



Community Development Department

BISMARCK PLANNING AND ZONING COMMISSION
MEETING AGENDA
September 22, 2010

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

Item No. Page

MINUTES

- 1. Consider the approval of the minutes of the August 25, 2010 meeting of the Bismarck Planning and Zoning Commission.

CONSENT AGENDA

CONSIDERATION

The following item is a request for a public hearing.

- 2. Rocky Heights Addition (G2)
a. Zoning Change (R5, R10 & RM15 to R5 & R10)
Staff recommendation: schedule a hearing
b. Preliminary Plat
Staff recommendation: tentative approval
3. Woodruff Subdivision (Klee)
Gibbs Township
a. Zoning Change (A to RR)
Staff recommendation: schedule a hearing
b. Preliminary Plat
Staff recommendation: tentative approval

Bismarck-Burleigh County Community Development Department
221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • www.bismarck.org

4. **Whispering Pointe – Zoning Change (R10 to R5) (Klee)**19
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.

5. **Lot 3, Block 1, Whispering Bay – Detachment (Klee)**..... 23
Staff recommendation: deny approve continue table deny

6. **Hay Creek Industrial Subdivision Replat – Minor Subdivision Final Plat (Klee)**31
Hay Creek Township
Staff recommendation: approve approve continue table deny

7. **Lot 23A, Block 3, Falconer Estates – Rural Residential Lot Split (Klee)**.....35
Staff recommendation: deny approve continue table deny

8. **Capitol View Addition – Major PUD Amendment (JT)**41
Staff recommendation: approve approve continue table deny

9. **Tract 1 of Lots 1 and 2, Block 1, Elks Addition – Special Use Permit (drive-through) (JT)**51
Staff recommendation: approve approve continue table deny

OTHER BUSINESS

10. **Other**

ADJOURNMENT

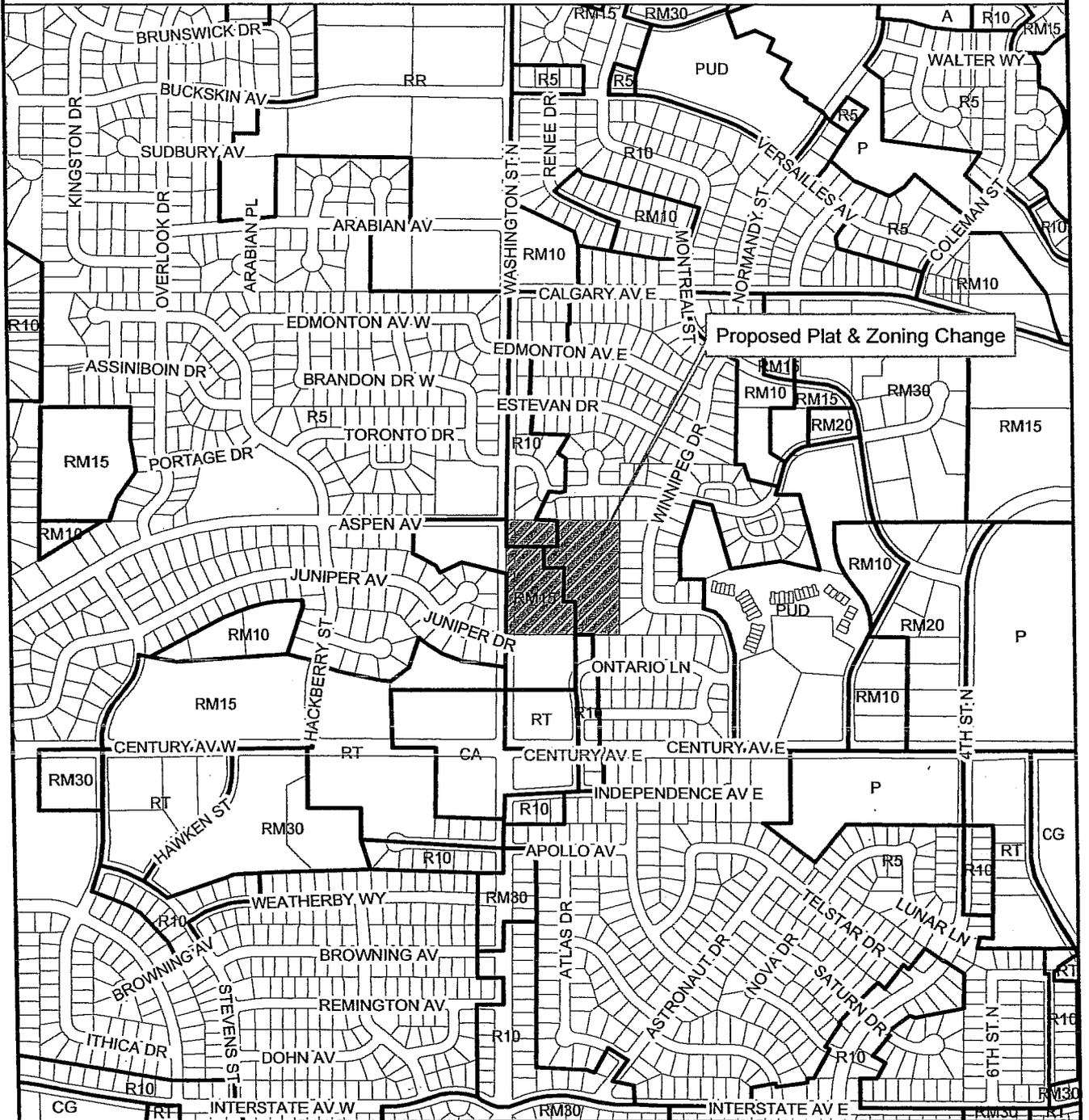
11. **Adjourn.** The next regular meeting date is scheduled for Wednesday, October 27, 2010.

Enclosure: Minutes of the August 25, 2010 meeting
 Major Building Permits Report for August 2010
 Building Permit Activity Report for August 2010

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

BACKGROUND:		
Title: Rocky Heights Addition – Zoning Change (R5, R10, and RM15 to R5 and R10)		
Status: Planning Commission – Consideration	Date: September 22, 2010	
Owner(s): George & Jean Hilts	Engineer: Kadmas Lee & Jackson	
Reason for Request: The owners wish to subdivide this parcel into 12 residential lots for single and two-family dwellings.		
Location: In north Bismarck, along the east side of North Washington Street; north of Century Avenue; between the Juniper Drive and Aspen Drive intersections (SW ¼ of Section 21, T139N-R80W/Hay Creek Township)		
Project Size: 10-acres	Number of Lots: 12 lots in 1 block	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: one single-family house to be removed	Land Use: 12 residential lots	
Zoning: R5, R10, and RM15 Residential	Zoning: R5 and R10 Residential	
Uses Allowed: single, two-family, and multi-family	Uses Allowed: single and two-family dwellings	
Maximum Density Allowed: RM15 = 15 units per acre	Maximum Density Allowed: R5 = 5 units per acre, R10 = 10 units per acre	
PROPERTY HISTORY:		
Zoned: pre-1980	Platted: N/A	Annexed: pre-1980
FINDINGS:		
<ol style="list-style-type: none"> 1. The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include single and two-family dwellings to the west; a church to the northwest; single family dwellings to the north and east; single family, duplex and row-house dwellings to the south. 2. The subdivision proposed for this property will be an urban residential subdivision and has already been annexed; therefore, the zoning change will not place an undue burden on public services. 3. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations. 		
RECOMMENDATION:		
Based on the above findings, staff recommends scheduling a public hearing for the zoning change of Rocky Heights Addition from R5, R10, and RM15 Residential to R5 and R10 Residential.		

