not included in the above computations, provided the area occupied by an attached garage does not exceed one and one-half times the area of the footprint of the dwelling portion of the principal structure to which it is attached.

All allowable accessory buildings to a non-farm single-family residence may be increased to a maximum of fifteen thousand (15,000) square feet in area, provided:

a. The property on which the accessory building(s) is to be located is no less than 80 acres in size.

b. The property on which the accessory building(s) is to be located is at least two (2) miles from the current corporate limits of Bismarck.

c. A special use is approved by the Planning Commission in accordance with the provisions of Section 14-03-08.

(Ord. 4486, 04-27-93; Ord. 4564, 11-23-93; Ord. 4803, 11-12-96; Ord. 5026, 02-08-00; Ord. 5027, 02-08-00; Ord. 5286, 11-13-03; Ord. 5287, 12-16-03; Ord. 5368, 11-23-04; Ord. 5478, 12-13-05; Ord. 5665, 05-27-08)

SEGIN. 14-04-18. Planned Unit Developments. It is the intent of this section to encourage flexibility in development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the adequate and economical provision of streets and utilities; and to preserve the natural and scenic features of open space.

1. Site plan, written statement and architectural drawings. The application must be accompanied by a site plan, a written statement and architectural drawings:

a. Site plan. A complete site plan of the proposed planned unit prepared at a scale of not less than one (1) inch equals one hundred (100) feet shall be submitted in sufficient detail to evaluate the land planning, building design, and other features of the planned unit. The site plan must contain, insofar as applicable, the following minimum information.

1) The existing topographic character of the land;

2) Existing and proposed land uses;

- 3) The location of all existing and proposed buildings, structures and improvements;
- 4) The maximum height of all buildings;
- 5) The density and type of dwelling;
- 6) The internal traffic and circulation systems, off-street parking areas, and major points of access to public right-of-way;
- 7) Areas which are to be conveyed, dedicated or reserved as common park areas, including public parks and recreational areas;
- 8) Proposed interior buffer areas between uses;
- 9) Acreage of PUD;
- 10) Utility service plan showing existing utilities in place and all existing and proposed easements;
- 11) Landscape plan; and
- 12) Surrounding land uses, zoning and ownership.

b. Written statement. The written statement to be submitted with the planned unit application must contain the following information:

- 1) A statement of the present ownership and a legal description of all the land included in the planned unit;
- 2) An explanation of the objectives to be achieved by the planned unit, including building descriptions, sketches or elevations as may be required to describe the objectives; and
- 3) A copy of all proposed condominium agreements for common areas.

c. Architectural drawings - the following architectural drawings shall be submitted in sufficient detail to allow evaluation of building height, form,

massing, texture, materials of construction, and type, size, and location of door and window openings:

1) Elevations of the front and one side of a typical structure.

2) A perspective of a typical structure, unless waived by the planning department.

2. Review and approval.

a. All planned units shall be considered by the planning commission in the same manner as a zoning change. The planning commission may grant the proposed planned unit in whole or in part, with or without modifications and conditions, or deny it.

b. All approved site plans for planned units, including modifications or conditions shall be endorsed by the planning commission and filed with the Director of Community Development. The zoning district map shall indicate that a planned unit has been approved for the area included in the site plan.

3. Standards. The planning commission must be satisfied that the site plan for the planned unit has met each of the following criteria:

a. Proposal conforms to the comprehensive plan.

b. Buffer areas between noncompatible land uses may be required by the planning commission.

c. Preservation of natural features including trees and drainage areas should be accomplished.

d. The internal street circulation system must be designed for the type of traffic generated. Private internal streets may be permitted if they conform to this ordinance and are constructed in a manner agreeable to the city engineer.

e. The character and nature of the proposal contains a planned and coordinated land use or mix of land uses which are compatible and harmonious with adjacent land areas.

4. Changes.

a. Minor changes in the location, setting, or character of buildings and structures may be authorized by the Director of Community Development.

b. All other changes in the planned unit shall be initiated in the following manner:

1) Application for Planned Development Amendment.

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

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

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

3) Public Hearing by Planning Commission. Following preliminary approval of an amendment application, the Director of Community Development shall set a time and place for a public hearing thereon. Notice of the time and place of holding such public hearing shall be published in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive weeks prior to the hearing. Not less than ten (10) days prior to the date of the scheduled public hearing, the City shall attempt to notify all known adjacent property owners within three hundred (300) feet of the planned unit development

amendment. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Burleigh County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The Planning Commission may approve, approve subject to certain stated conditions being met, deny or table the application for further consideration and study, or, because of the nature of the proposed change, make a recommendation and send to the Board of City Commissioners for final action.

END.

(Ord. 4364, 05-07-91; Ord. 4876, 11-25-97; Ord. 4946, 10-27-98; Ord. 5218, 11-26-02; Ord. 5343, 06-22-04; Ord. 5351, 08-24-04; Ord. 5728, 05-26-09)

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

1. Statement of purpose. It is the purpose of this section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- a. To protect human life and health;
- b. To minimize expenditure of public money for costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding, generally undertaken at the expense of the general public;
- d. To minimize prolonged business interruptions;
- e. To minimize damage to public facilities and utilities located in special flood hazard areas such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges;
- f. To help maintain a stable tax base by providing for the use and development of special flood hazard areas so as to minimize future flood blight areas;
- g. To ensure that potential buyers are notified that property is located in a special flood hazard area;

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 TITLE 14.1 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO STORMWATER MANAGEMENT.

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

Section 1. Amendment. Title 14.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Stormwater Management is hereby amended and re-enacted to read as follows:

CHAPTER 14.1-01 - GENERAL PROVISIONS

14.1-01-01. Purpose and Policy. This title sets forth uniform requirements for stormwater management systems within the City and its extraterritorial jurisdiction. It is the intent of the Board of City Commissioners that the requirements and standards contained in this ordinance title comply with all applicable state and federal laws. In the event of any conflict between the provisions of this ordinance title and the provisions of an erosion control, shoreland protection, or floodplain ordinance, or other regulations adopted by the City, County, State or Federal authorities, the more restrictive standard prevails.

The objectives of this title are:

1. To promote, preserve, and enhance the natural resources within the City of Bismarck and its extraterritorial jurisdiction;
2. To protect and promote the health, safety, and welfare of the people and property through effective stormwater management practices;

3. To protect the City's and surrounding area's natural resources from adverse impacts occasioned by development or other activities;

4. To regulate land development, land disturbing, or other activities that may have an adverse and potentially irreversible impact on water quality and environmentally sensitive lands;

5. To minimize conflicts and encourage compatibility between land disturbing and development activities and environmentally sensitive issues (i.e. land, water, habitat, etc.);

6. To require detailed review standards and procedures for land development activities proposed throughout the City, and its extraterritorial jurisdiction, thereby achieving a balance between urban growth and development, and the protection of water quality; and

7. To provide for the protection of surrounding or adjacent properties from water and wind erosion through the use of best management practices that meet the intended use; and

78. To provide for adequate stormwater system analysis and appropriate stormwater system design as necessary to protect public and private property, water quality, and existing natural resources. This title establishes and provides for the following stormwater management criteria:

a). The regulation of development through the issuance of stormwater permits and through the enforcement of general stormwater drainage requirements throughout the City and its extraterritorial jurisdiction. It also authorizes monitoring and enforcement activities, and provides for the setting of applicable fees for the equitable distribution of costs associated with the administration of the stormwater management program established herein.

b). The regulation of, and the establishment of criteria for, public underground storm sewers, artificial and natural open channel drainage systems, stormwater detention and retention ponds, and private

stormwater drainage systems ultimately discharging into the public system.

c). The regulation of development activities as they relate to managing stormwater volumes, rates of runoff, flow duration, and their subsequent impacts to downstream property and stormwater management facilities.

d). Provides for a stormwater management system user charge and the method for calculating charges for each user classification. Procedures for rate adjustments and annual review criteria are established.

e). Penalties for violating the provisions of this ordinance, and the orders, rules, regulations and permits issued hereunder.

f). Applies in the City of Bismarck, North Dakota, and its extraterritorial jurisdiction, and to persons outside the City who are, by contract or agreement with the City, users of the City stormwater management system. Except as otherwise provided herein, the City Engineer shall administer, implement, and enforce the provisions of this ordinance.

(Ord. 4817, 02-25-97)

14.1-01-02. Transfer of Authority. The City may, through the use of a joint powers agreement, transfer the authority for the administration and enforcement of this title in the City's extraterritorial area to another entity.

14.1-01-023. Definitions. For the purpose of this ordinance and title, the following terms, phrases, and words, and their derivatives, shall have the meaning as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always permissive.

Agricultural Land Use: The use of land for planting, growing, cultivating and harvesting crops for human or livestock consumption and pasturing or yarding of livestock.

Applicant: Any person wishing to obtain a building permit, special use permit, zoning change, ~~or~~ subdivision approval, stormwater permit or development permit.

Base Flood or 100-year Flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year (~~i.e. 100 year flood~~). ~~It is also referred to as the regional flood.~~

Board of City Commissioners: The Board of City Commissioners of the City of Bismarck.

City: The City of Bismarck ~~or the Board of City Commissioners of the City of Bismarck~~.

City Engineer: The City Engineer of the City of Bismarck or a duly authorized representative of the City Engineer.

Control Measure: A practice or combination of practices to control erosion and attendant pollution.

Conveyance Structure: A pipe, open channel, or other facility that transports runoff from one location to another.

County Engineer. The County Engineer of Burleigh County or a duly authorized representative of the County Engineer.

Design Standards Manual: The Stormwater Design Standards Manual, as originally adopted by the Board of City Commissioners and as subsequently amended by technical amendments by the City Engineer, which contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan.

Detention Facility: A natural or manmade structure, including wetlands, ponds, parking lots, depressed grassy areas, roof tops, buried underground tanks, or other structures, used for the temporary storage and future or controlled release of runoff. Such facilities are used to delay or attenuate flow, which may contain a pool of water during times of storage, ~~or~~ and may be dry during times of no runoff.

Development: Any man-made change to improved or unimproved property, including any land disturbing activity, construction or the subdivision of land.

Development Permit: A permit issued prior to the initial construction of an approved subdivision within the City's extraterritorial area.

Development Properties: Lands and properties located within an approved stormwater management permit boundary.

Developer: A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.

E.P.A.: The United States Environmental Protection Agency.

~~Engineer: The City Engineer of the City of Bismarck or authorized agent.~~

Erosion: Any process that wears away at the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

Erosion and Sediment Control Plan: A written description of the number, locations, sizes, and other pertinent information about best management practice methods designed to meet the requirements of this ordinance.

Extraterritorial Jurisdiction: The territorial zoning and subdivision authority of the City which extends to all unincorporated land located within four (4) miles of the corporate limits of the City as authorized by Section 40-47-01.1 of the North Dakota Century Code.

Final Stabilization: Activities following rough grading of the site to permanently make the site steadfast or firm, minimizing soil movement by establishing a perennial vegetative grass cover by mulching and seeding, sodding, landscaping, concrete, gravel, or other permanent best management practices. The density of the vegetative cover shall be as required in the Design Standards Manual.

~~Flood Fringe: That portion of the flood plain outside of the floodway.~~

~~Floodplain or flood-prone area: The areas adjoining a water course or water basin that have been or may be covered by a regional or base flood. Any land area susceptible to partial or complete inundation by water from any source.~~

~~Floodplain Administrator: The person designated by the City of Bismarck to administer the City's floodplain regulations.~~

Floodplain Management: The regulation of the nature and location of construction on (or other occupancy of) lands subject to inundation by flood waters, so that foreseeable (probable) flooding damages will have an average annual risk smaller than some preselected amount. Floodplain management consists of technical and nontechnical studies, policies, management strategies, statutes and ordinances that collectively manage floodplains along rivers, streams, major drainageways, outfalls, or other conveyances. The federal government normally plays a major role in floodplain planning and management, whereas in urban stormwater management and design, local governments dominate the decision-making process.

~~Floodway or Regulatory Floodway: The channel of the water course, the bed of water basins, and those portions of the adjoining flood plains that are reasonably required to carry and discharge floodwater and provide water storage during a regional or base flood. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.~~

Hydric Soils: Soils that are saturated, flooded, or covered by water long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

Hydrophytic Vegetation: Macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Impervious Area: Impermeable surfaces, such as pavement or rooftops, which prevent the infiltration of water into the soil.

Land Development Activity: The construction or demolition of buildings, roads, parking lots, paved storage areas, and similar facilities.

Land Disturbing Activity: Any manmade change of the land surface including removing vegetative cover, excavating, filling and grading, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; and harvesting trees.

Landowner: Any person holding title to or having an interest in land.

Land User: Any person operating, leasing, renting, or having made other arrangements with a landowner by which the landowner authorizes use of their land.

Local Detention: Detention provided to serve only the developing area in question and no areas outside of the development boundaries. This is also known as on-site detention.

Local Drainage System: The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system serving only the property within the development boundaries. This is also known as the on-site drainage system.

Major Stormwater System: The portion of the total stormwater system that collects, stores, and conveys runoff that exceeds the capacity of the minor system. The major drainageways are readily recognizable as natural or improved channels that convey runoff that exceeds the capacity of the minor drainage system, including emergency overflow facilities. It transports the minor and major stormwater runoff and serves more than the area within the development boundaries. The major system is usually less controlled than the minor system, and will function regardless of whether or not it has been deliberately designed and/or protected from encroachment, including when the minor system is blocked or otherwise inoperable. The

major stormwater system is usually evaluated for the one hundred (100) year runoff event.

Management Practice: A practice or combination of practices to control erosion and water quality degradation.

Minor Stormwater System: The portion of the total drainage system that collects, stores and conveys frequently occurring runoff, and provides a relief from nuisance and inconvenience. This system has traditionally been carefully planned and constructed, and normally represents the major portion of the urban drainage infrastructure investment. The degree of inconvenience the public is willing to accept, balanced against the price it is willing to pay, typically establishes the drainage capacity or design recurrence frequency of a minor system. Minor systems include roof gutters and on-site drainage swales, curbed or side-swaled streets, stormwater inlets, underground storm sewers, open channels and street culverts. Generally, the minor stormwater system is designed to accommodate the minor (or ordinary) storm recurring at regular intervals, generally from two (2) to ten (10) years.

Multiple-Purpose Facility: An urban stormwater facility that fulfills multiple functions, such as enhancement of runoff quality, erosion control, wildlife habitat, or public recreation, in addition to its primary purpose of conveying or controlling runoff.

National Pollution Discharge Elimination System (NPDES) Permit: Any permit or requirement enforced by the North Dakota State Department of Health pursuant to the Clean Water Act as amended for the purposes of regulating stormwater discharge.

Notice of Transfer (NOT): Documentation indicating that the responsibilities of the stormwater permit have been transferred by the transfer of a parcel of land.

On-Site Detention: Detention provided to serve only the developing area in question and no significant areas outside of the development boundaries. This is also referred to as local detention.

Outfall Facility: Any channel, storm sewer, or other conveyance receiving water into which a storm drain or storm drainage system discharges.

Outlet: Any outlet including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

Owner or Occupant: Any person owning or using a lot, parcel of land, or premises connected to and discharging stormwater into the stormwater system of the City, and who pays for and is legally responsible for the payment of stormwater rates, special assessments or charges made against the lot, parcel of land, building or premises, if connected to the stormwater system or who would pay or be legally responsible for such payment.