Proposed Plat and Zoning Change (RM15, R10 & R5 to R10 & R5) Rocky Heights Addition



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.
Map was Updated/Created: August 25, 2010 (kdjg)

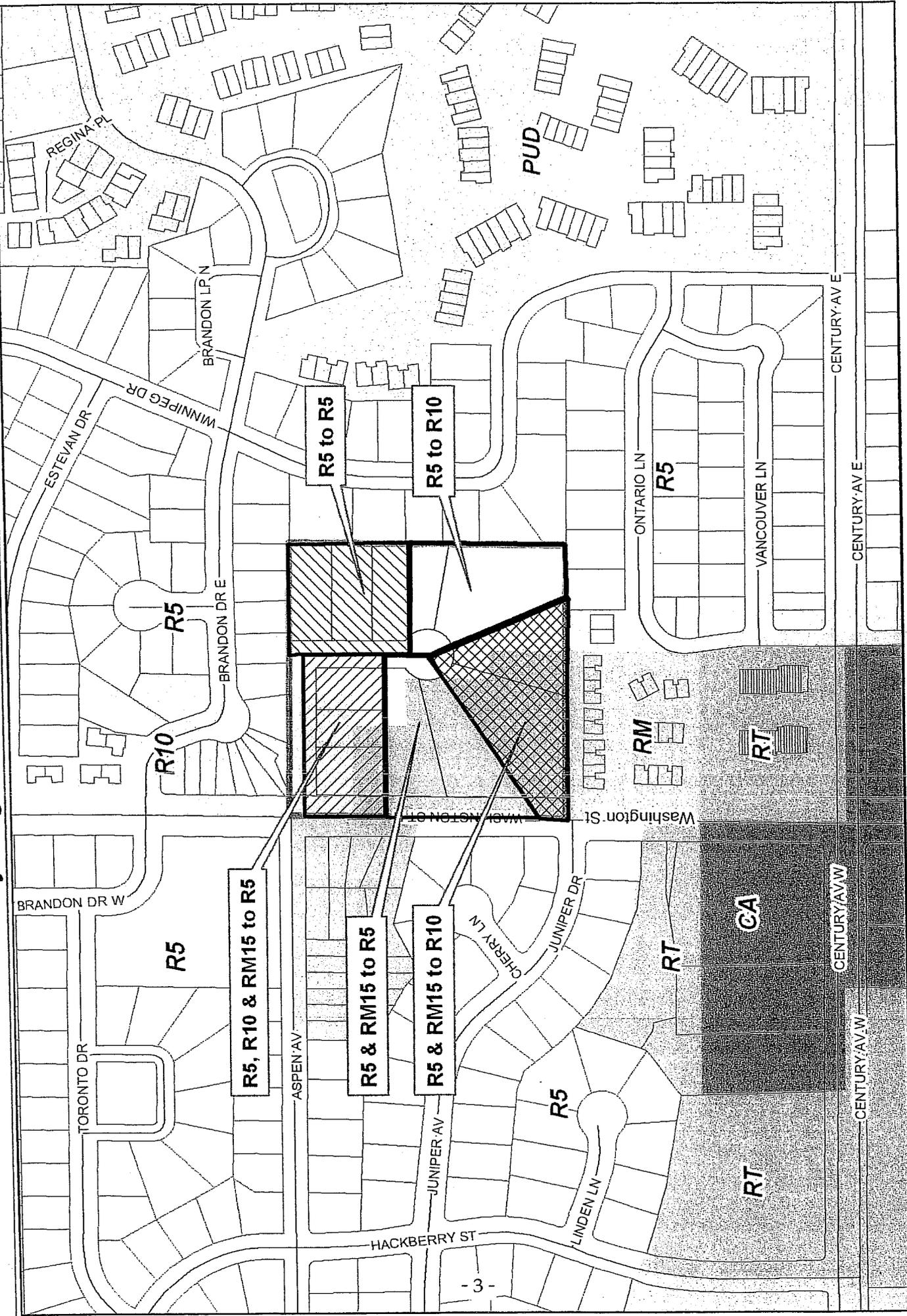
Source: City of Bismarck

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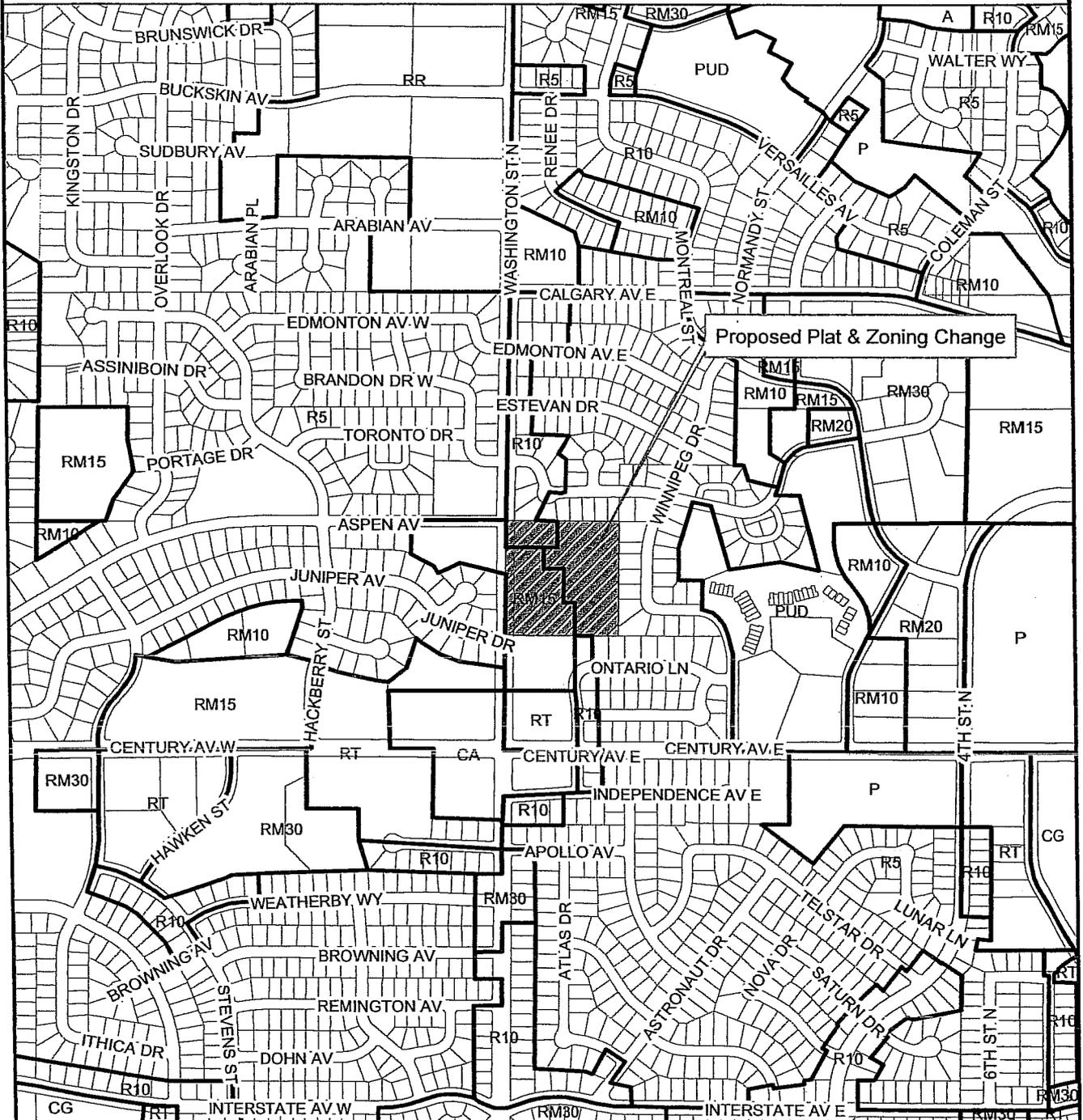
Rocky Heights Addition - Zoning Change



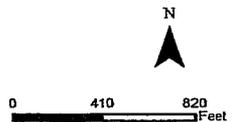
**BISMARCK-BURLEIGH COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

BACKGROUND:		
Title: Rocky Heights Addition – Preliminary Plat		
Status: Planning Commission – Consideration	Date: September 22, 2010	
Owner(s): George & Jean Hilts	Engineer: Kadrmass Lee & Jackson	
Reason for Request: The owners wish to subdivide this parcel into 12 residential lots.		
Location: In north Bismarck, along the east side of North Washington Street; north of Century Avenue; between the Juniper Drive and Aspen Drive intersections (SW ¼ of Section 21, T139N-R80W/ Hay Creek Township)		
Project Size: 10-acres	Number of Lots: 12 lots in 1 block	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: one single-family house to be removed	Land Use: 12 residential lots	
Zoning: R5, R10, and RM15 Residential	Zoning: R5 and R10 Residential	
Uses Allowed: single, two-family, and multi-family	Uses Allowed: single and two-family dwellings	
Maximum Density Allowed: RM15 = 15 units per acre	Maximum Density Allowed: R5 = 5 units per acre, R10 = 10 units per acre	
PROPERTY HISTORY:		
Zoned: pre-1980	Platted: N/A	Annexed: pre-1980
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> 1. A single access on North Washington Street is shown at the northwest corner of this parcel. 2. Due to the steeply sloped terrain which makes a through-street unfeasible, a cul-de-sac has been requested (see attached letter). 		
FINDINGS:		
<ol style="list-style-type: none"> 1. All technical requirements for tentative approval of a preliminary plat have been met. 2. The proposed plat is compatible with adjacent land uses. Adjacent land uses include single and two-family dwellings to the west; a church to the northwest; single family dwellings to the north and east; single family, duplex and row-house dwellings to the south. 3. The proposed subdivision will be an urban residential subdivision and has already been annexed; therefore, it will not place an undue burden on public services. 4. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations. 		
RECOMMENDATION:		
Based on the above findings, staff recommends tentative approval of the preliminary plat of Rocky Heights Addition with the cul-de-sac as shown.		

Proposed Plat and Zoning Change (RM15, R10 & R5 to R10 & R5) Rocky Heights Addition



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.
Map was Updated/Created: August 25, 2010 (kdg)
Source: City of Bismarck



August 20, 2010

City of Bismarck
Planning and Zoning
P.O. Box 5503
Bismarck, ND 58506

Re: Rocky Heights Addition

Dear Ms. Lee:

The proposed Rocky Heights Addition is a very challenging parcel from the perspective of developing a roadway through the site. Although it is possible to access the site at the northerly end and southerly end, an interconnecting roadway through the site is nearly impossible. Due to the extreme elevation change across the site, an interconnecting road would have a grade of approximately 30% - far beyond acceptable design standards.

We are hereby requesting the use of a cul-de-sac to develop the site. A cul-de-sac will allow roadway grades in the range of 2 - 3% and will also limit the access points onto Washington Street to one intersection.

Your consideration of this request is appreciated.

Sincerely,

Kadmas, Lee & Jackson, Inc.



Brian Eiseman, P.E.
Project Manager

c: File, 1610122

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

BACKGROUND:	
Title: Woodruff Subdivision – Zoning Change (A to RR)	
Status: Planning Commission – Consideration	Date: September 22, 2010
Owner(s): Garret Woodruff	Engineer: Bartlett & West
Reason for Request: Plat and rezone developed property for purpose of obtaining a building permit for an accessory building. The actions will also bring the property into compliance with zoning requirements.	
Location: West of 66 th Street NE, south of 71 st Avenue NE and north of Rocky Road (part of the NE¼ of Section 7, T139N-R79W/Gibbs Township).	
Project Size: 2.07 acres	Number of Lots: One lot in one block
EXISTING CONDITIONS:	
Land Use: Rural residential	PROPOSED CONDITIONS:
Zoning: A – Agriculture	Land Use: Rural residential
Uses Allowed: Agriculture	Zoning: RR – Residential
Uses Allowed: Agriculture	Uses Allowed: Rural residential & limited agriculture
Maximum Density Allowed: One unit per 40 acres	Maximum Density Allowed: One unit per 65,000 square feet
PROPERTY HISTORY:	
Zoned: N/A	Platted: N/A
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> The proposed zoning change is partially within the 2-mile ETA and partially within the 4-mile ETA. Since a portion of the proposed zoning change is located within the 4-mile ETA, it is subject to the joint jurisdiction legislation (HB 1554). As the proposed zoning change was presented to the City for approval prior to May 1, 2009, the City has jurisdiction. However, the governing body that would otherwise have jurisdiction (in this case, Burleigh County) may object to the final decision of the City and request negotiation within 30 days of the final decision of the City Commission. If the City of Bismarck and Burleigh County do not come to an agreement within 30 days, the dispute is submitted to a committee for mediation. If the mediation committee is unable to resolve the dispute to the satisfaction of the City and Burleigh County, the dispute must be resolved by the Burleigh County Board of Commissioners. The property included in the proposed subdivision was split off from the surrounding agricultural property with a plat of irregular description in 2006. The plat of irregular description included the following note, "Due to its size (under 40 acres) and its current zoning, Agriculture, this parcel constitutes a non-conforming use. No further building permit will be allowed for this parcel until it is platted and zoned." 	
FINDINGS:	
<ol style="list-style-type: none"> The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan). 	