Permanent Development: Any buildings, structures, landscaping and related features constructed as part of a development project approved under a stormwater permit.

Permanent Facilities: Those features of a stormwater management plan which are part of any natural or constructed stormwater system that require periodic or minimal maintenance to retain their operational capabilities. This includes but is not limited to storm sewers, infiltration areas, detention areas, channels, streets, etc.

Permittee: Any person who applies for and receives a stormwater or other permit from the City under this title.

Person: Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency - public or private.

Private Drainage Channel: A drainage channel on privately-owned land or easements which eventually discharges into a public drainage channel or public storm sewer.

Private Storm Sewer: A storm sewer on privately-owned land or easements which eventually discharges into a public drainage channel or public storm sewer.

Public Drainage Channel: A drainage channel located entirely within a naturally occurring or constructed

watercourse located on public lands or within a dedicated public easement.

Public Storm Sewer: A storm sewer located entirely within publicly owned land or easements.

Regional Detention: Detention facilities provided to serve an area outside the development of boundaries. A regional detention site generally receives runoff from multiple stormwater sources.

Regional Drainage System: The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system generally serving multiple sources or developments.

~~Regional Flood: A flood that is representative of large floods known to have occurred generally in the state and recently characteristic of what can be expected to occur on an average frequency in the magnitude of a one hundred (100) year recurrence interval. It is also referred to as the base flood.~~

Retention Facility: A natural or manmade structure that provides for the storage of stormwater runoff by means of a pool of stored water. Such facilities are designed to eliminate subsequent surface discharge and, where applicable, provide for the treatment of stormwater runoff. Wet ponds are the most common type of retention facility (although wet ponds may also be used as a detention facility).

Runoff: The rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.

Sediment: Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.

Site: The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the permit application.

Stabilize: To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, concrete, gravel, or other measures.

State: The State of North Dakota.

Storm Sewer: A pipe or conduit for carrying storm waters, surface runoff, street and wash waters, and drainage, excluding sewage and industrial wastes.

Stormwater: The flow of water which results from precipitation and which occurs immediately following rainfall or a snowmelt.

~~Stormwater Detention: Temporary storage of stormwater runoff in ponds, parking lots, depressed grassy areas, roof tops, buried underground tanks, etc., for future or controlled release. Used to delay and attenuate flow.~~

Stormwater Easement: An easement dedicated for the purpose of conveying or detaining stormwater. This may be accommodated by installing storm sewer, or for conveying surface water by means of utilizing natural topography or constructing a drainage channel. Certain uses within this easement are prohibited including but not limited to, structures trees, fences, any other elements or uses that may result in any obstruction to flows within this easement, or other incompatible uses, such as septic systems and drainfields.

Stormwater Management: The planned set of public policies and activities undertaken to regulate runoff under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Stormwater management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions.

Stormwater Management Criteria: Specific guidance provided to the engineer/designer in the Design Standards Manual to carry out drainage and stormwater management

policies. An example might be the specification of local design hydrology - the design storm.

Stormwater Management Plan (SWMP): A written document detailing stormwater runoff characteristics for a defined area and the management of that runoff.

Stormwater Management System: Physical facilities that collect, store, convey, and treat stormwater runoff in urban areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.

Stormwater Permit: A permit allowing land development and land disturbing activities.

Stormwater Program Coordinator: The person designated by the City of Bismarck to administer the NDPDES (MS4) permit and oversee the compliance and regulation of stormwater permits issued by the City, a duly authorized representative of the Stormwater Program Coordinator, or any other entity authorized under a joint powers agreement to enforce the provisions of this title within the City's extraterritorial area.

~~Stormwater Retention: Storage designed to eliminate subsequent surface discharge. Wet ponds are the most common type of retention storage (though wet ponds may also be used for detention storage).~~

Structure: Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

~~Unpolluted Water: Any water of quality equal to or better than the effluent criteria in effect, or water that would not cause a violation of receiving water quality standards and would not benefit by discharge into a sanitary sewer and wastewater treatment facilities is considered unpolluted.~~

Urban Area: Land associated with, or part of, a defined city or town municipality. This title of the Code of Ordinances applies to urban or urbanizing, rather than rural, areas.

User: Any person who discharges, causes or permits the discharge of stormwater into the City's public stormwater management system.

User Fee: A fee levied on users of a stormwater management system for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works.

Watershed Master Plan: The plan that an engineer/designer formulates to manage urban and/or rural stormwater runoff for a particular development project or drainage area. It typically addresses such subjects as the characterization of the site development and grading plan; existing and projected conditions; peak rates of runoff, flow duration, runoff volumes for various return frequencies; locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It is usually submitted to regulatory officials the City Commission for their review ~~for~~ and acceptance or adoption.

Wetlands: Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes.

a. A predominance of hydric soils;

b. Are inundated or saturated by the surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

c. Under normal circumstances support the prevalence of such vegetation.

(Ord. 4817, 02-25-97; Ord. 5278, 09-23-03)

14.1-01-034. Scope. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities for an approved development must submit a Stormwater Management Plan including an Erosion and Sediment Control Plan to the City Engineer. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the Stormwater Management Plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this title. In addition, no land disturbing activities shall occur until all initial best management practices (BMPs) have been implemented. A waiver of the Stormwater Management Plan does not relieve the applicant from the stormwater permit requirements, including permit fees and an approved Erosion and Sediment Control Plan.

Exemptions to the requirements of this section title include:

1. Any part of a subdivision if a plat of the subdivision has been approved by the Board of City Commissioners and recorded with the Register of Deeds County Recorder on or before the effective date of this title (January 1, 1998). A stormwater permit for land disturbing activities on such properties may still be required, however, in accordance with this title;
2. Land disturbing activity involving the construction of a single-family or a two-family dwelling;
3. A parcel for which a building permit has been approved on or before the effective date of this title;
4. Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles; or
5. Emergency work to protect life, limb, or property.

~~The City Engineer may waive any requirement of this title upon making a finding that compliance with the requirement will involve an unnecessary hardship, and the waiver of such requirement will not adversely affect the standards and requirements put forth in Chapter 14.1-05. The City Engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and~~

~~requirements. At the City Engineer's discretion, a waiver request may, or at the request of a City Commissioner a waiver request shall, be brought before the Board of City Commissioners for consideration, and approval or denial. (moved to Chapter 14.1-02)~~

~~(Ord. 4817, 02-25-97)~~

CHAPTER 14.1-02 - STORMWATER MANAGEMENT PLAN - APPLICATION

14.1-02-01. Application.

14-1-02-01. Application Procedure.

a. Written Application. A written application for Stormwater Management Plan approval, along with the proposed Stormwater Management Plan, shall be filed with the City Engineer. The application shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this title. Prior to applying for approval of a Stormwater Management Plan, it is recommended that the applicant have the Stormwater Management Plan reviewed by ~~an~~ all affected public agencies.

b. Copies. ~~Two~~ The number of sets of legible copies of the drawings as indicated by the City Engineer and required information shall be submitted to the City Engineer and shall be accompanied by a receipt from the City to document the payment of all required fees for processing and approval as set forth ~~in Section 14.1-02-03 herein.~~ Plans shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed.

c. Waiver. The City Engineer may waive any requirement of this title upon making a finding that compliance with the requirement will involve an unnecessary non-economic hardship, and the waiver of such requirement will not adversely affect the standards and requirements put forth in Chapter 14.1-05. The City Engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and

requirements. At the City Engineer's discretion, a waiver request may, or at the request of a City Commissioner a waiver request shall, be brought before the Board of City Commissioners for consideration, and approval or denial.

(Ord. 4817, 02-25-97)

14.1-02-02. Contents of Stormwater Management Plan. At a minimum, the Stormwater Management Plan shall contain the following information:

a. Written Report. A written report discussing pre and post development hydrology and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed and existing structures, and water quality concerns. The contents of the report shall be in accordance with the recommended format in the City's Stormwater Design Standards Manual and shall contain the following additional information:

i. The name and address of the applicant;

ii. The section, township and range;

iii. The acreage of the development and the acreage of the disturbed area;

iv. A description of the existing soils on the site, if necessary, including a map indicating soil types of the areas to be disturbed, information on the suitability of the soils for the type of development proposed, potential for erosion, the type of stormwater management system proposed, and any remedial steps to be taken by the developer to render the soils suitable; and

v. The current land use of the area in which the site is located.

b. Maps. The following maps shall be included with the written report. Each map shall contain a north point indicator, date, scale of drawing, and the datum.

i. Location Map. The location of the tract at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, districts or other defining landmarks, and a watershed boundary map illustrating the project site location as a subwatershed within the watershed of the larger or major drainage basin.

iii. Existing Site Conditions Map. A map of existing site conditions showing the site and immediately adjacent areas, including:

a. ~~The name and address of the applicant, the section, township and range, and the north point, date and scale of drawing, and number of sheets;~~

b. ~~The location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, and districts or other defining landmarks;~~

e1. Existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than two feet;

e2. A watershed boundary map illustrating the project site location as a subwatershed(s) within the watershed of the larger or major drainage basin site or development;

e3. A delineation of streams, rivers, public waters and the presence or absence of wetlands located on and immediately adjacent to the site, including depth of water, a general description of vegetative cover found within the site, a statement of general water quality, and any classification given to the water body by state or federal agencies;

~~f~~4. Location and dimensions of existing stormwater drain systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate stormwater is conveyed from the site, identifying the receiving stream, river, public ditch, or wetland, and setting forth those areas of the unaltered site where stormwater collects or passes;

~~g.~~ A description of the soils on the site, including a map indicating soil types of the areas to be disturbed, containing information on the suitability of the soils for the type of development proposed, potential for erosion, the type of stormwater management system proposed, and any remedial steps to be taken by the developer to render the soils suitable.

~~h~~5. Current extent of vegetative cover and a clear delineation of any vegetation proposed for removal; and

~~i.~~ The current land use of the area in which the site is located; and

~~j~~6. The 100-year flood plains, flood fringes, and floodways, as designated on a FEMA published digital flood insurance rate map (DFIRM) or as determined by a site specific analysis.

~~2.~~ Site Construction Plan. A Site Construction Plan shall be provided, including:

~~a.~~ Locations and dimensions of all proposed land disturbing activities and any phasing or scheduling of those activities;

~~b.~~ Approximate locations of all temporary soil or dirt stockpile areas;

~~c.~~ Location and description of all construction site erosion control measures

~~necessary to meet the requirements of this ordinance;~~

~~d. A schedule of anticipated starting and completion dates for each land disturbing activity, including the installation of construction site erosion control measures needed to meet the requirements of this ordinance; and~~

~~e. Provisions for maintaining the construction site erosion control measures prior to, during, and after construction.~~

3iii. Plans of Final Site Conditions Map. A Pplan of Ffinal Ssite Econditions on the same scale as the existing site conditions map showing the proposed site changes shall be provided, including:

a1. The proposed final grading plan shown at contours at the same interval as provided above or as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features. This grading plan should also indicate areas of cut and fill activity greater than three (3) feet;

~~b. A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of proposed landscape materials which will be added to the site as part of the development;~~

2. A watershed boundary map illustrating the proposed subwatershed(s) within the site or development;

e3. A drainage plan of the developed site delineating the direction and at what rate of stormwater runoff and how it will be conveyed from the site and setting forth the areas of the site where stormwater will be collected along with the method of collection including ponds, storm sewer or channels;

D4. The proposed size, alignment, and intended use of any structures to be erected on the site;

E5. A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and

F6. Any other information pertinent to the particular project which, in the opinion of the applicant, is necessary for the review of the project.

c. Erosion and Sediment Control Plan. The erosion and sediment control plan shall include a report and map containing information as outlined in the Design Standards Manual and the following information:

i. The locations and dimensions of all proposed land disturbing activities as they relate to the specified phases detailed in the Design Standards Manual.

ii. Approximate locations of all stockpile areas;

iii. Location and detailed description of all construction site best management practices (BMPs) necessary to meet the requirements of this title;

iv. A schedule of anticipated starting and completion dates for each phase of activity, including the installation of construction site best management practices (BMPs) needed to meet the requirements of this title; and

v. Provisions for maintaining the construction site best management practices (BMPs) throughout all phases of construction including prior to, during, and after construction. This shall include the installation of permanent control measures and the removal of temporary BMPs.

~~4. Stormwater Management Plan Report. A written report discussing pre and post development hydrology and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed and existing structures, and water quality concerns. The contents of the report shall be in accordance with the recommended format in the City's Stormwater Design Standards Manual (Manual).~~

(Ord. 4817, 02-25-97)

~~14.1-02-03. Fees. All applications for Stormwater Management Plan approval shall be accompanied by a processing and approval fee established by the City Engineer. In the case of complex applications or regional stormwater facilities, a secondary fee schedule will be used as established by the City Engineer. All fees under this title shall be reviewed and approved by the Board of City Commissioners.~~

(Ord. 4817, 02-25-97)

~~CHAPTER 14.1-03 STORMWATER MANAGEMENT PLAN REVIEW~~

14.1-02-02. Review.

~~14-1-03-01. Process. Stormwater Management Plans meeting the requirements of Chapter Section 14.1-02-01 shall be submitted to the City Engineer for reviewed by the City Engineer for and compliance with the standards of Chapter Section 14.1-042-03. The City Engineer shall approve, approve with conditions, or deny the Stormwater Management Plan. For projects within the City's extraterritorial area, the City Engineer will provide a copy of the stormwater management plan to the County Engineer and the Burleigh County Water Resource District, and shall take any comments made by the County Engineer or the Burleigh County Water Resource District into consideration when taking action on the stormwater management plan. If a particular stormwater management plan involves a complex application or has the potential for significant controversy, the City Engineer or the applicant may bring the proposed stormwater management plan before the Board of City Commissioners for consideration and public comment.~~

~~14.1-03-02. Duration. Approval of any plan submitted under the provisions of this ordinance shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the City Engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the City Engineer may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the City Engineer within fifteen (15) days. The City Engineer shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revised in the same manner as originally approved. Any denied application may be resubmitted with additional information addressing the concerns contained within the denial. The resubmittal is subject to all applicable fees and shall be considered as a new application. (moved to Section 14.1-02-03)~~

~~14.1-03-032. Conditions. A Stormwater Management Plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this ordinance are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, require the acquisition of certain lands or easements, and require the conveyance to the City of Bismarck or other public entity of certain lands or interests therein. The City Engineer may specify special requirements for specific watersheds within the City and its extraterritorial jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each subwatershed. Approval of a plan shall bind the applicant to perform all of the conditions and requirements of the plan prior to any land disturbing activities.~~

~~CHAPTER 14.1-04 STORMWATER MANAGEMENT PLAN APPROVAL STANDARDS~~

14.1-02-03. Approval Standards.

~~14.1-04-01.~~ General. This section describes approval standards against which proposed Stormwater Management Plans will be measured. A Stormwater Management Plan which fails to meet the standards contained in this section shall not be approved by the City Engineer or the Board of City Commissioners. Other standards, such as state and federal standards, shall also apply. If two standards of different agencies conflict, the more restrictive standards shall apply.

It shall be the responsibility of the applicant to obtain any required permits from other governmental agencies having jurisdiction over the work to be performed. Typically, such agencies ~~would~~ could include the Burleigh County Water Resource District, the Burleigh County Engineer's Office, the State Water Commission and State Engineer's Office, the State Department of Transportation, the State Health Department, the State Historical Preservation Officer, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and possibly others.