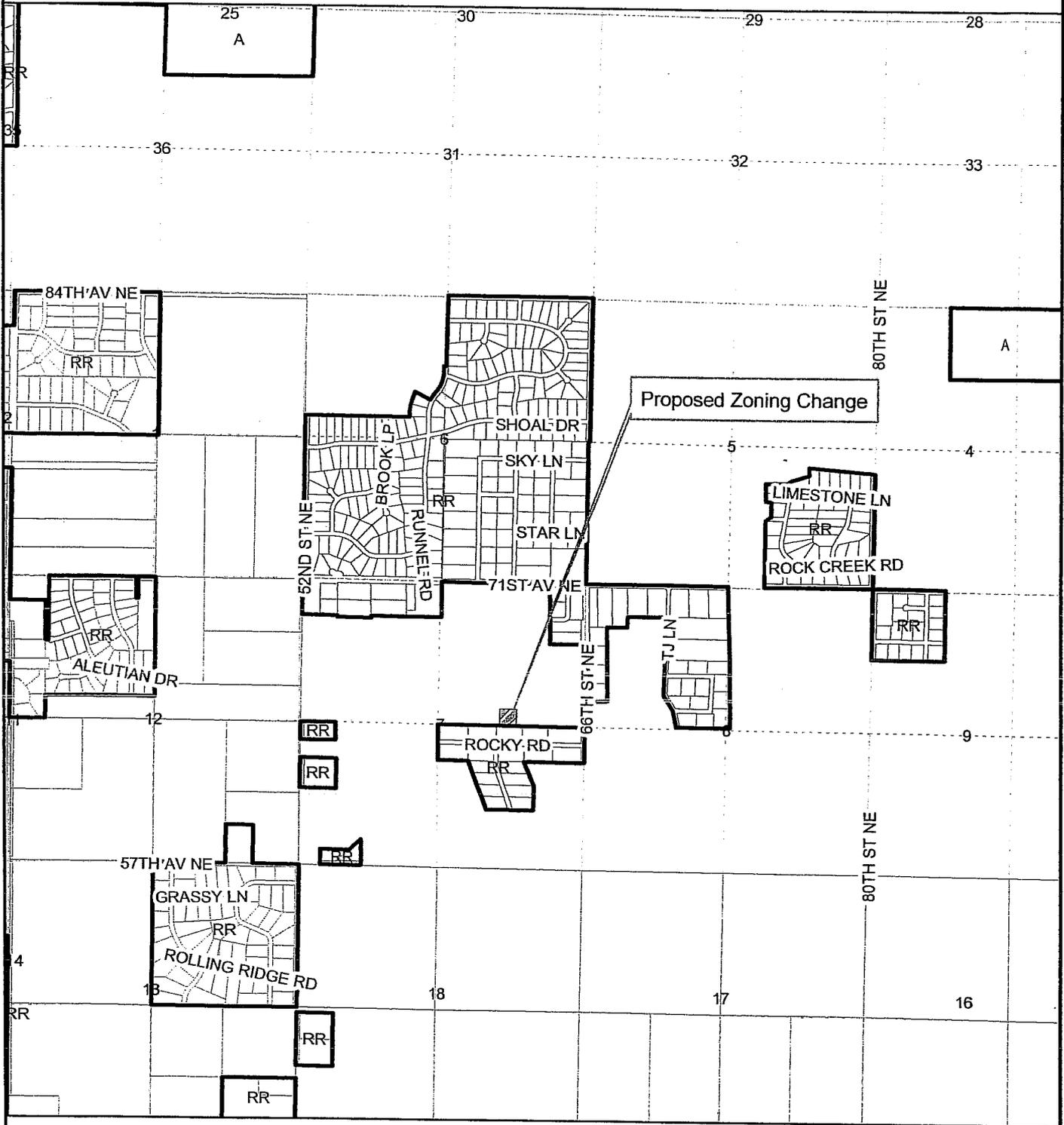
(continued)

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

RECOMMENDATION:

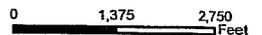
Based on the above findings, staff recommends scheduling a public hearing on the zoning change for Woodruff Subdivision from A – Agricultural to RR – Residential.

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

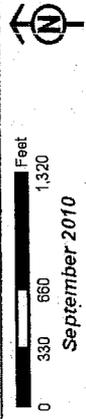
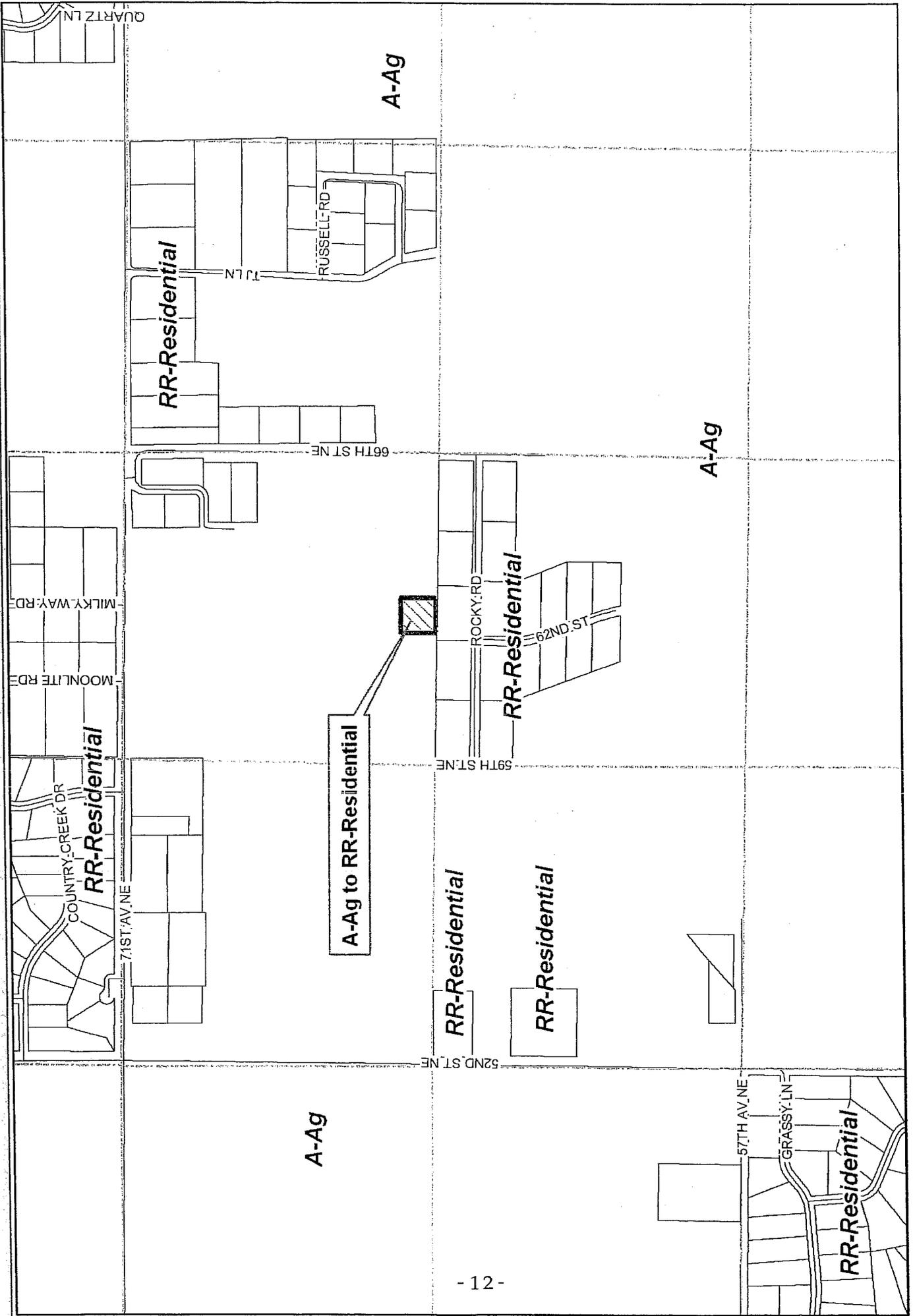


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Map was Updated/Created: August 25, 2010 (kdg)