In addition to this Stormwater Management Ordinance, the applicant is responsible for adhering to the requirements of other ordinances contained within the Code of Ordinances for the City of Bismarck, including:

1a. Zoning ordinance regulations contained under Title 14 which are of special interest to new development projects.

2b. Conformance with the requirements of the FP-Floodplain District, Title 14, Section 14-04-19.

3c. Regulations governing the subdivision of land, Title 14, Chapter 14-09.

d. Conformance with the Landscaping and Screening requirements in Title 14, Section 14-03-11.

The following sections describe routine approval standards to be used in evaluating a proposed Stormwater Management Plan.

(Ord. 4817, 02-25-97)

~~14.1-04-02.~~ Stormwater Design Standards Manual. The Stormwater Design Standards Manual (Manual), as adopted and amended by the City of Bismarck, contains the principal

standards and design criteria for developing an effective and acceptable Stormwater Management Plan. The Manual contains an overview of the City's Stormwater Management Policy and design objectives as well as a detailed discussion of the contents of Stormwater Management Plans submitted to the City Engineer for approval. The Manual contains detailed criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, instructions for the development of an erosion and sedimentation control plan, and requirements for easements and right-of-way. The Manual also contains a discussion of operation and maintenance requirements, standard forms to be used, and standard construction details adopted by the City.

(Ord. 4817, 02-25-97)

~~14.1-04-03.~~ Models/Methodologies/Computations.

Hydrologic models and design methodologies used to determine runoff conditions and to analyze stormwater management structures and facilities shall be approved in advance by the City Engineer. All Stormwater Management Plans, drawings, specifications, and computations for stormwater management facilities submitted for review shall contain a validated seal and be signed by a Professional Engineer registered in the State of North Dakota. This requirement will be met as part of the properly completed Stormwater Management Plan Report, as described in the Stormwater Design Standards Manual.

(Ord. 4817, 02-25-97)

~~14.1-04-04.~~ Construction Plans and Specifications for Public Facilities within the Corporate Limits. The construction plans and specifications prepared for the construction of the public stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:

1a. Be consistent with the Stormwater Management Plan approved by the City Engineer.

2b. Be in conformance with the requirements of the City of Bismarck Municipal Construction Specifications for Municipal Public Works Improvements, current special provisions, and any other necessary permits issued by other governmental agencies.

3c. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

4d. Be submitted to the City Engineer for approval.

e. Contain a drawing or drawings delineating the erosion and sediment control plan, including details of silt fences, storm drain inlet protection, and other best management practices (BMPs). The construction specifications shall contain technical specifications describing erosion, sedimentation and water control requirements during and after construction operations.

5. No construction may commence until approval of the construction plans and specifications has been received.

~~The set of construction plans, in a format acceptable to the City Engineer, shall contain a drawing or drawings delineating the erosion and sedimentation management plan, including details of silt fences, storm drain inlet protection, and other construction erosion control facilities. The construction specifications shall contain technical specifications describing erosion, sedimentation, and water control requirements during and after construction operations.~~

No construction may commence until the construction plans and specifications have been approved by the City Engineer and all other applicable permits and approvals are received from outside agencies.

(Ord. 4817, 02-25-97)

5. Construction Plans and Specifications for Private Facilities within the Corporate Limits. The construction plans and specifications prepared for the construction of the private stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:

a. Be consistent with the Stormwater Management Plan approved by the City Engineer.

b. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

c. Be submitted to the City Engineer for approval.

d. Contain a drawing or drawings delineating the erosion and sediment control plan, including details of silt fences, storm drain inlet protection, and other best management practices (BMPs). The construction specifications shall contain technical specifications describing erosion, sedimentation and water control requirements during and after construction operations.

No construction may commence until all applicable permits and approvals are received from the City and outside agencies.

14.1-04-056. Construction Activities. Construction operations must at a minimum comply with the following requirements:

1a. Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site; the receiving channels; or any wetland.

2b. Waste and Material Disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff or wind into a receiving channel, storm sewer system, or wetland.

3c. Tracking Management. Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to prevent sediment from being tracked onto public or private roadways prior to any land disturbance. Any material reaching or placed on a public or private road shall be removed (not by flushing) before the end of each work day.

4d. Water Quality Protection Chemical Contamination. The construction contractor shall be required to control oil and fuel spills, and the discharge of any chemicals to prevent such spills or discharges from entering any water course, sump, sewer system, water body, or wetland.

5e. Site Erosion and Sedimentation Control. Construction operations must include erosion and sedimentation control measures meeting accepted design criteria for wind and water erosion, standards and specifications contained in the Stormwater Design Standards Manual.

f. Concrete Wash Out Area. The developer or his construction contractor shall identify and construct a concrete wash out area to standards and specifications contained in the Stormwater Design Standards Manual. The party responsible for the installation of the concrete wash out area is responsible for maintenance and removal.

(Ord. 4817, 02-25-97)

14.1-04-067. Stormwater Management Criteria for Permanent Facilities. Stormwater control facilities included as part of the final design for a permanent development shall be addressed in the Stormwater Management Plan and shall meet the following criteria:

1a. Pre-versus Post Hydrological Response of Site. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to manage increased runoff so that the two (2) year, ten (10) year and one hundred (100) year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. In lieu of the installation or construction of stormwater management facilities, an applicant may make an in-kind or monetary contribution for the development and maintenance of regional stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant. The City Engineer shall establish this fee based upon an

~~approved master plan and an analysis of drainage and flood protection benefits provided to property directly impacted by the regional stormwater management facilities.~~

2b. Natural Features of the Site. The applicant shall ~~give consideration to reducing~~ reduce the need for stormwater management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of these natural features.

3c. Stormwater Management Strategies. The following stormwater management practices shall be investigated in developing a Stormwater Management Plan:

ai. Natural infiltration of precipitation and runoff on-site, if suitable soil and geological conditions are available. The purpose of this strategy is to encourage the development of a Stormwater Management Plan that encourages natural infiltration. This includes providing as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches. This shall include the identification of areas with known high water tables, natural springs and other areas with ground water implications.

bii. The flow attenuation by use of open vegetated swales and natural depressions.

eiii. Stormwater detention facilities.

div. Stormwater retention facilities (on a case by case basis).

v. Storm sewer facilities.

A combination of successive practices may be used to achieve the applicable minimum control requirements specified in the above ~~four~~ strategies. Justification

shall be provided by the applicant for the method selected.

4d. Adequacy of Outlets. The adequacy of any outlet used as a discharge point for proposed stormwater management facilities must be assessed and documented to the satisfaction of the City Engineer. The hydraulic capacities of downstream natural channels, reaches, storm sewer systems, or streets shall be sufficient to receive post-development runoff discharges and volumes without causing increased property damages, or any increase in the established base floodplain elevation (BFE), or a change in the conveyance of the base flood. If a floodplain or floodway has not been established by the Federal Emergency Management Agency, then the applicant shall provide a documented analysis and estimate of the base flood elevation as certified by a Professional Engineer registered in the State of North Dakota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the City Engineer are approved and installed as part of the Stormwater Management Plan. The assessment of outlet adequacy shall be included in the Stormwater Management Plan and shall be certified by a Professional Engineer registered in the State of North Dakota.

5e. Stormwater Detention/Retention Facilities. Stormwater detention or retention facilities proposed to be constructed in the Stormwater Management Plan shall be designed according to the most current technology as reflected in the Stormwater Design Standards Manual.

(Ord. 4817, 02-25-97)

14.1-04-078. Operation, Maintenance and Inspection. All stormwater management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. All stormwater management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The City Engineer or Stormwater Program Coordinator may inspect all stormwater management facilities at any time. Inspection records will be kept on file at the City

~~Engineering Department with the Stormwater Program Coordinator.~~ It shall be the responsibility of the applicant to obtain any necessary public easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purposes. The City Engineer shall retain enforcement powers for assuring adequate operation and maintenance activities through permit conditions and penalties for noncompliance orders.

(Ord. 4817, 02-25-97)

~~14.1.04-089.~~ Easements and Bonds. Easements or bonds may be required as conditions to the issuance of a permit.

(Ord. 4817, 02-25-97)

~~14.1-04-0910.~~ Management of Site Vegetation. The applicant shall provide for the installation and maintenance of vegetation on development property in accordance with the following criteria:

~~1a.~~ Use of Impervious Surfaces. No person shall apply fertilizer to or deposit grass clippings, leaves, or other vegetative materials on impervious surfaces, or within stormwater drainage systems with impervious liners or conduits including streets and gutters.

~~2b.~~ Unimproved Land Areas. Except for driveways, sidewalks, patios, areas occupied by structures or areas which have been improved, all areas shall be covered by plants, or an approved vegetative growth cover or non-erosive pervious surface.

~~3c.~~ Use of Pervious Surfaces. No person shall deposit grass clippings, leaves, or other vegetative materials, with the exception of normal mowing or weed control, within natural or manmade drainageways, wetlands, or within wetland buffer areas.

(Ord. 4817, 02-25-97)

~~14.1-04-1011.~~ Plan Applicability. A plan issued under this title runs with the land and is a condition of plat approval. Any owner or subsequent owner of any parcel within the plat must comply with the plan or any approval, revision or modification of the plan. Any owner or

subsequent owner shall be aware of and responsible for continued implementation of this plan.

(Ord. 4817, 02-25-97)

12. Duration. Approval of any plan submitted under the provisions of this ordinance shall expire one (1) year after the date of approval unless a stormwater permit is issued and construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the City Engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the City Engineer may grant one extension of not greater than one (1) year. Receipt of any request for an extension shall be acknowledged by the City Engineer within fifteen (15) days. The City Engineer shall make a decision on the extension within thirty (30) days of receipt.

13. Revisions and Resubmittals. Any plan may be revised in the same manner as originally approved and resubmitted. Any denied application may be resubmitted with additional information addressing the concerns contained within the denial. The resubmittal is subject to all applicable fees and shall be considered as a new application.

~~CHAPTER 14.1-05 — STORMWATER MANAGEMENT PERMITS~~

14.1-02-04. Stormwater Management Permits.

~~14-01-05-01.~~ Stormwater Management. It is unlawful to initiate land development, land disturbing, or other activities which result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body, or wetland outlet within the jurisdiction of the City, without having first complied with the terms of this title.

(Ord. 4817, 02-25-97)

14.1-05-02. Stormwater Management Permits.

1a. Mandatory Permits. Any person proposing a development or project which involves land development, land disturbing, or other activities as defined in this title, shall obtain a stormwater

management permit before initiating those activities. If the stormwater management plan submittal requirement is waived or deemed exempt by the City Engineer, a stormwater permit must be obtained in accordance with this section.

2b. Permit Application. All persons subject to meeting the requirements for a mandatory stormwater permit shall complete and file with the City Engineer an application in the form prescribed by the City Engineering Department and accompanied by a fee established by the City Engineer and adopted by the Board of City Commissioners. The permit application shall be accompanied by a the following:

- i. A phased Erosion and Sediment Control Plan;
- ii. A final grading plan;
- iii. An approved, revised Stormwater Management Plan as prescribed under Chapter Section 14.1-02-01 of this title, or a waiver of this requirement;
- iv. Verification that all best management practices (BMPs) have been installed; and
- v. The applicable fee.

The City Engineer will evaluate the data furnished as part of the Stormwater Management Plan and may require additional information. After evaluation and acceptance of the Stormwater Management Plan, the City Engineer may issue a stormwater ~~management~~ permit subject to any terms and conditions deemed necessary.

3c. Permit Conditions. Stormwater ~~management~~ permits are issued subject to all provisions of this title and all other applicable regulations, user charges and fees established by the City. Permits may contain any of the following conditions:

ai. The user fee for a stormwater outlet utilizing a regional stormwater management facility.

bii. Limits on the maximum rate of stormwater discharge;

eiii. Limits on water quality degradation of stormwater discharge;

div. Requirements for the installation, operation and maintenance of stormwater detention/retention facilities;

ev. Compliance schedule;

fvi. Requirements for notification to and acceptance by the City Engineer of any land disturbing activities which have the potential for increasing the rate of stormwater discharge resulting in degradation of stormwater quality; and

gvii. Other conditions as deemed appropriate by the City Engineer to insure compliance with this title.

4d. Permit Duration. Permits must be issued for a time period specified by the City Engineer. The applicant shall apply for permit renewal a minimum of ~~ninety (90)~~ thirty (30) days prior to the expiration of the applicant's existing permit. The terms and conditions of a permit are subject to modification by the City Engineer during the term of the permit as set forth ~~in paragraph five (5) herein.~~ Failure to renew the permit prior to the expiration date will require the permittee to pay a late fee as prescribed by the City Engineer. While the permit may have expired, the permittee remains responsible for the activities and site governed under the permit until the permit is terminated.

5e. Permit Modification. Permits may be modified by the City Engineer for just cause upon thirty (30) calendar days' notice. Just cause shall include but not be limited to:

ai. Promulgation of a new applicable nationwide and or statewide permit standards;

bii. Changes in the requirements of this ordinance;

eiii. Changes in the process used by the permittee or changes in discharge rate, volume, or character; and

6iv. Changes in the design or capability of receiving stormwater facilities.

The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

6f. Permit Amendments. Stormwater permits may be amended only by a written request submitted by the Permittee to the City Engineer. This request shall contain the reason for the change, and documentation related to any additional impacts which may result from amendment approval, and shall include an amendment to the approved stormwater management plan. Amendment requests submitted prior to issuance of a stormwater permit shall be considered part of the original submittal. Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines as used for the stormwater permit applications under this title.

7g. Permit Transfer. A permit runs with the property it covers and is transferable to new owners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel. The current permittee is responsible for submitting the required Notice of Transfer to the Stormwater Program Coordinator within ten (10) business days of the transfer of a parcel of land.

8h. Monitoring Facilities. The City Engineer may require the applicant to provide and operate at the applicant's expense a monitoring facility to allow inspection, sampling, and flow measurements of each stormwater facility component. Where at all possible, the monitoring facility shall be located on the property of the applicant as opposed to on public rights-of-way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.

9i. Inspection. The City Engineer or Stormwater Program Coordinator may inspect the stormwater

management facilities of any permittee to determine compliance with the requirements of this title. A permittee shall allow the City Engineer or Stormwater Program Coordinator to enter upon the premises at all reasonable hours for the purposes of inspection, sampling or record examination. The City Engineer or Stormwater Program Coordinator shall be allowed to set up equipment on the permittee's premises as required for the purpose of collecting samples and flow recording.

j. Termination. A stormwater permit shall be terminated after a review by the City Engineer has determined that a development site has been fully constructed and is reasonably protected from erosion based on constructed conditions. A termination review shall be requested by the permittee or may be initiated by the City Engineer after the expiration date of the permit.

Prior to termination of the stormwater permit an amended stormwater management plan must be submitted to the City Engineer documenting any changes to the original Stormwater Management Plan. The amended Stormwater Management Plan shall be certified by a Professional Engineer registered in the State of North Dakota.