Source: City of Bismarck



Woodruff Subdivision - Zoning Change



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

BACKGROUND:	
Title: Woodruff Subdivision – Preliminary Plat	
Status: Planning Commission – Consideration	Date: September 22, 2010
Owner(s): Garret Woodruff	Engineer: Bartlett & West
Reason for Request: Plat and rezone developed property for purpose of obtaining a building permit for an accessory building. The actions will also bring the property into compliance with zoning requirements.	
Location: West of 66 th Street NE, south of 71 st Avenue NE and north of Rocky Road (part of the NE¼ of Section 7, T139N-R79W/Gibbs Township).	
Project Size: 2.07 acres	Number of Lots: One lot in one block
EXISTING CONDITIONS:	PROPOSED CONDITIONS:
Land Use: Rural residential	Land Use: Rural residential
Zoning: A – Agriculture	Zoning: RR – Residential
Uses Allowed: Agriculture	Uses Allowed: Rural residential & limited agriculture
Maximum Density Allowed: One unit per 40 acres	Maximum Density Allowed: One unit per 65,000 square feet
PROPERTY HISTORY:	
Zoned: N/A	Platted: N/A
ADDITIONAL INFORMATION:	
<ol style="list-style-type: none"> 1. The Gibbs Township Board of Supervisors has not yet commented on the proposed subdivision. 2. The proposed subdivision is partially within the 2-mile ETA and partially within the 4-mile ETA. Since a portion of the proposed subdivision is located within the 4-mile ETA, it is subject to the joint jurisdiction legislation (HB 1554). As the proposed subdivision was presented to the City for approval prior to May 1, 2009, the City has jurisdiction. However, the governing body that would otherwise have jurisdiction (in this case, Burleigh County) may object to the final decision of the City and request negotiation within 30 days of the final decision of the City Commission. If the City of Bismarck and Burleigh County do not come to an agreement within 30 days, the dispute is submitted to a committee for mediation. If the mediation committee is unable to resolve the dispute to the satisfaction of the City and Burleigh County, the dispute must be resolved by the Burleigh County Board of Commissioners. 3. The property included in the proposed subdivision was split off from the surrounding agricultural property with a plat of irregular description in 2006. The plat of irregular description included the following note, "Due to its size (under 40 acres) and its current zoning, Agriculture, this parcel constitutes a non-conforming use. No further building permit will be allowed for this parcel until it is platted and zoned." 4. Access to the parcel is provided via a private access easement and a privately-maintained drive on the east half of the 59th Street NE right-of-way (only the east half of the roadway is dedicated) from the west end of Rocky Road. 	

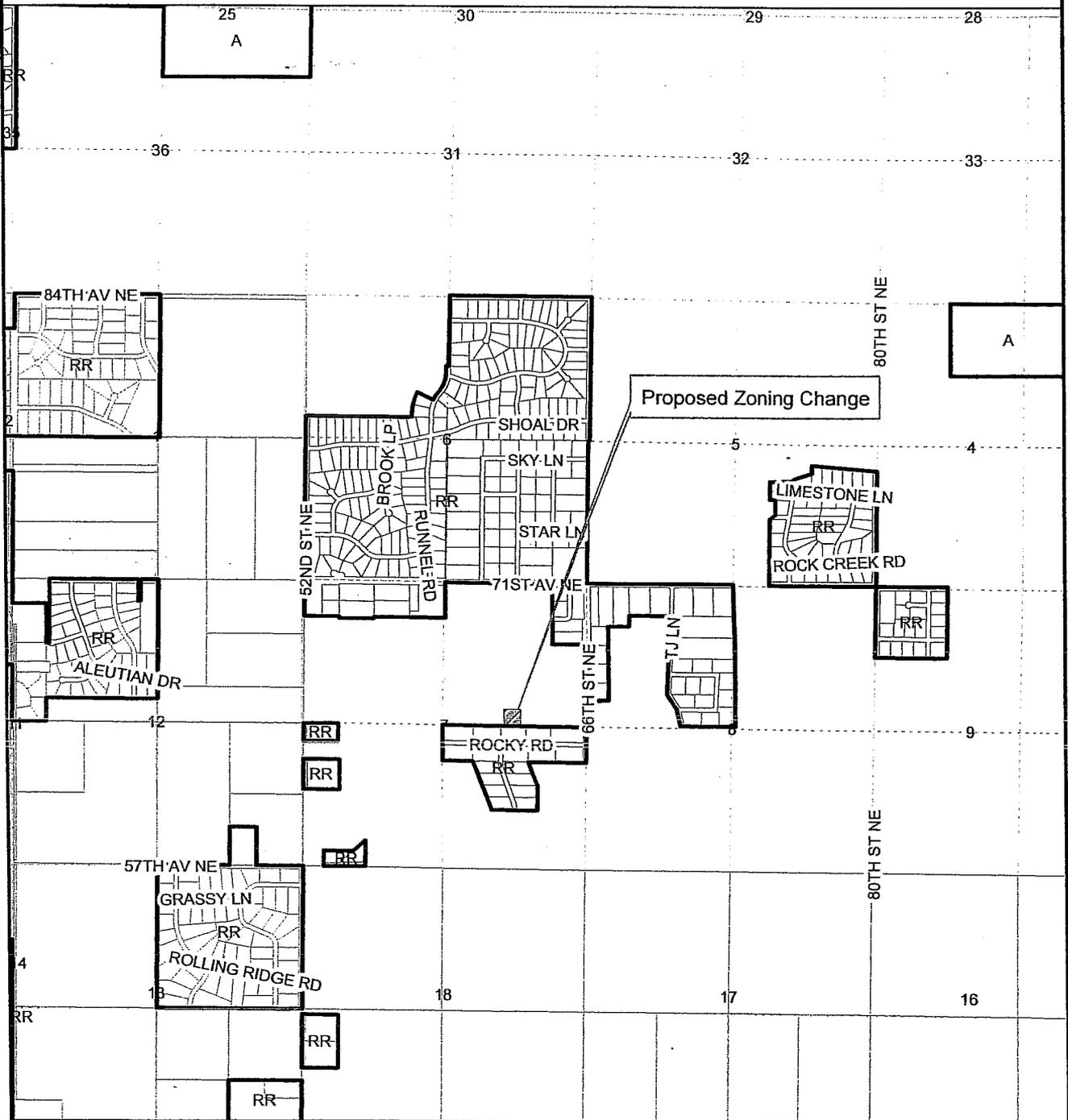
FINDINGS:

1. All technical requirements for consideration of a preliminary plat have been met.
2. The proposed subdivision is in conformance with the Fringe Area Road Master Plan, which identifies 59th Street NE as the north-south collector for this section.
2. The proposed subdivision is compatible with adjacent land uses. Adjacent land uses include rural residential to the south and agricultural land to the west, north and east.
3. The property included in the proposed subdivision is already developed, has access via a private drive to Rocky Road, and is served by South Central Regional Water District; therefore, the zoning change will not place an undue burden on public services.
3. The proposed subdivision would not adversely affect property in the vicinity.
4. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
5. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

RECOMMENDATION:

Based on the above findings, staff recommends tentative approval of the preliminary plat for Woodruff Subdivision.