(Ord. 4817, 02-25-97)

~~14.1-05-03. Final Stormwater Management Plan. Upon completion of all required construction activities, the permit applicant shall submit to the City Engineer the final Stormwater Management Plan to document any change to the original Stormwater Management concept. The final Stormwater Management Plan shall contain Record Drawings showing the final configuration for all improvements as constructed. The final Stormwater Management Plan and Record Drawings shall be certified by a Professional Engineer registered in the State of North Dakota.~~

(Ord. 4817, 02-25-97)

14.1-02-05. Development Permits.

1. Development Permit Required. Any person intending to construct an approved subdivision, including any roadway or stormwater management facility, in the

City's extraterritorial area must first obtain a development permit from the County Engineer. No land disturbing activities may commence until all applicable permits and approvals are received from the County and outside agencies.

2. Roadway Acceptance. The constructed roadways must be accepted and approved by the County Engineer prior to recordation of an approved final plat in the City's extraterritorial area or the issuance of any building permits within said subdivision.

3. Stormwater Management Facility Acceptance. The constructed storm water management facilities must be accepted and approved by the County Engineer prior to recordation of an approved final plat in the City's extraterritorial area or the issuance of any building permits within said subdivision.

CHAPTER 14.1-063 - ENFORCEMENT

14.1-063-01. Remedies and Enforcement Powers. The City shall have the following remedies and enforcement powers:

1. Withhold permits. The City may deny or withhold all permits, certificates or other forms of authorization as to any applicant for a storm water management permit. Instead of withholding or denying an authorization, the City may grant such authorization subject to the condition that the violation be corrected. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question. The City may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned by a person who owns, develops or otherwise causes an uncorrected violation of a provision of this Title or of a condition or qualification of a permit, certificate, approved storm water plan or other authorization previously granted by a decision-making body. This provision applies regardless of whether the property for which the storm water management permit or other approval is sought is the property in violation.

2. Revoke permits. A storm water management permit may be revoked when the City Engineer determines that:

a. There is departure from the plans, specifications, or conditions as required under terms of a storm water management permit or approved storm water management plan;

b. The plans, specifications, or conditions were obtained by false representation or the storm water management permit was issued by mistake; or

c. Any of the provisions of this Title are being violated as to the project under the storm water management permit.

3. Revocation of storm water management plan or other approval. When a violation of this Title involves a failure to comply with an approved storm water management plan or conditions to which the approval of such plan was made subject, the City Engineer may, upon giving proper notice, revoke the plan approval or other approval, allow work to continue on condition of strict compliance with all applicable rules and regulations, or impose such other conditions as the City Engineer deems appropriate and necessary.

4. Suspension of storm water management plan or storm water permit. The City Engineer shall have authority to suspend a storm water management plan or a storm water management permit upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, environment, natural resources, storm water quantity, water quality, and/or environmentally sensitive lands. Upon issuance of suspension notice and order, all work in the area covered by the permit, shall cease immediately. If any person fails to comply with the suspension order, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the suspension order upon proof of compliance with all storm water management plan or storm water management permit conditions.

Whenever the City Engineer orders the suspension of a storm water management permit or storm water management plan and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the permittee personally, or by registered or certified mail. The permittee has the right to an informal hearing before

the City Engineer by making an appointment with the City Engineer. The informal hearing must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.

5. Stop work order. The City Engineer shall have authority to issue a stop work order, ordering suspension of all work and activity at the site, upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, the environment, natural resources, storm water quantity, water quality, and/or environmentally sensitive lands. Upon issuance of a stop work order, all work in the area covered by the storm water management permit, if a permit has been issued, shall cease immediately. If any person notified of such stop work order fails to comply, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the stop work order upon proof of compliance with all plan or permit requirements and conditions.

Whenever the City Engineer issues a stop work order and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the person performing the work personally, or by registered or certified mail. The person performing the work, owner or permittee has the right to an informal hearing before the City Engineer by making an appointment with the City Engineer. The informal hearing must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.

6. Injunctive relief. The City may seek an injunction or other equitable relief in court to stop any violation of this Title or of a storm water management permit, storm water management plan, certificate or other form of authorization granted hereunder.

7. Abatement. The city may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

8. Restitution. The City may seek an order requiring restitution as a condition to be met by a person before the person's storm water management permit is restored, before the person is allowed to lawfully discharge into the sewer system, or before other action may be taken by the person as determined by an appropriate order.

9. Costs of damage. Any person violating any of the provisions of this Title or who initiates an activity that causes a deposit, obstruction, or damage or other impairment to the City's storm water management system is liable to the City for any expense, loss, or damage caused by the violation or the discharge. The City may bill the person violating this Title the costs of any cleaning, repair or replacement work caused by the violation of storm water discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator's property.

10. City attorney's fees and costs. In addition to the fees and penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this Title or the orders, rules, regulations and permits issued hereunder.

11. Other remedies. The City shall have such other remedies as are and as may be from time to time provided by North Dakota law and municipal codes for the violation of this chapter or related provisions.

12. Remedies cumulative. The remedies and enforcement powers established in this Chapter are cumulative.

~~14.1 06 01. Emergency Suspension of Permits. The City Engineer may for cause order the suspension of the stormwater management permit of a person or parcel owner when it appears to the City Engineer that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons downstream, substantial danger to the environment, or a violation of any permit conditions imposed by this title. If any person is notified of the suspension of a stormwater management permit and/or a person fails to comply voluntarily with the suspension order, the City Engineer shall commence whatever steps are necessary to obtain compliance, including judicial proceedings. The City Engineer may reinstate~~

~~the stormwater management permit upon proof of compliance with all permit conditions.~~

~~Whenever the City Engineer orders the suspension of a stormwater management permit pursuant to the emergency provisions of this section, the City Engineer shall serve notice on the permittee personally, or by registered or certified mail. The permittee has the right to an informal hearing before the City Engineer upon request made in writing and filed with the City Engineer. The informal hearing must be held within five (5) days of the request. Following the hearing, the City Engineer may affirm, modify or rescind the order.~~

~~Any applicant dissatisfied with an order the City Engineer issued pursuant to this section may request a hearing before the Board of City Commissioners by filing a written request for a hearing with the City Engineer, within fifteen (15) days of receipt of the order, who shall inform City Administration. The hearing must be held within thirty (30) days of receipt of the request, or as subject to the current meeting schedule, whereupon the Board of City Commissioners may affirm, modify or rescind the order. A request for a hearing filed pursuant to this section does not stay the order while the hearing is pending.~~

~~(Ord. 4817, 02-25-97)~~

14.1-03-02. Administrative Search Warrant. ~~Whenever the City Engineer is denied access to a property to inspect for compliance with this title, he/she may secure an administrative search warrant from the municipal judge in accordance with Chapter 29-29.1, N.D.C.C.~~

~~14.1-06-02. Revocation of a Permit. A stormwater management permit may be revoked following notice and an opportunity for a hearing in accordance with Sections 14.1-06-03 and 14.1-06-04. The Board of City Commissioners may revoke a stormwater management permit for cause, including but not limited to:~~

~~a. Violation of any terms or conditions of the stormwater management permit;~~

~~b. False statements on any required reports;~~

~~c. Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or~~

~~d. Any other violation of this title or related ordinance.~~

~~The Board of City Commissioners may suspend a stormwater management permit and order a temporary work stoppage to bring a project into compliance. Notice of such an order shall be given and a hearing provided in accordance with Sections 14.1-06-03 and 14.1-06-04.
(Ord. 4817, 02-25-97)~~

14.1-063-03. Notification Notice and Order. Except for emergency orders under Section 14.1-064-01(4) and (5), whenever the City Engineer finds that any person has violated or is violating this Title, a stormwater discharge permit and/or its conditions, an approved stormwater plan, or any prohibition, limitation or requirement contained herein, the City Engineer shall serve upon such person a written notice and order stating the nature of the violation. Within thirty (30) days of the date of the notice, unless a shorter different time frame is set by the City Engineer due to the nature of the violation, a plan for the satisfactory correction thereof must be submitted to completed to the satisfaction of the City Engineer.
(Ord. 4817, 02-25-97)

14.1-063-04. Appeal. All decisions of the City Engineer dealing with violations of a storm water management permit or this Title or the issuance or non-issuance of the permits required by this Title are subject to appeal to the Board of City Commissioners upon written notice of appeal filed within 15 days of issuance of the decision. If no appeal is filed within the time period specified, the decision of the City Engineer is final. An appeal stays the City Engineer's decision unless the City Engineer declares the order to be an emergency and certifies to the board that a stay would cause imminent danger to life and property in which case the decision may be stayed only by a restraining order from the Board or a court of record.

14.1-063-05. Hearing. Upon receiving the notice of appeal the Board shall set a date for a hearing within thirty days of receipt of the notice of appeal. Notice of the time and place for the hearing must be served upon the appellee by certified mail or in person not less than five days prior to the hearing.

~~14.1-06-04. Hearing. If the violation is not corrected by timely compliance, the City Engineer may order any permittee who causes or allows a violation to a stormwater permit to show cause before the Board of City Commissioners why the order of the City Engineer should not be upheld. A notice of hearing must~~

~~be served on the permittee specifying the time and place of a hearing to be held by the Board regarding the order of the City Engineer, and directing the permittee to show cause before the Board why the order of the City Engineer should not be upheld. The notice must be served personally or by registered or certified mail at least ten (10) days before the hearing. The evidence submitted at the hearing shall be considered by the Board which shall then either uphold, modify or rescind the order of the City Engineer. An appeal of the Board's decision may be taken according to law.~~

~~(Ord. 4817, 02-25-97)~~

~~14.1-06-05. Legal Action. The discharge of deposited or eroded materials onto public rights of way or public storm sewer systems within the City of Bismarck shall be considered an offense and may result in an order to remove such materials. Removal of such materials shall be at the owners expense based on the properties from which they originated. The owner shall have three (3) days after receiving the notice to remove these materials. If such materials are not removed they may be removed under the City Engineer's direction and any associated costs shall be the responsibility of the owner.~~

~~If any person commences any land disturbing activities which result in increased stormwater quantity or stormwater quality degradation into the City stormwater management system contrary to the provisions of this title, federal or state requirements or any order of the City, the City Attorney may, following the authorization of such action by the Board of City Commissioners, commence action for appropriate legal and/or equitable relief.~~

~~(Ord. 4817, 02-25-97)~~

CHAPTER 14.1-074 - PENALTIES

~~14.1-074-01. Penalty. Any person who is found to have violated an order of the Board of City Commissioners made in accordance with this title, or who has failed to comply with any provision of this title and the orders, rules, regulations and permits issued hereunder, is guilty of an offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. Any person who fails to comply with a final or un-stayed decision of City Engineer or a decision of the Board after a hearing or who has failed to comply with any provision of this Title and the orders, rules, regulations and permits issued hereunder, is guilty of an ordinance violation and subject to the provisions of Chapter 1-~~

02. Each day the violation continues constitutes a separate offense.

(Ord. 4817, 02-25-97)

14.1-04-02. Abatement. The imposition of a penalty provided by the provisions of this Title shall not preclude the City from instituting proceedings to restrain, correct or abate a continuing violation of this Title. If any person violates any of the provisions of this Title or initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's storm water management system and within ten days of a final order issued under this Chapter, fails to obey that order, the City Engineer is hereby authorized to restrain, correct or abate the violation and have the costs incurred assessed against the property.

~~14.1-07-02. Costs of Damage. Any person violating any of the provisions of this title or who initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's stormwater management system is liable to the City for any expense, loss, or damage caused by the violation or the discharge. The City may bill the person violating this title the costs for any cleaning, repair or replacement work caused by the violation of stormwater discharge.~~

~~*(Ord. 4817, 02-25-97)*~~

~~14.1-07-03. City Attorney's Fees and Costs. In addition to the civil penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this title or the orders, rules, regulations and permits issued hereunder.~~

~~*(Ord. 4817, 02-25-97)*~~

14.1-074-043. Falsifying Information. Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, or other document filed or required to be maintained pursuant to this Title, or storm water management permit, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this chapter, shall be guilty of an offense.

(Ord. 4817, 02-25-97)

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.

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

BACKGROUND:		
Title: Lot 2, Block 1, Country West IV Second Replat – Special Use Permit (Church)		
Status: Planning Commission – Public Hearing (continued)	Date: August 24, 2011	
Owner(s): Empire Oil Company - owner New Life Church - applicant	Engineer: N/A	
Reason for Request: Allow use of a conference room in a multi-tenant office building for a church.		
Location: Along the north side of Burnt Boat Drive between Tyler Parkway and Clairmont Road.		
Project Size: 57,966 sf (lot)	Number of Lots: One lot in one block	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Multi-tenant office building	Land Use: Multi-tenant office building with church use in conference room of one suite	
Zoning: RT – Residential	Zoning: RT – Residential	
Uses Allowed: Office & multi-family residential	Uses Allowed: Office & multi-family residential, church as special use	
Maximum Density Allowed: 30 units/acre	Maximum Density Allowed: 30 units/acre	
PROPERTY HISTORY:		
Zoned: Pre-1980	Platted: 10/05 (replat)	Annexed: Pre-1980
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> 1. A church is allowed in the RT district as a special use. Section 14-03-08 (4)(f) of the City Code of Ordinances outlines the requirements for a church. A copy of this section is attached. 2. There are some concerns with parking for a church facility in a multi-tenant office building. The site plan submitted with the application shows 58 parking spaces for the building. While this may be adequate for the office uses, there are concerns that any church activities during typical office hours would strain the available parking. In addition, parking is not allowed on the north side of Burnt Boat Drive adjacent to the property. 3. Because of an error in the legal description of this property in last month's public notice, July's public hearing on this item was continued. 		
FINDINGS:		
<ol style="list-style-type: none"> 1. The proposed use is in harmony with the purpose and intent of the zoning ordinance and the master plan of the City of Bismarck. 2. The proposed special use would not adversely affect the public health, safety and general welfare. 		

(continued)

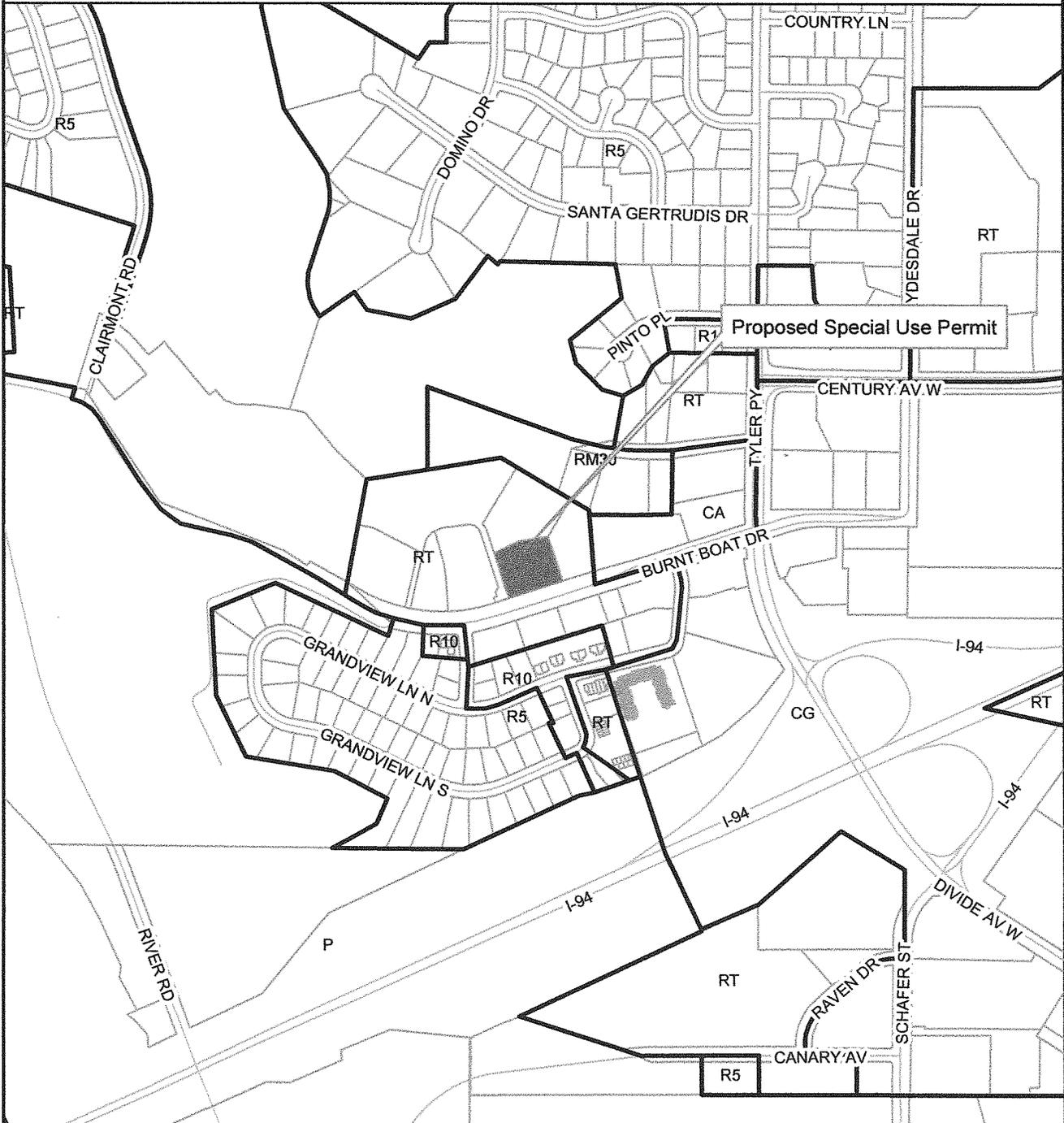
3. The proposed use may be detrimental to the use or development of adjacent properties. In particular, the operation of a church facility in a multi-tenant office building is not necessarily compatible with the office uses within the building.
4. The proposed use would not comply with all special regulations 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. In particular, the number of off-street parking spaces required for a church (1 parking space per 60 square feet) exceeds the number of off-street parking spaces available under the office building usage (1 parking space per 250 square feet).

RECOMMENDATION:

Based on the above findings, staff recommends approval of the special use permit for a church in a multi-tenant building on Lot 2, Block 1, Country West IV Second Replat with the following conditions:

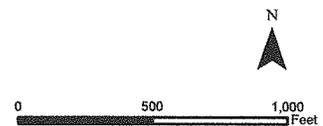
4. Group gatherings are limited to Wednesday evenings after 6:00 p.m. and on Sundays.
5. Weddings, funerals, or other social events shall not be held at this location.
6. Group gatherings shall not exceed 36 persons at any time.
7. A columbarium will not be allowed at this location.

Proposed Special Use Permit Lot 2, Block 1, Country West IV Second Replat



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: July 1, 2011 (kdg)

Source: City of Bismarck



14-03-08. Special Uses.

4. Permanent uses (planning commission approval).

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

1. The lot area, lot width, front yard, side yard, rear yard and height limits of a church shall conform to the lot, yard and height requirements specified for a principal building in the district regulations where the building permit is requested.

2. The ground area occupied by the principal and accessory buildings shall not exceed thirty-five (35) percent of the total area of the lot.

3. Space for off-street parking shall be provided as per section 14-03-10 hereof or as the city planning and zoning commission may require.

4. No application for a building permit or certificate of occupancy in any zone shall be approved unless there is included with the plan for such building a plot plan showing the open space designated as being reserved for off-street parking purposes to be provided in connection with such building and no certificate of occupancy shall be issued unless the required facilities have been provided in accordance with those shown on the approved plan.

5. A columbarium is allowed as an accessory use to a church in any district in which a church is permitted, provided it is included within the principal structure.

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

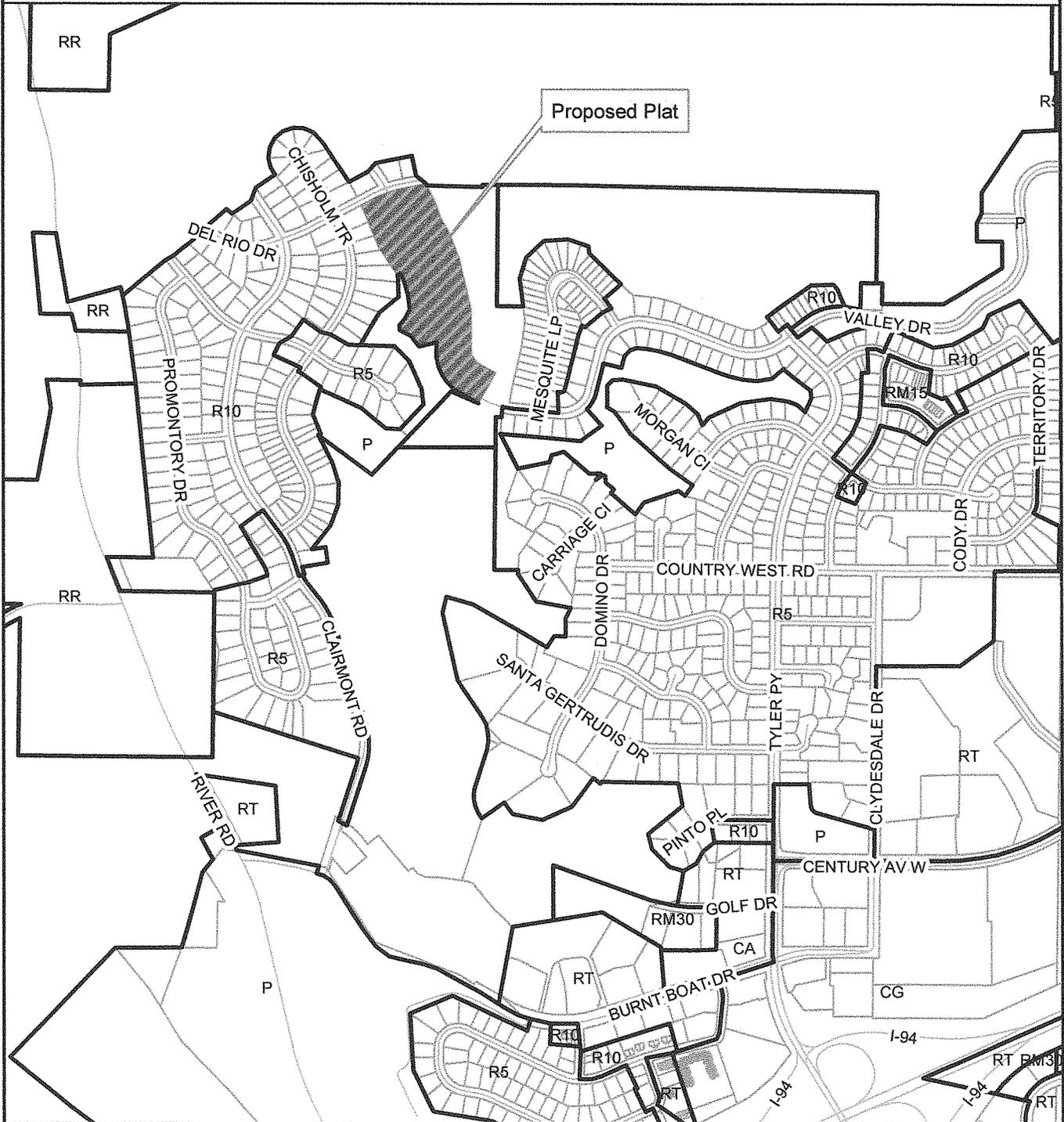
BACKGROUND:		
Title: Promontory Point IV Addition First Replat – Minor Subdivision Final Plat		
Status: Planning Commission – Public Hearing	Date: August 24, 2011	
Owner(s): Wachter Development	Engineer: Swenson, Hagen & Co.	
Reason for Request: This minor plat reduces the number of lots in this subdivision by converting 42 lots for twin homes to 28 lots for single-family homes.		
Location: In northwest Bismarck on the west side of Tyler Coulee between Mesquite Loop and the north end of Clairmont Road. (a replat of Lots 1-18, Block 9 and Lots 1-24, Block 1, Promontory Point IV Addition in part of the E½ of the SW¼ of Section 19 ,T139N – R80W/Hay Creek Township)		
Project Size: 13.68-acres	Number of Lots: 42 lots in 2 blocks	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Residential	
Zoning: R10-Residential	Zoning: R10-Residential	
Uses Allowed: single- and two-family dwellings	Uses Allowed: single- and two-family dwellings	
Maximum Density Allowed: R10 = 10 units per acre	Maximum Density Allowed: R10 = 10 units per acre	
Zoned: April, 2007	Platted: April, 2007	Annexed: April, 2007
FINDINGS:		
<ol style="list-style-type: none"> 1. All technical requirements for approval of a minor subdivision final plat have been met. 2. This replat does not change the roadway alignment and remains in conformance with the Fringe Area Road Master Plan which designates Valley Drive as a collector roadway. 3. The storm water management plan has been approved by the City Engineer. 4. The proposed subdivision would remain compatible with adjacent land uses; a zoning change is not proposed. Adjacent land uses include residential, except for Tyler Coulee along the east edge. 5. There is currently only one access road serving the existing Promontory Point developments. Valley Drive will provide the second access and will be constructed prior to housing development in this subdivision. 6. A waiver was approved for the original plat to exceed the maximum block length due to topographic constraints. 7. The property is already annexed; therefore, the proposed subdivision would not place an undue burden on public services. 8. The proposed subdivision would not adversely affect property in the vicinity. 		
<i>continued . . .</i>		

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

RECOMMENDATION:

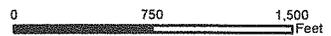
Based on the above findings, staff recommends approval of the minor subdivision final plat of Promontory Point IV Addition First Replat.

Proposed Minor Subdivision Final Plat Promontory Point IV Addition 1st Replat



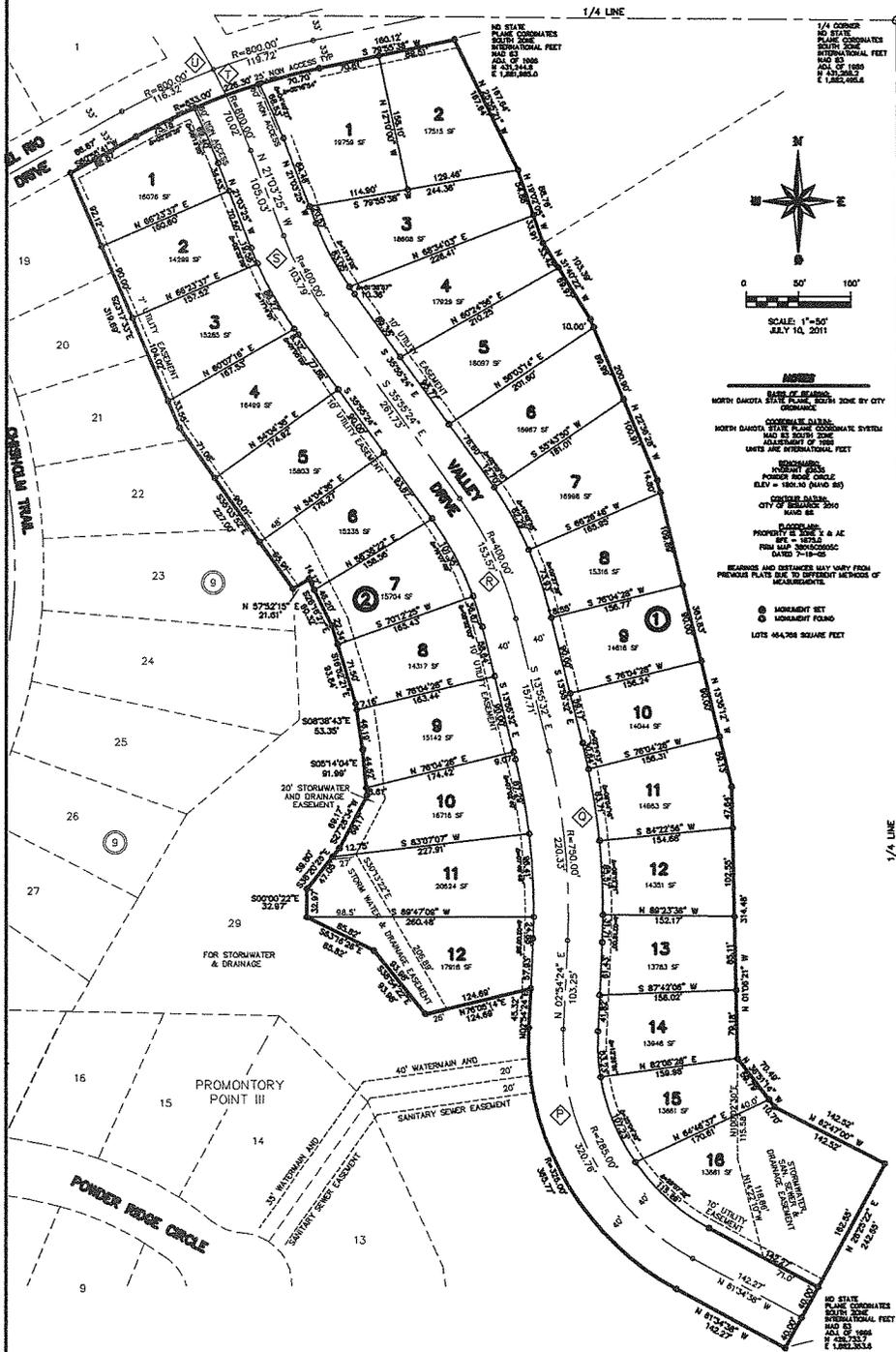
DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: July 27, 2011 (Kee)

Source: City of Bismarck



PROMONTORY POINT IV ADDITION FIRST REPLAT

BEING A REPLAT OF LOTS 1-18 BLOCK 9 AND LOTS 1-24 BLOCK 11
AND THE ADJOINING VALLEY DRIVE RIGHT OF WAY
PROMONTORY POINT IV BISMARCK NORTH DAKOTA
EAST 1/2 SOUTHWEST 1/4 SECTION 19, T. 139 N., R. 80 W.
BISMARCK, NORTH DAKOTA



RESOLUTION
LOTS 1-18 BLOCK 9 AND LOTS 1-24 BLOCK 11 AND THE ADJOINING VALLEY DRIVE RIGHT OF WAY PROMONTORY POINT IV BISMARCK NORTH DAKOTA CONTAINING 565,277 SQUARE FEET, MORE OR LESS, EAST 1/2 SOUTHWEST 1/4 SECTION 19 TOWNSHIP 139 NORTH RANGE 80 WEST BURLEIGH COUNTY NORTH DAKOTA

APPROVAL OF CITY ENGINEER
I, MELVIN J. BULLINGER, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "PROMONTORY POINT IV ADDITION FIRST REPLAT", BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

MELVIN J. BULLINGER
CITY ENGINEER

APPROVAL OF BOARD OF CITY COMMISSIONERS
THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT AND HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT. THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE ____ DAY OF _____, 2011.