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



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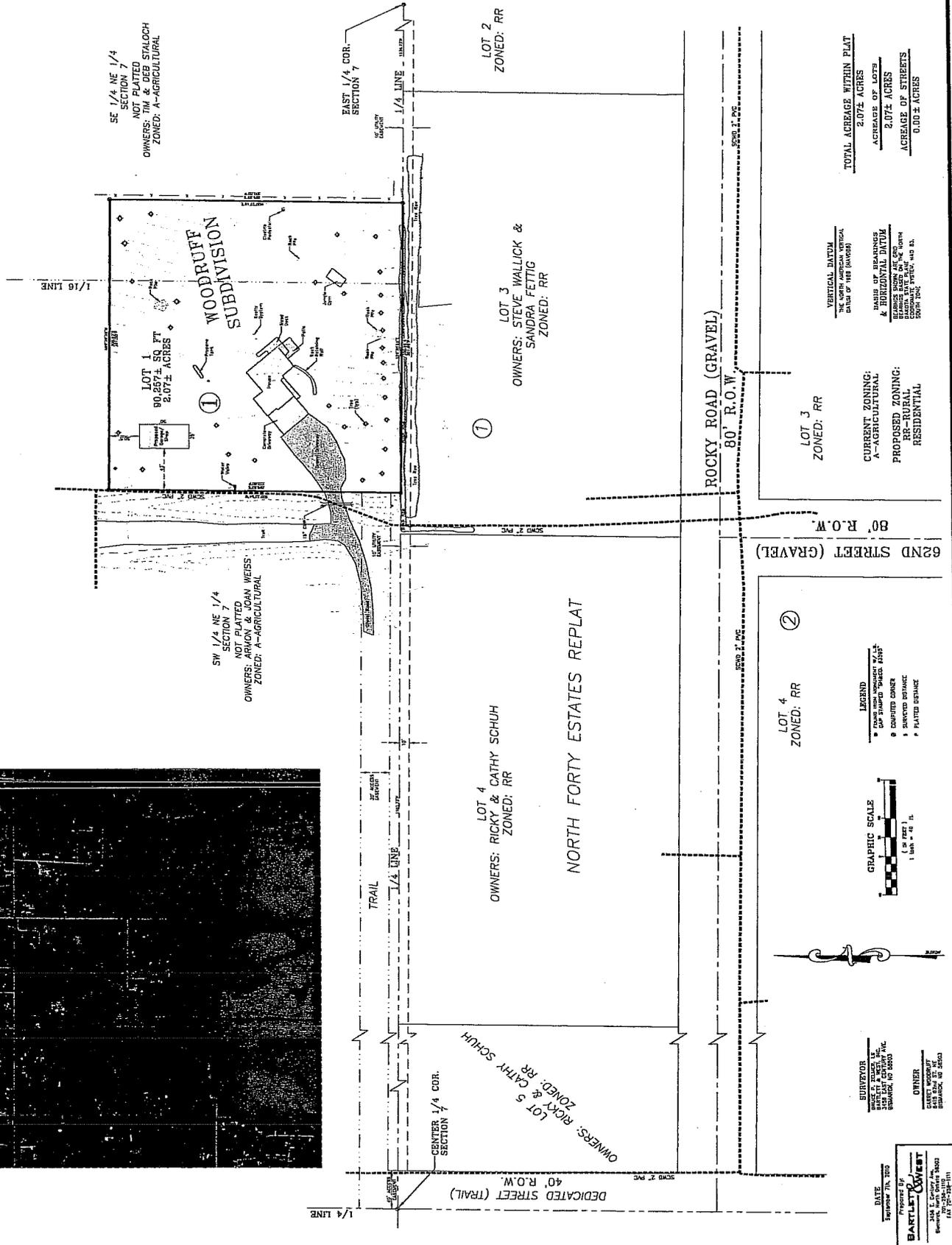
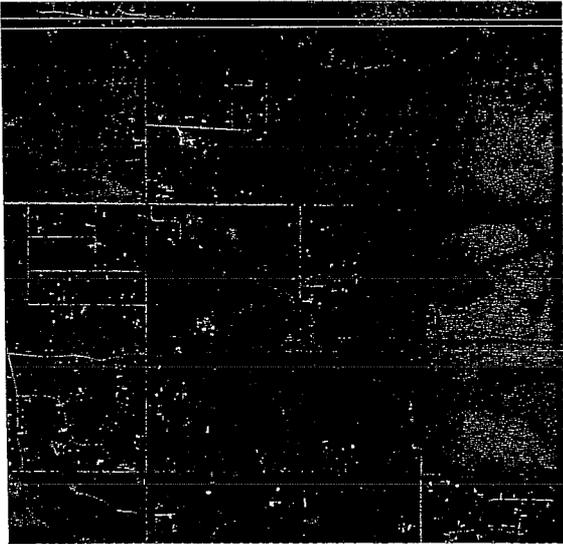
Source: City of Bismarck



0 1,375 2,750 Feet

PRELIMINARY PLAT OF WOODRUFF SUBDIVISION

A Plat of Lot 1, Block 1 of Woodruff Subdivision, being a replat of Lot "A" and lying in the Northeast Quarter (NE 1/4) of Section 7, Township 139 North, Range 79 West of the 5th P.M., Burleigh County, North Dakota.



SE 1/4 NE 1/4 SECTION 7 NOT PLATED OWNERS: TIM & DEB STILLOCH ZONED: A-AGRICULTURAL

SW 1/4 NE 1/4 SECTION 7 NOT PLATED OWNERS: ARMON & JOAN WEISS ZONED: A-AGRICULTURAL

LOT 4 OWNERS: RICKY & CATHY SCHUH ZONED: RR

LOT 3 OWNERS: STEVE WALLICK & SANDRA FETIG ZONED: RR

LOT 2 ZONED: RR

VERTICAL DATUM (BASED ON MEASUREMENTS)	TOTAL ACRES WITHIN PLAT
PLAT OF REARNESS & HORIZONTAL DATUM	2.07± ACRES
BEARING BOUNDARY LINE BEARING STATE & N.T.S. SOUTH 100'	ACRES OF LOTS
	2.07± ACRES
	ACRES OF STREETS
	0.00 ± ACRES

LOT 3 ZONED: RR	CURRENT ZONING: A-AGRICULTURAL
	PROPOSED ZONING: RR-RURAL RESIDENTIAL

LOT 4 ZONED: RR	LEGEND
	ROAD WITH PROPOSED 40' R.O.W.
	40' STAMPED 'STREET' MARK
	CORNER CHISEL
	CURVED DISTANCE
	PLATED DISTANCE