ATTEST
M. C. WOODEN - CITY ADMINISTRATOR

APPROVAL OF CITY PLANNING COMMISSION
THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, NORTH DAKOTA, ON THE ____ DAY OF _____, 2011, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

WAYNE LEE YEAGER - CHAIRMAN CARL D. HOKENSTAD - SECRETARY

SURVEYOR'S CERTIFICATE
I, TIM LANGERUD, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON THE ____ DAY OF _____, 2011, AND THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEOMETRIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA) SWENSON, HAGEN & CO. P.C.
COUNTY OF BURLEIGH) 353 308 BUSH AVENUE
BISMARCK, NORTH DAKOTA
58504

TIM LANGERUD
REGISTERED LAND SURVEYOR
R.L.S. REGISTRATION NO. 3770

ON THIS ____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED TIM LANGERUD, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

DAVID PATIENCE, NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES AUGUST 14, 2016

OWNER'S CERTIFICATE & RESOLUTION
KNOW TO ALL MEN BY THESE PRESENTS THAT WANTED DEVELOPMENT INC BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "PROMONTORY POINT IV ADDITION FIRST REPLAT", BISMARCK, NORTH DAKOTA. THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES INCLUDING SANITARY SEWER AND WATER MAINS ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS "UTILITY EASEMENTS".

STATE OF NORTH DAKOTA) WACHTER DEVELOPMENT
COUNTY OF BURLEIGH) PO BOX 520
BISMARCK ND 58502

WACHTER DEVELOPMENT
PO BOX 520
BISMARCK ND 58502

ON THIS ____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED LANCE WACHTER OF WACHTER DEVELOPMENT KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

CURVE	DELTA ANGLE	TANGENT	RADIUS	ARC LENGTH
D	64°28'22"	179.77	286.00	326.76
D	18°46'26"	110.67	750.00	220.33
R	21°58'32"	77.74	400.00	153.57
S	14°51'36"	52.16	400.00	103.78
T	16°15'35"	114.28	800.00	227.03
U	16°54'16"	115.68	600.00	238.04

BLOCK 1	18 LOTS	273,220 SQ FT	6.27 ACRES
BLOCK 2	12 LOTS	191,540 SQ FT	4.40 ACRES
STREET		131,055 SQ FT	3.00 ACRES
TOTAL	28 LOTS	595,815 SQ FT	13.68 ACRES



Document is preliminary and not for construction, recording purposes or implementation unless signed and stamped

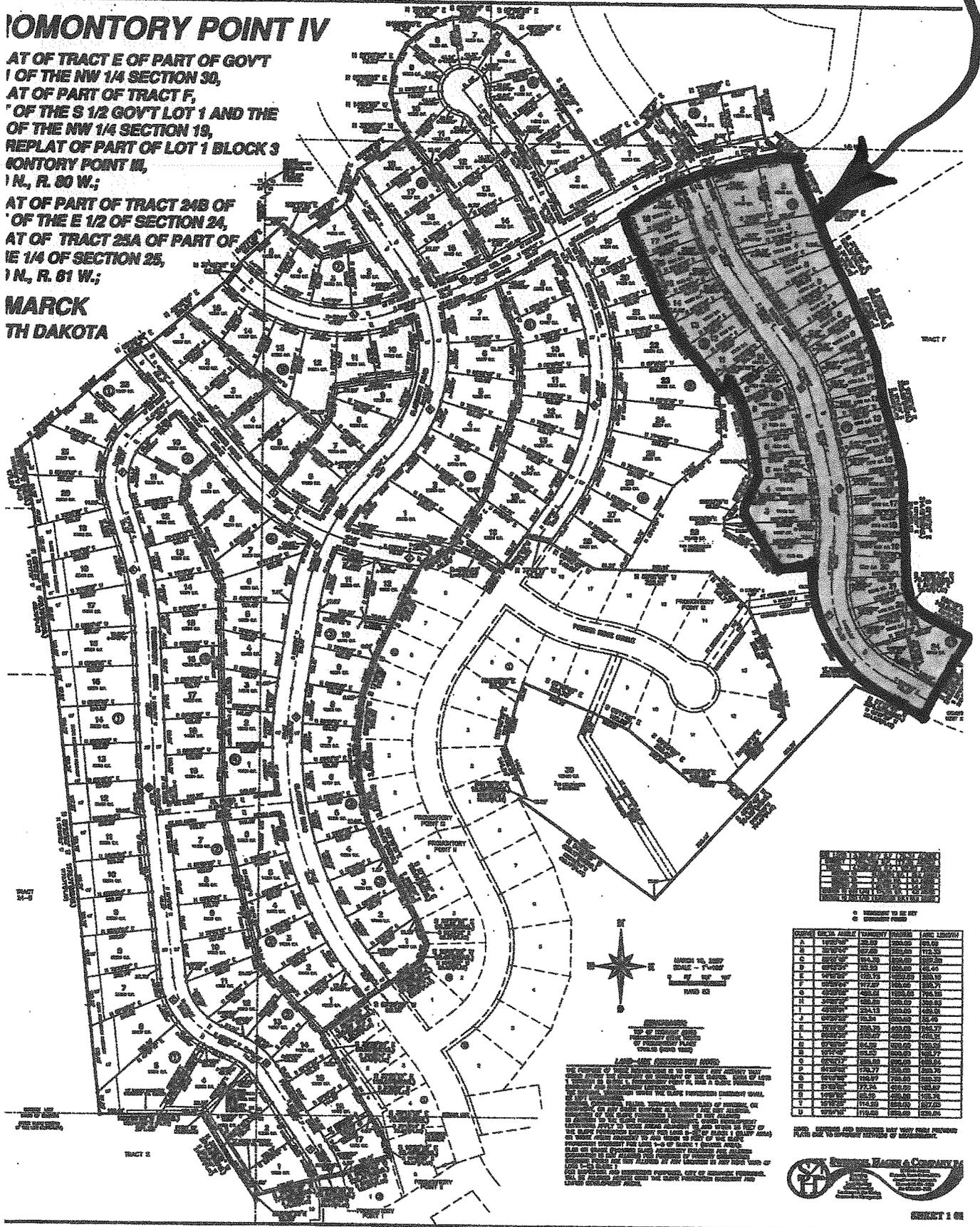
area being replatted

MONTORY POINT IV

AT OF TRACT E OF PART OF GOVT
 1 OF THE NW 1/4 SECTION 30,
 AT OF PART OF TRACT F,
 OF THE S 1/2 GOV'T LOT 1 AND THE
 OF THE NW 1/4 SECTION 19,
 REPLAT OF PART OF LOT 1 BLOCK 3
 MONTORY POINT III,
 1 N., R. 80 W.;

AT OF PART OF TRACT 24B OF
 OF THE E 1/2 OF SECTION 24,
 AT OF TRACT 25A OF PART OF
 IE 1/4 OF SECTION 25,
 1 N., R. 81 W.;

**MARCK
 TH DAKOTA**



SECTION	TRACT	AREA	ACRES
1	1	1.00	1.00
2	1	1.00	1.00
3	1	1.00	1.00
4	1	1.00	1.00
5	1	1.00	1.00
6	1	1.00	1.00
7	1	1.00	1.00
8	1	1.00	1.00
9	1	1.00	1.00
10	1	1.00	1.00
11	1	1.00	1.00
12	1	1.00	1.00
13	1	1.00	1.00
14	1	1.00	1.00
15	1	1.00	1.00
16	1	1.00	1.00
17	1	1.00	1.00
18	1	1.00	1.00
19	1	1.00	1.00
20	1	1.00	1.00
21	1	1.00	1.00
22	1	1.00	1.00
23	1	1.00	1.00
24	1	1.00	1.00
25	1	1.00	1.00
26	1	1.00	1.00
27	1	1.00	1.00
28	1	1.00	1.00
29	1	1.00	1.00
30	1	1.00	1.00

SECTION	TRACT	AREA	ACRES
A	1	1.00	1.00
B	1	1.00	1.00
C	1	1.00	1.00
D	1	1.00	1.00
E	1	1.00	1.00
F	1	1.00	1.00
G	1	1.00	1.00
H	1	1.00	1.00
I	1	1.00	1.00
J	1	1.00	1.00
K	1	1.00	1.00
L	1	1.00	1.00
M	1	1.00	1.00
N	1	1.00	1.00
O	1	1.00	1.00
P	1	1.00	1.00
Q	1	1.00	1.00
R	1	1.00	1.00
S	1	1.00	1.00
T	1	1.00	1.00
U	1	1.00	1.00

LEGEND
 TOP OF CURVED LINE
 PROPERTY LINE
 DASHED LINE
 EASEMENT (SEE MAP)

LAND-USE DESIGNATION
 THE PURPOSE OF THIS PLAT IS TO REPLAT ANY LOT OR TRACT OF LAND WHICH IS SUBJECT TO A PLAT OF MONTORY POINT IV, AND A SUBDIVISION OF THE SAME, WHICH THE STATE ENGINEER HAS DETERMINED TO BE SUBJECT TO THE STATE ENGINEER'S JURISDICTION. THE PURPOSE OF THIS PLAT IS TO REPLAT ANY LOT OR TRACT OF LAND WHICH IS SUBJECT TO A PLAT OF MONTORY POINT IV, AND A SUBDIVISION OF THE SAME, WHICH THE STATE ENGINEER HAS DETERMINED TO BE SUBJECT TO THE STATE ENGINEER'S JURISDICTION. THE PURPOSE OF THIS PLAT IS TO REPLAT ANY LOT OR TRACT OF LAND WHICH IS SUBJECT TO A PLAT OF MONTORY POINT IV, AND A SUBDIVISION OF THE SAME, WHICH THE STATE ENGINEER HAS DETERMINED TO BE SUBJECT TO THE STATE ENGINEER'S JURISDICTION.



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

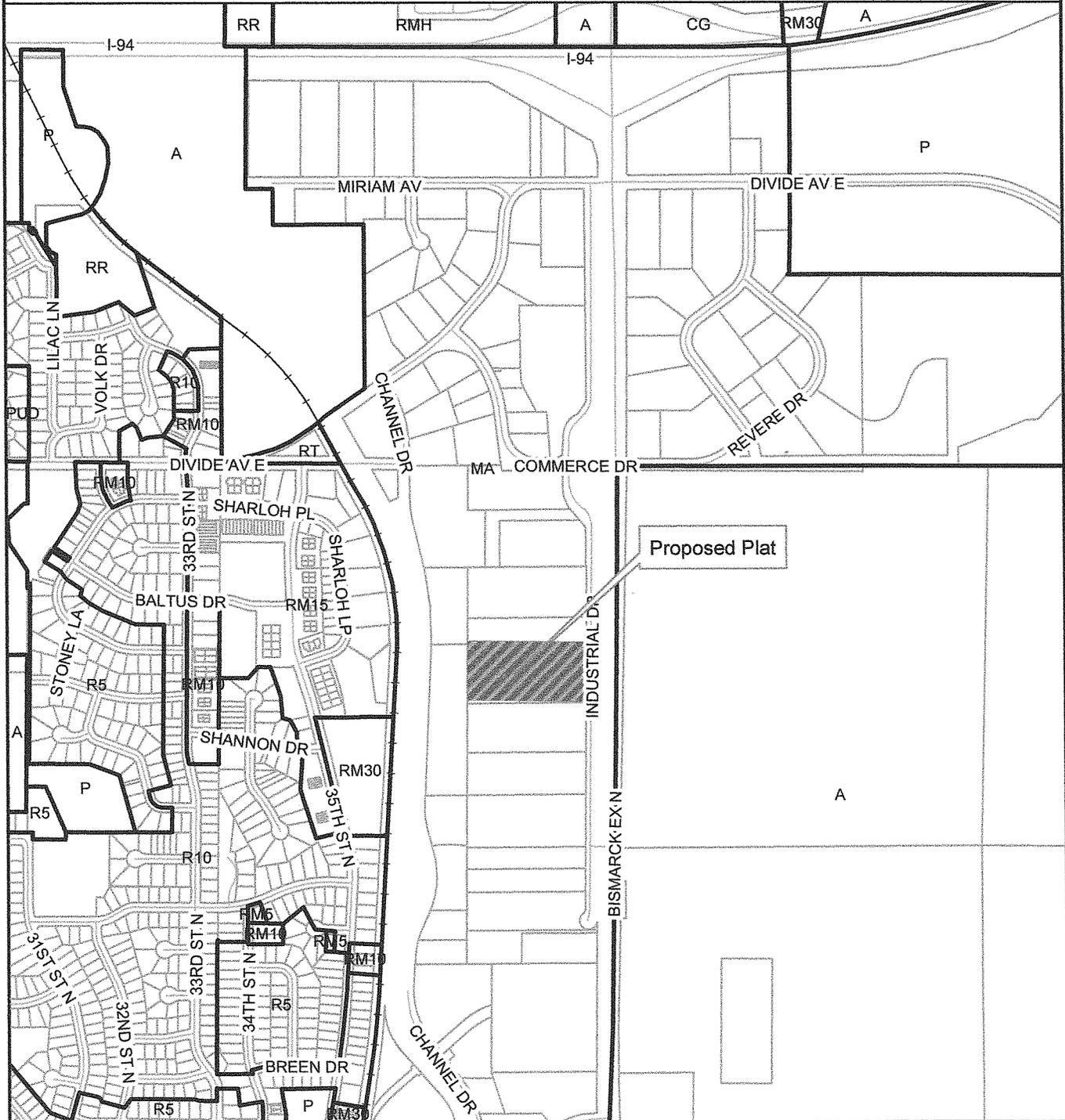
BACKGROUND:		
Title: Miriam Industrial Park Second Addition First Replat – Final Plat		
Status: Planning Commission – Public Hearing	Date: August 24, 2011	
Owner(s): S&P Partnership, LLP et al.	Engineer: Swenson, Hagen & Company	
Reason for Request: To subdivide the lot to allow for continued development of shop condos.		
Location: In east Bismarck, along the west side of Industrial Drive, approximately ¾ of a mile south of the I-94 interchange (a replat of the north 409.71 feet of Lot 17, Miriam Industrial Park Second Addition in part of the NE ¼ of Section 35, T139N-R80W/Hay Creek Township).		
Project Size: 7.72 acres	Number of Lots: 5 lots in a block	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Partially-developed industrial shop condominiums	Land Use: Industrial shop condominiums	
Zoning: MA-Industrial	Zoning: MA-Industrial	
Uses Allowed: MA-Heavy commercial, wholesale and light industrial uses and truck terminals	Uses Allowed: MA-Heavy commercial, wholesale and light industrial uses and truck terminals	
Maximum Density Allowed: MA – N/A	Maximum Density Allowed: MA – N/A	
PROPERTY HISTORY:		
Zoned: Pre-1980	Platted: 07/1975	Annexed: Pre-1980
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> The existing parcel has been administratively split through the City’s lot modification process on two separate occasions resulting in a total of three parcels being created. As the creation of three parcels is the maximum allowed under the City’s lot modification process, no additional lot splits would be allowed under the City’s subdivision regulations. The property may only be subdivided further through the minor subdivision process. The internal area will be accessed off of Industrial Drive via an existing private driveway easement for access and circulation; no additional right-of-way would be dedicated. 		
FINDINGS:		
<ol style="list-style-type: none"> All technical requirements for approval of a minor subdivision plat have been met. 		
		<i>continued...</i>

2. The proposed subdivision is outside the boundaries of the Fringe Area Road Master Plan.
3. The storm water management plan has not been approved by the City Engineer.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include developed industrial land to the south and north, partially-developed residential land separated by the CP Railway railroad line and the Hay Creek corridor to the west, Bismarck Expressway and undeveloped property to the east.
5. The property is already 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.

RECOMMENDATION:

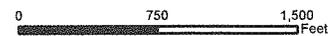
Based on finding #3, staff recommends continuing the public hearing until such time as the storm water management plan has been approved by the City Engineer.

Proposed Minor Subdivision Final Plat Miriam Industrial Park 2nd Addition 1st Replat



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: July 27, 2011 (klee)

Source: City of Bismarck



MIRIAM INDUSTRIAL PARK SECOND ADDITION FIRST REPLAT

THE NORTH 409.71 FEET OF LOT 17 MIRIAM INDUSTRIAL PARK SECOND ADDITION
 BISMARCK, NORTH DAKOTA
 NE 1/4 SECTION 35, T. 139 N., R. 80 W.
 BISMARCK, NORTH DAKOTA

TERRY OLSEN
 2011 10TH STREET
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED TERRY OLSEN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

PAUL OLSEN
 3203 BROADWAY AVENUE
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED PAUL OLSEN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

THE PROPERTIES LLC
 1000 VICTORIA AVENUE
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED STEVE JUNG OF THE FIRM PROPERTIES LLC AS TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

MICHAEL DANQUANTER
 1000 VICTORIA AVENUE
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED MICHAEL DANQUANTER AND HANNA DANQUANTER KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

DIEMIDA CONSTRUCTION INC
 1414 INDUSTRIAL DRIVE
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED DIEMIDA CONSTRUCTION INC AS TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

THE PROPERTIES LLC
 1000 VICTORIA AVENUE
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED STEVE JUNG OF THE FIRM PROPERTIES LLC AS TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

JORJAN JENSEN OLSEN
 1414 INDUSTRIAL DRIVE
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED JORJAN JENSEN OLSEN KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

ERIC BAILEY
 1414 INDUSTRIAL DRIVE
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED ERIC BAILEY KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

WILLIAM WILSON
 1414 INDUSTRIAL DRIVE
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED WILLIAM WILSON KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

DANNO BLAZAVIC
 2011 10TH STREET
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED DANNO BLAZAVIC AND HANNA BLAZAVIC KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

JAKE A. BECK
 1414 INDUSTRIAL DRIVE
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED JAKE A. BECK, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

LARRY BRONDEL
 1414 INDUSTRIAL DRIVE
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED LARRY BRONDEL, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____

MIKE HAUNT
 2011 10TH STREET
 BISMARCK, N.D. 58001
 STATE OF NORTH DAKOTA }
 COUNTY OF BURLEIGH }
 ON THIS _____ DAY OF _____, 2011, BEFORE ME PERSONALLY APPEARED MIKE HAUNT AND REVA HAUNT KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
 BURLEIGH COUNTY, NORTH DAKOTA
 BY COMMISSION EXPIRES _____



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

BACKGROUND:		
Title: Lots 1-3 and 18-23, Block 5, Shannon Valley Addition – Zoning Change (R5, RM5 and RM10 to R10)		
Status: Planning Commission – Public Hearing	Date: August 24, 2011	
Owner(s): Ronald & Martha Peltz – Lot 2 Richard Hammond – Lots 1, 3 & 18-23	Engineer: N/A	
Reason for Request: Change zoning of property to allow either one or two-family development of property.		
Location: Along the east side of 34 th Street North and the Chivas Place cul-de-sac between East Avenue C and Crocus Avenue.		
Project Size: 2.47 acres, more or less	Number of Lots: 9 lots in 1 block	
EXISTING CONDITIONS:		
Land Use: Undeveloped	PROPOSED CONDITIONS:	
Zoning: R5 – Residential RM5 – Residential RM10 – Residential	Land Use: One & two-family residential	
Uses Allowed: R5 – Single-family residential RM5 – Multi-family residential RM10 – Multi-family residential	Zoning: R10 – Residential	
Maximum Density Allowed: R5 – 5 units/acre RM5 – 5 units/acre RM10 – 10 units/acre	Uses Allowed: One and two-family residential	
Maximum Density Allowed: 10 units/acre		
PROPERTY HISTORY:		
Zoned: 03/80	Platted: 03/80	Annexed: 03/80
ADDITIONAL INFORMATION:		
1. This area was platted and zoned in 1980 and a significant portion of the subdivision was replatted as Shannon Valley 2 nd Addition in 2001.		
FINDINGS:		
1. This area is outside of the area covered by the Land Use Plan.		
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north, south, east and west.		
3. The property is already annexed; 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.		

(continued)

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

RECOMMENDATION:

Based on the above findings, staff recommends approval of the zoning change from R5 – Residential, RM5 – Residential, and RM10 – Residential to R10 – Residential on Lots 1-3 and 18-23, Block 5, Shannon Valley Addition.

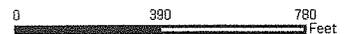
Proposed Zoning Change (RM10, RM5 & R5 to R10)

Lots 1-3 & 18-23, Block 5, Shannon Valley

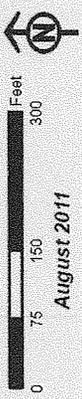
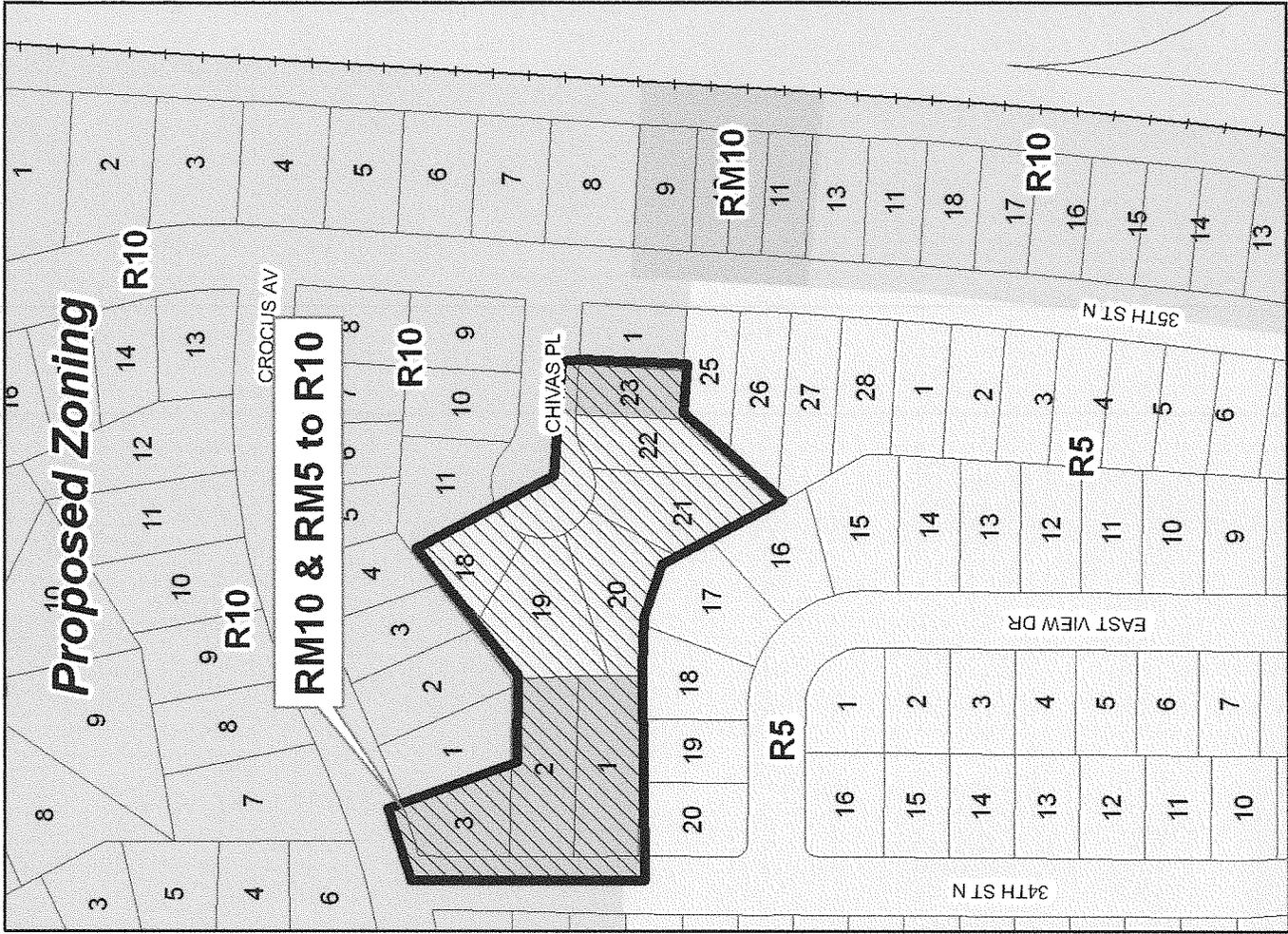


DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
 Map was Updated/Created: July 1, 2011 (kdg)

Source: City of Bismarck



Lots 1-3 and 18-23, Block 5, Shannon Valley Addition



August 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 PLANNING & ZONING COMMISSION
MEETING MINUTES
July 27, 2011**

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

Commissioners present were Mark Armstrong, Tom Atkinson, Mel Bullinger, Vernon Laning, 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, Jason Tomanek – Planner and Kim Riepl – Office Assistant II.

Others present were Pam Des Roches - 1720 Burn Boat Drive Suite 206, Ron and Jackie Enget - 1720 Burn Boat Drive Suite 202, Marc Eidahl - 1720 Burn Boat Drive Suite 202, Al Fisher - 1720 Burn Boat Drive Suite 202 and Edie Fisher – 1720 Burn Boat Drive Suite 202.

MINUTES

Chairman Yeager called for consideration of the minutes of the June 22, 2011 meeting.

MOTION: Commissioner Armstrong made a motion to approve the minutes of the June 22, 2011 meeting as received. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

CONSIDERATION – ZONING CHANGE FROM R5, RM5 & R10 TO R10 – LOTS 1-3 AND 18-23, BLOCK 5, SHANNON VALLEY ADDITION

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

- A. A zoning change from the R5-Residential, RM5-Residential and RM10-Residential zoning districts to the R10-Residential zoning district for Lots 1-3 and 18-23, Block 5, Shannon Valley Addition. The property is 9 lots in 1 block on 2.47 acres, located along the east side of 34th Street North and the Chivas Place cul-de-sac between East Avenue C and Crocus Avenue.

MOTION: Based on the findings in the staff report, Commissioner Warford made a motion to approve Consent Agenda item A, calling for a public hearing on the item. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT FOR LOT 2, BLOCK 1, COUNTRY WEST IV SECOND REPLAT (1720 BURNT BOAT DRIVE SUITE 204)

Chairman Yeager called for the public hearing for a special use permit to allow use of a conference room in a multi-tenant office building for a church. The property is located along the north side of Burnt Boat Drive between Tyler Parkway and Clairmont Road (1720 Burnt Boat Drive Suite 204).

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

1. The proposed use is in harmony with the purpose and intent of the zoning ordinance and the master plan of the City of Bismarck.
2. The proposed special use will not adversely affect the public health, safety and general welfare.
3. The proposed use may be detrimental to the use or development of adjacent properties. In particular, the operation of a church facility in a multi-tenant office building is not necessarily compatible with the office uses within the building.
4. The proposed use will 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. A church is allowed in the RT district as a special use. Section 14-03-08 (4)(f) of the City Code of Ordinances outlines the requirements for a church.
2. There are some concerns with parking for a church facility in a multi-tenant office building. The site plan submitted with the application shows 58 parking spaces for the building. While this may be adequate for the office uses, there are concerns that any church activities during typical office hours would strain the available parking. In addition, parking is not allowed the north side of Burnt Boat Drive adjacent to the property.
3. There was an error in the legal description in the legal ad and adjacent property owner notification for this project; therefore, action cannot be taken on the request until the next meeting after proper legal notification.

Ms. Lee said that based the error in the legal notice, staff recommends continuing the public hearing until the August 24, 2011 meeting for the special use permit to allow use of a conference room in a multi-tenant office building for a church on Lot 2, Block 1, Country West IV Second Replat (1720 Burnt Boat Drive Suite 204).

Ms. Lee also distributed two letters and an email in regards to the special use permit, attached as Exhibit A, Exhibit B and Exhibit C.

Chairman Yeager called for the public hearing for the special use permit to allow use of a conference room in a multi-tenant office building for a church on Lot 2, Block 1, Country West IV Second Replat (1720 Burnt Boat Drive Suite 204).

Pam Des Roches from the Thomas Leach Foundation said that their concerns are the limitations of the building and that it has only ever been a multi-tenant office use.

Marc Eidahl, the pastor of New Life Church, stated that he understands the concerns of the other tenants; however, they have submitted all the necessary paper work and do meet the requirements in the ordinance for a special use permit. He went on to say that they will do anything they can to alleviate any of the concerns of the other tenants in the building. Mr. Eidahl concluded that the larger church meetings will only take place after office hours of the other tenants and in the last three years the current church meetings have not interfered with the other tenants to the best of his knowledge.

Commissioner Laning inquired if the church would be comfortable with after-hour only restrictions for the church meetings. Mr. Eidahl responded by saying only if the restrictions were only for the corporate meetings and nothing to do with the counseling traffic and such.

Commissioner Waldoch asked if there is assigned parking at the building. Mr. Eidahl said yes there is assigned parking and there are approximately four spaces assigned to the suite they are interested in.

MOTION: Based on the findings contained in the staff report, Commissioner Armstrong made a motion to continue the request for a special use permit to allow use of a conference room in a multi-tenant office building for a church on Lot 2, Block 1, Country West IV Second Replat (1720 Burnt Boat Drive Suite 204) to the August 24, 2011 Bismarck Planning & Zoning Commission meeting. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Laning, 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 5:15 p.m. to meet again on August 24, 2011.

Respectfully submitted,

Kimberley Gaffrey
Recording Secretary

Wayne Yeager
Chairman

RECEIVED
JUL 19 2011



The Tom and Frances Leach Foundation, Inc.

1720 Burnt Boat Drive • Post Office Box 1136 • Bismarck, North Dakota 58502-1136
Telephone 701-255-0479 • www.leachfoundation.org

BOARD OF DIRECTORS

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July 19, 2011

Gregg Greenquist
Community Development Department
Planning Division
P.O. Box 5503
Bismarck, ND 58506-5503

STAFF

Pam DesRoches
*Administrative Secretary
and Grants Coordinator*

Subject: Special use permit pending request

Mr. Greenquist:

This letter is being submitted today with regard to a request made by New Life Church and Empire Oil for a special use permit. As a concerned tenant that shares the building and all of the facilities at 1720 Burnt Boat Drive (Lot 1, Block 1, Country West IV, Second plat) with the New Life Church we would not be in favor of such a use. Our offices are connected by a single hallway, which is 43.5 inches at the widest point; we also share the restroom facilities, which are limited, with no off-street parking available. Presently, our office is situated on the southeast corner directly across from the east end building entrance; persons who would attend events in Suite 204 would pass our office upon entry. We were told that they would meet Wednesday evening and Sunday morning this would limit access to our office should we need to work into the evening or to gain access to our office. It would also be difficult for conducting any business; since our offices have connecting walls and ceilings, controlling the noise and commotion of a large group would be problematical. If the needed parking exceeds the lot size there would be no off-street parking available for our office.