SURVEYOR: BRUCE A. WELLS, L.S. 5011 1ST AVE. S.W. BISMARCK, ND 58503

OWNER: GARY A. WOODRUFF, 2000 W. 139TH ST. BISMARCK, ND 58503

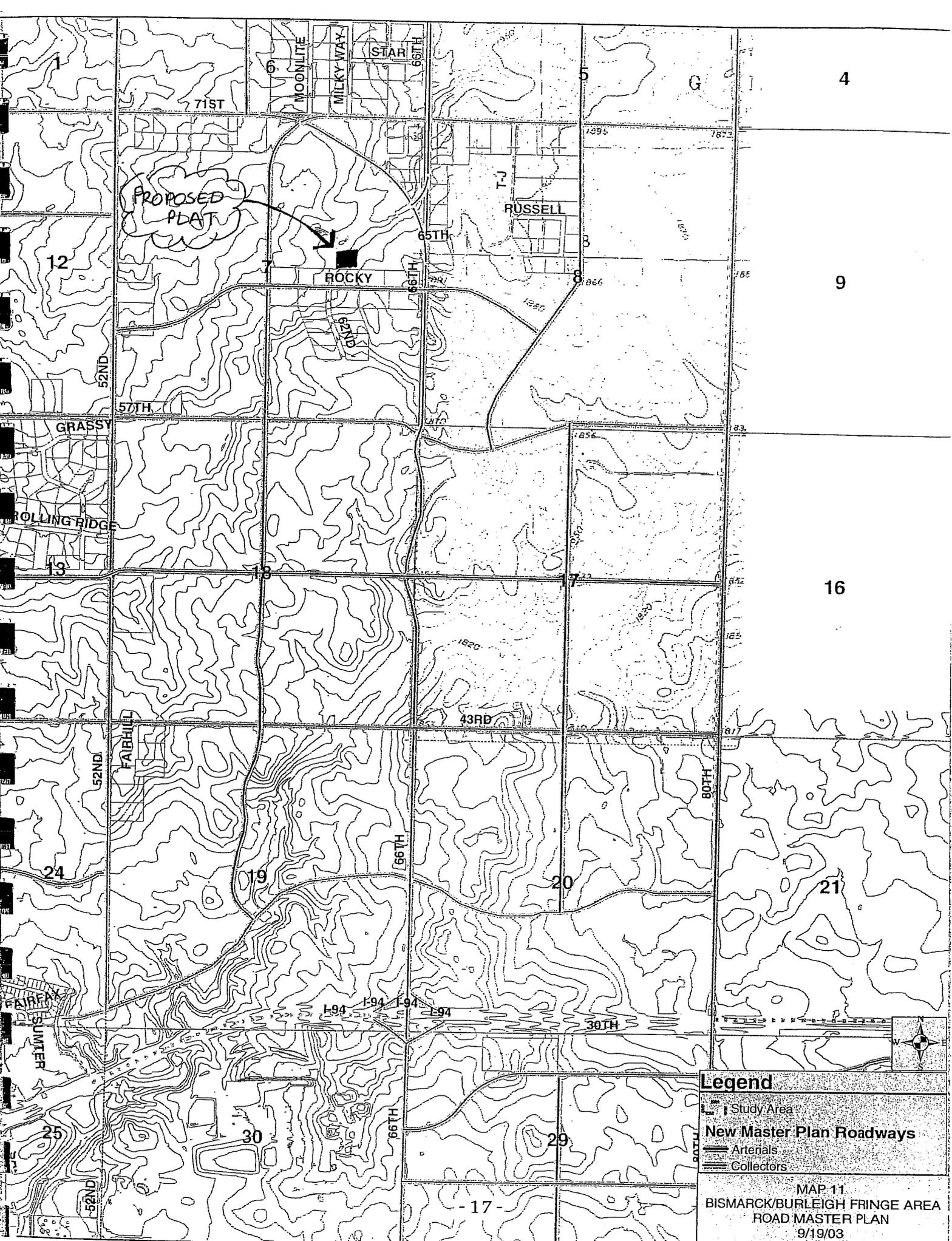
DATE: _____

Prepared by: _____

BARTLES & WELLS

304 E. CHERRY AVE. BISMARCK, ND 58503

TEL: 701-781-1111 FAX: 701-781-1111



PROPOSED PLAT

ROCKY

RUSSELL

Legend

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

MAP 11
 BISMARCK/BURLEIGH FRINGE AREA
 ROAD MASTER PLAN
 9/19/03

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

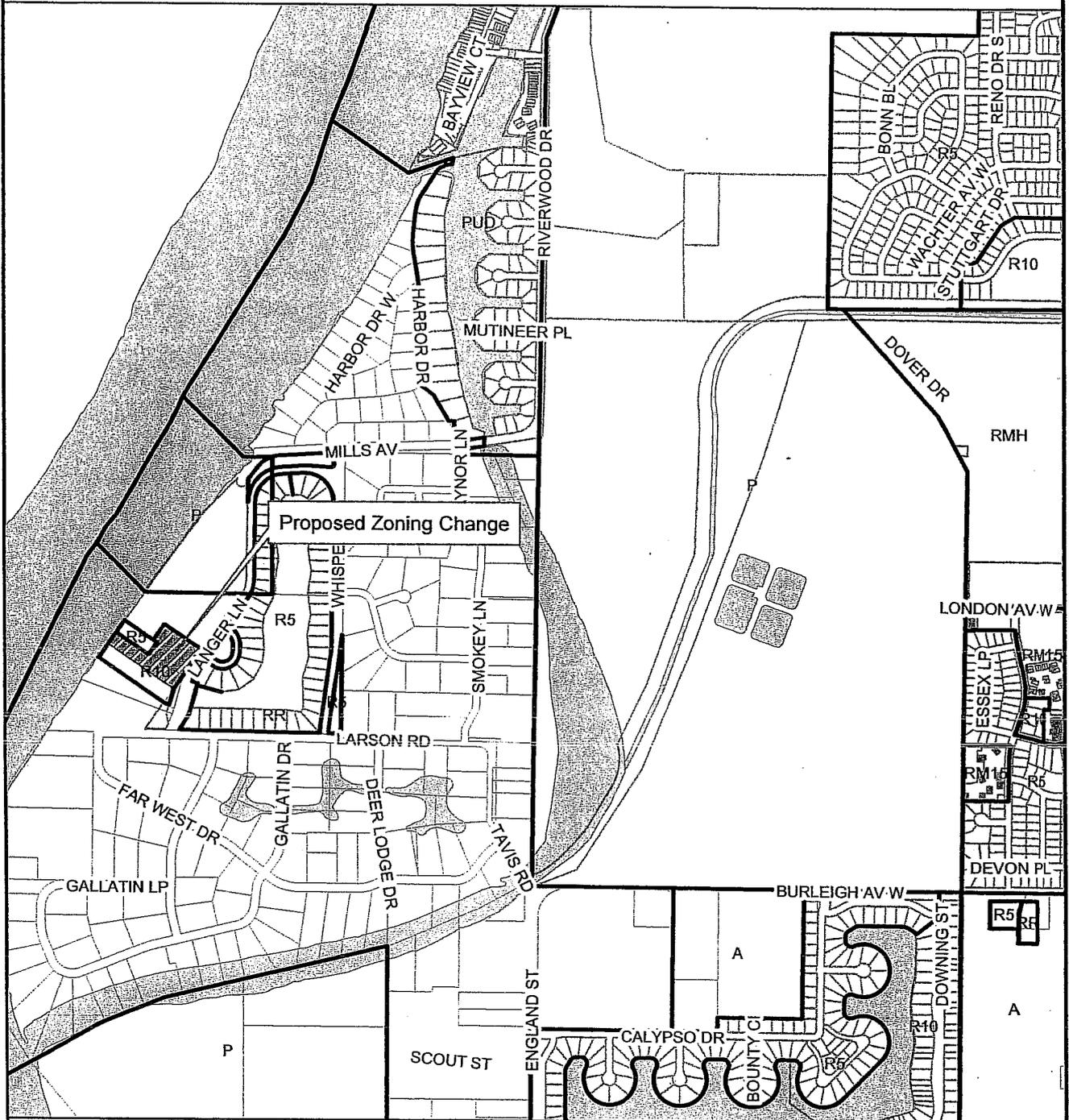
BACKGROUND:		
Title: Whispering Pointe – Zoning Change (R10 to R5) (a replat of Lot 2, Block 1, Whispering Bay)		
Status: Planning Commission – Consideration	Date: September 22, 2010	
Owner(s): Whispering Bay Corporation	Engineer: Kadrmass Lee & Jackson	
Reason for Request: Rezone property being replatted as Whispering Pointe to bring zoning in line with the proposed use as single-family residential.		
Location: Along the west side of Langer Lane between Mills Avenue and Larson Road.		
Project Size: 4.98 acres	Number of Lots: 11 lots in 1 block	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Undeveloped	Land Use: Single family residential	
Zoning: R10 – Residential	Zoning: R5 – Residential	
Uses Allowed: One and two-family residential	Uses Allowed: Single-family residential	
Maximum Density Allowed: 10 units/acre	Maximum Density Allowed: 5 units/acre	
PROPERTY HISTORY:		
Zoned: 12/09 (Whispering Bay)	Platted: 12/09 (Whispering Bay)	Annexed: 12/09 (Whispering Bay)
ADDITIONAL INFORMATION		
<ol style="list-style-type: none"> The proposed replat of this property (Whispering Pointe) was approved by the Board of City Commissioners on September 14, 21010. The adjacent Lot 1, Block 1, Whispering Bay is also zoned R10 – Residential and should be included in the zoning change to R5 – Residential. 		
FINDINGS:		
<ol style="list-style-type: none"> The proposed zoning change would be consistent with the Land Use Plan, which identifies the long range use of this area as urban residential (Bismarck-Mandan Regional Land Use Plan). The proposed zoning change is compatible with adjacent land uses. Adjacent land uses include rural residential to the north and south, undeveloped R-5 zoned property to the east and the Missouri River to the west. The subdivision proposed for this property is already annexed and will be served from utilities in Langer Lane, therefore, the zoning change will not place an undue burden on public services. The proposed zoning change would not adversely affect property in the vicinity. 		
<i>(continued)</i>		