Thank you for your consideration in this matter.

Sincerely,

Pam Des Roches on behalf of
The Tom & Frances Leach Foundation, Inc.

C: Board of Directors

"Gifting to Provide Better Communities"
Since 1955

EXHIBIT A

Kim Lee

From: Jeff Furstenau [REDACTED]
Sent: Monday, July 25, 2011 11:09 AM
To: cobplan@nd.gov
Subject: special use permit for New Life Church

Mr. Greenquist,

I am the owner of an office building on Burnt Boat Loop. I am concerned about the lack of parking available for a church. I understand that a church's parking requirements occur in the evening or Sunday, but what about special occasions, funerals or weddings? The property at 1720 Burnt Boat Drive is over grown and has minimal parking available. The streets are narrow and visibility is obstructed by the over grown trees. I don't want to be the bad guy that has someone towed out of our lot while they are in church.

Jeff Furstenau



1720 Burnt Boat Dr.
Suite 202
Bismarck, ND 58503
Tel: 701-202-3674
newlife@westriv.com
www.newlifeweb.org

7/27/11

Dear Planning & Zoning Commission,

We would like you to kindly consider our request for a Special Use Permit for the use of suite 204 in the 1720 Burnt Boat Dr. property. We would be holding church related meetings in the largest office space within the suite. The remainder of the suite would make up our offices and a child care area. The plan and purpose of these church meetings is not to accommodate large amounts of people, as this is a smaller café style service that we intend to host. The meetings would not exceed building code limitations of 36 people within the largest meeting space. Any meetings of numerical substance would take place outside of regular office hours of the building. Therefore, parking should never be an issue. We do not intend to host any funerals or weddings or anything of this nature within this space.

We have submitted all legal and required documentation for your review. Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc P. Eidahl".

Pastor Marc P Eidahl
Associate Pastor
New Life Church

**Major Permit Activity
July 2011**

Non-deeded Owner: Nelson Drive Condo Association
Address: 614 Nelson Drive
Cost: \$600,000.00
Description: 2-story, 4-unit condo

Non-deeded Owner: GCC Dacotah Foundation
Address: 1316 East Front Avenue
Cost: \$537,000.00
Description: Additional silo and catwalk structure

Non-deeded Owner: Missouri Slope Care Center
Address: 2425 Hillview Avenue
Cost: \$1,780,450.00
Description: 1609 square foot alteration of resident rooms

Non-deeded Owner: Coleman Street Condominium Association
Address: 4017 Coleman Street
Cost: \$620,500.00
Description: 2-story, 4-unit condo

Non-deeded Owner: Deans Bulk Service
Address: 3412 Franklin Avenue
Cost: \$523,115.00
Description: 9600 square foot, 1-story building with oil storage and dock bays

Non-deeded Owner: Arrow Head Development LLC
Address: 3113 Nebraska Drive
Cost: \$600,000.00
Description: 1-story, 4-unit condo

DATE SELECTION 7/2011

Permit Type	***** City *****		***** ETA *****		***** County *****							
	7/2011	7/2010	7/2011	7/2010	7/2011	7/2010						
	Permits	Valuation	Permits	Valuation	Permits	Valuation						
SINGLE FAMILY DETACHED	49	8,578,974.00	25	4,752,393.00	4	945,597.00	5	1,387,738.00	0	.00	1	96,672.00
SINGLE FAMILY ATTACHED	12	2,172,472.00	2	266,091.00	0	.00	0	.00	0	.00	0	.00
TWO UNIT	1	238,476.00	0	.00	0	.00	0	.00	0	.00	0	.00
THREE & FOUR FAMILY	3	1,820,500.00	2	1,040,000.00	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	8	4,500.00	4	.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 DEVELOPMEN	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	2	1,060,115.00	2	531,760.00	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	2	1,880,000.00	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	1	1,797.00	2	862,129.00	0	.00	0	.00	0	.00	0	.00
PUBLIC BUILDING	2	67,600.00	0	.00	0	.00	0	.00	0	.00	0	.00
ROOM ADDITIONS	4	121,620.00	3	119,388.00	1	38,100.00	2	190,857.00	0	.00	0	.00
RESIDENTIAL GARAGES	7	53,632.00	8	64,132.00	8	156,988.00	10	162,795.00	0	.00	1	16,384.00
PATIOS AND COVERS	14	41,315.00	20	99,055.00	1	1,800.00	2	6,300.00	0	.00	2	8,865.00
SWIMMING POOLS AND SPAS	0	.00	0	.00	1	47,300.00	0	.00	0	.00	0	.00
OTHER	23	160,500.00	29	86,808.00	1	33,516.00	3	185,000.00	0	.00	0	.00
HOME OCCUPATIONS	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
STORAGE SHEDS	8	14,263.00	13	18,960.00	0	.00	4	5,850.00	0	.00	1	5,120.00
BASEMENT FINISH	11	52,768.00	7	37,847.00	1	500.00	6	57,480.00	0	.00	0	.00
INDUSTRIAL BUILDINGS	0	.00	5	420,806.00	0	.00	0	.00	0	.00	0	.00
COMMERCIAL BUILDINGS	6	2,243,950.00	2	267,300.00	0	.00	0	.00	0	.00	0	.00

DATE SELECTION 7/2011

Permit Type	***** City *****				***** ETA *****				***** County *****			
	7/2011		7/2010		7/2011		7/2010		7/2011		7/2010	
	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation
OFFICE & PROFESSIONAL BLD	4	106,000.00	6	411,660.00	0	.00	1	97,000.00	0	.00	0	.00
OTHER	2	242,213.00	1	12,400.00	1	200,000.00	0	.00	0	.00	0	.00
ALTER PUBLIC	2	26,214.00	2	223,271.00	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	1	.00	0	.00	0	.00	0	.00	0	.00	0	.00
OTHER	0	.00	0	.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	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
TEMPORARY STRUCTURE PERMI	2	.00	0	.00	0	.00	0	.00	0	.00	0	.00
CIRCUS/CARNIVAL	1	.00	0	.00	0	.00	0	.00	0	.00	0	.00
MOVE OUT OF PMT LOCATION	1	.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	6	60,049.00	7	26,786.00	0	.00	0	.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
Permit Type Total	171	19,397,671.00	143	11,120,786.00	18	1,423,801.00	33	2,093,020.00	0	.00	5	127,041.00

DATE SELECTION 7/2011

Permit Type	***** City *****		***** ETA *****		***** County *****	
	Permits 7/2011	Permits 7/2010	Permits 7/2011	Permits 7/2010	Permits 7/2011	Permits 7/2010
Plumbing	64	77	14	14	0	2
Electrical	114	110	0	0	0	0
Mechanical	102	88	15	29	5	3
Drain Field	0	0	9	7	4	1
Hood Suppression	1	1	0	0	0	0
SprinklerStandpipe	1	2	0	0	0	0
Alarm Detection	1	0	0	0	0	0
Total	283	278	38	50	9	6

DATE SELECTION 7/2011

Living Units	***** City *****		***** ETA *****		***** County *****	
	Units 7/2011	Units 7/2010	Units 7/2011	Units 7/2010	Units 7/2011	Units 7/2010
SINGLE FAMILY DETACHED	49	25	4	5	0	1
SINGLE FAMILY ATTACHED	12	2	0	0	0	0
TWO UNIT	2	0	0	0	0	0
THREE & FOUR FAMILY	12	8	0	0	0	0
MANUFACTURED HOMES	3	1	0	0	0	0
INDUSTRIAL	1	0	0	0	0	0
OTHER STRUCTURES	0	4	0	0	0	0
ROOM ADDITIONS	3	0	1	2	0	0
PATIOS AND COVERS	2	1	0	0	0	0
OTHER	1	2	0	0	0	0
BASEMENT FINISH	0	1	0	0	0	0
ALTER PUBLIC	1	0	0	0	0	0
Total	86	44	5	7	0	1

PERMIT LOCATION	PERMIT NUMBER	PROPERTY ADDRESS	DATE SELECTION	OWNERS NAME CONTRACTOR	VALUATION
CITY OF BISMARCK	2011-0000879	900 E BROADWAY	07/2011 AV	ST ALEXIUS ENGINEERING OFFICES SELF/OWNER ST ALEXIUS	2,330,713.00
CITY OF BISMARCK	2011-0000943	2425 HILLVIEW	AV	MISSOURI SLOPE CARE CENTER CAPITAL CITY CONSTRUCTION INC	1,780,450.00

DATE SELECTION 7/2011

Permit Type	***** City *****				***** ETA *****				***** County *****			
	7/2011		7/2010		7/2011		7/2010		7/2011		7/2010	
	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation	Permits	Valuation
SINGLE FAMILY DETACHED	168	29,823,310.00	143	25,589,208.00	62	11,438,857.00	57	10,756,444.00	7	1,339,580.00	8	1,536,123.00
SINGLE FAMILY ATTACHED	50	7,899,165.00	47	7,317,394.00	0	.00	0	.00	0	.00	0	.00
TWO UNIT	1	238,476.00	0	.00	0	.00	0	.00	0	.00	0	.00
THREE & FOUR FAMILY	3	1,820,500.00	2	1,040,000.00	0	.00	0	.00	0	.00	0	.00
FIVE & MORE FAMILY	0	.00	2	2,144,000.00	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	18	8,520.00	15	.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	2	12,311,458.00	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	1	120,000.00	0	.00	0	.00	0	.00	0	.00
INDUSTRIAL	5	1,930,115.00	7	4,322,341.00	2	314,000.00	1	56,000.00	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	3	1,117,250.00	7	28,352,193.00	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)	3	978,873.00	2	267,117.00	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	14	1,307,297.00	8	989,243.00	0	.00	0	.00	0	.00	0	.00
PUBLIC BUILDING	7	45,113,764.00	5	1,673,597.00	0	.00	0	.00	1	11,342.00	0	.00
ROOM ADDITIONS	19	397,844.00	11	257,505.00	5	142,400.00	12	1,087,845.00	1	21,306.00	2	97,680.00
RESIDENTIAL GARAGES	35	340,540.00	50	449,768.00	42	866,588.00	47	777,875.00	5	196,660.00	15	469,288.00
PATIOS AND COVERS	63	183,655.00	88	312,510.00	9	82,645.00	8	38,147.00	0	.00	4	17,265.00
SWIMMING POOLS AND SPAS	0	.00	1	70,395.00	1	47,300.00	0	.00	0	.00	0	.00
OTHER	69	638,979.00	116	1,486,608.00	7	220,624.00	9	293,952.00	1	4,172.00	4	12,500.00
HOME OCCUPATIONS	2	.00	3	.00	1	.00	1	.00	0	.00	0	.00
STORAGE SHEDS	29	55,350.00	69	119,240.00	3	18,433.00	10	20,586.00	0	.00	1	5,120.00
BASEMENT FINISH	111	546,748.00	83	377,255.00	28	159,233.00	31	178,377.00	0	.00	2	12,650.00
INDUSTRIAL BUILDINGS	13	2,843,601.00	14	1,443,387.00	1	286,382.00	0	.00	0	.00	0	.00
COMMERCIAL BUILDINGS	30	7,371,373.00	17	2,224,693.00	1	84,100.00	1	988,684.00	0	.00	0	.00

DATE SELECTION 7/2011

Permit Type	***** City *****		***** ETA *****		***** County *****							
	7/2011	7/2010	7/2011	7/2010	7/2011	7/2010						
	Permits	Valuation	Permits	Valuation	Permits	Valuation						
OFFICE & PROFESSIONAL BLD	26	6,995,769.00	46	7,092,392.00	0	.00	1	97,000.00	0	.00	0	.00
OTHER	10	2,728,362.00	8	1,415,456.00	2	1,200,000.00	0	.00	0	.00	0	.00
ALTER PUBLIC	10	2,406,943.00	11	2,947,918.00	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	6	.00	11	.00	0	.00	0	.00	0	.00	0	.00
OTHER	8	.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	2	.00	12	.00	10	.00	0	.00	0	.00
NURSERY STOCK SALES	6	.00	3	.00	0	.00	0	.00	0	.00	0	.00
TEMPORARY STRUCTURE PERMI	3	.00	3	.00	7	.00	5	.00	0	.00	0	.00
CIRCUS/CARNIVAL	2	50.00	1	.00	0	.00	0	.00	0	.00	0	.00
MOVE OUT OF PMT LOCATION	1	.00	3	.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	1	.00	0	.00	0	.00	0	.00	0	.00
NEW SIGN PERMIT	44	609,851.00	32	216,794.00	0	.00	1	1,945.00	0	.00	0	.00
SIGN ALTERATION	2	9,587.00	1	26,915.00	0	.00	0	.00	0	.00	0	.00
ELECTRONIC MESSAGE CENTER	0	.00	0	.00	0	.00	0	.00	0	.00	0	.00
	765	130,008,093.00	823	99,174,969.00	183	14,860,562.00	194	14,296,855.00	15	1,573,060.00	36	2,150,626.00

DATE SELECTION 7/2011

Permit Type	***** City *****		***** ETA *****		***** County *****	
	7/2011 Permits	7/2010 Permits	7/2011 Permits	7/2010 Permits	7/2011 Permits	7/2010 Permits
Plumbing	270	277	59	67	6	8
Electrical	614	596	0	0	0	0
Mechanical	658	574	104	104	9	14
Drain Field	0	0	9	7	4	1
Hood Suppression	1	1	0	0	0	0
SprinklerStandpipe	1	2	0	0	0	0
Alarm Detection	1	0	0	0	0	0
Total	1578	1472	199	224	20	25

DATE SELECTION 7/2011

Living Units	***** City *****		***** ETA *****		***** County *****	
	Units 7/2011	Units 7/2010	Units 7/2011	Units 7/2010	Units 7/2011	Units 7/2010
SINGLE FAMILY DETACHED	167	143	62	57	7	8
SINGLE FAMILY ATTACHED	50	47	0	0	0	0
TWO UNIT	2	0	0	0	0	0
THREE & FOUR FAMILY	12	8	0	0	0	0
FIVE & MORE FAMILY	0	21	0	0	0	0
MANUFACTURED HOMES	4	2	0	0	0	0
GROUP QUARTERS	0	2	0	0	0	0
INDUSTRIAL	1	0	0	0	0	0
OTHER STRUCTURES	0	4	0	0	0	0
ROOM ADDITIONS	4	0	1	4	0	1
RESIDENTIAL GARAGES	0	1	0	1	0	1
PATIOS AND COVERS	3	1	0	0	0	0
OTHER	1	5	0	0	0	0
STORAGE SHEDS	0	2	0	0	0	0
BASEMENT FINISH	7	6	1	1	0	0
INDUSTRIAL BUILDINGS	1	0	0	0	0	0
ALTER PUBLIC	1	0	0	0	0	0
RESIDENTIAL	1	0	0	0	0	0
Total	254	242	64	63	7	10