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

RECOMMENDATION:

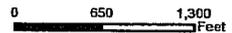
Based on the above findings, staff recommends scheduling a public hearing on the zoning change for Lots 1-11, Block 1, Whispering Pointe (a replat of Lot 2, Block 1, Whispering Bay) and Lot 1, Block 1, Whispering Bay.

Proposed Zoning Change (R10 to R5) Whispering Pointe

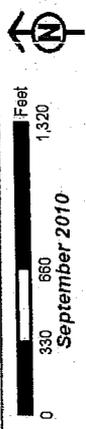
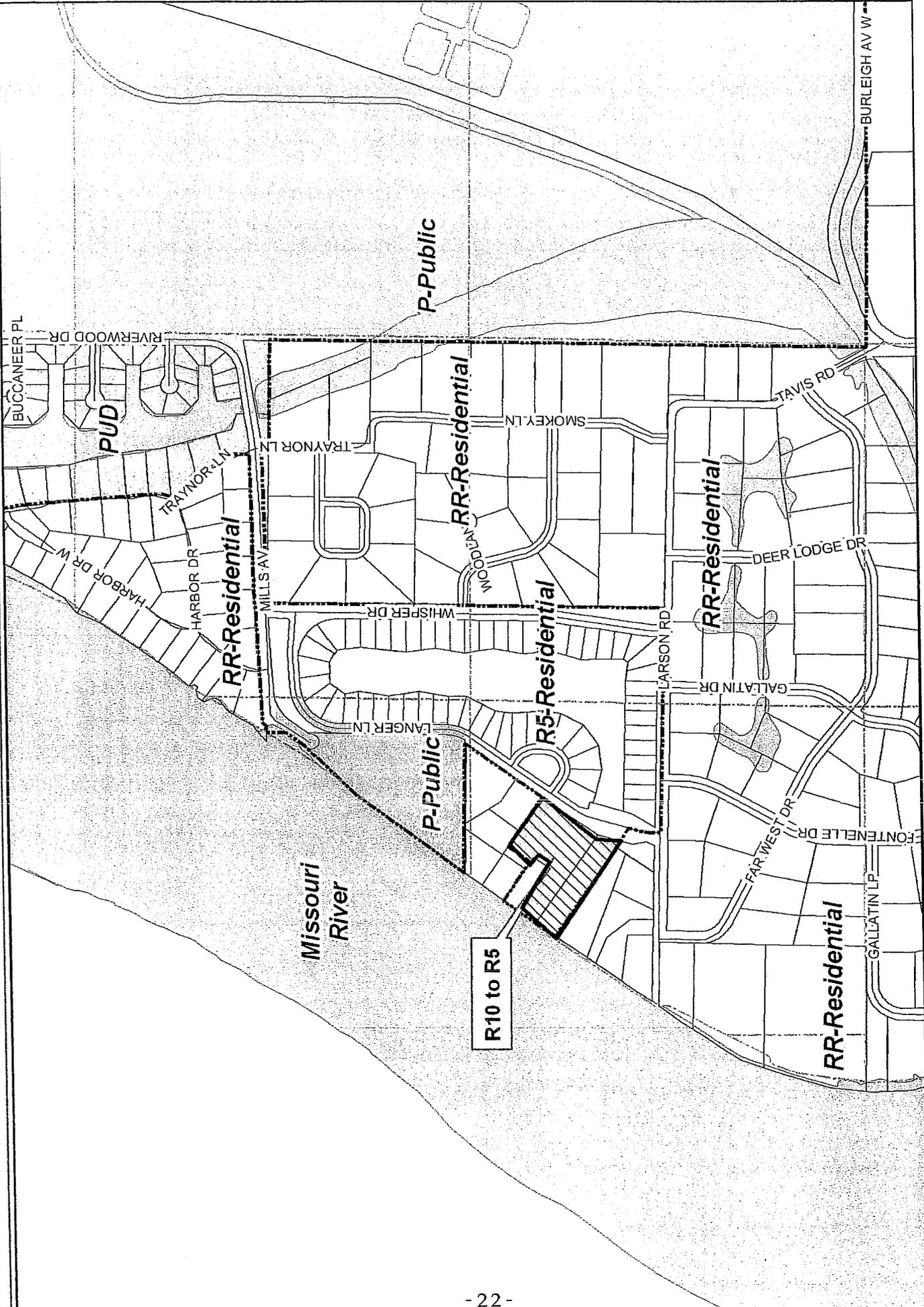


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Map was Updated/Created: August 24, 2010 (kdg)

Source: City of Bismarck



Whispering Pointe - Zoning Change



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

BACKGROUND:		
Title: Lot 3, Block 1, Whispering Bay – Detachment		
Status: Planning Commission – Final Consideration	Date: September 22, 2010	
Owner: Brent & Patricia Levinson	Engineer: None	
Reason for Request: Detach developed property and allow use of property as rural residential.		
Location: Along the west side side of Langer Lane between Mills Avenue and Larson Road.		
Project Size: 48,834 square feet (1.12 acres)	Number of Lots: 1 lot in 1 block	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Single-family residential	Land Use: Rural residential	
Zoning: R5 – Residential	Zoning: R5 – Residential	
Uses Allowed: Single-family residential	Uses Allowed: Single-family residential	
Maximum Density Allowed: 5 units/acre	Maximum Density Allowed: 5 units/acre	
PROPERTY HISTORY:		
Zoned: 12/09	Platted: 12/09	Annexed: 12/09
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> 1. This property was purchased by the Levinsons during the process of platting Whispering Bay and they consented to the property being included in the plat. No objection to the annexation of this property was voiced by the Levinsons during the approval process for Whispering Bay. 2. Municipal utilities are available in Langer Lane and could be extended to this property through a utility easement in Langer Way in the Whispering Pointe plat. It is our understanding that utilities will be installed in Langer Way yet this fall or next spring/early summer. 3. The minimum lot size in the RR – Residential zoning district is 65,000. This property was originally platted when the minimum lot sizes varied based on soil conditions. 4. County tax records indicate that the property taxes for this property were \$6,655.29 in 2006, \$6,845.20 in 2007, \$7,184.30 in 2008 and \$5935.53 in 2009 (which included a value reduction based on flood damage). A building permit for an addition to the home on the property was issued in late 2008. As the addition was not started until after the February 1st assessment date for 2009, it did not show up as an increase in value until the 2010 assessment, which is also the first assessment done by the City. The County assessed the value of this property at \$513,200 in 2008 and \$559,400 in 2009. The City's 2010 assessed value of this property is \$632,100. 		
FINDINGS:		
<ol style="list-style-type: none"> 1. The City and other agencies are able to provide necessary public services, facilities and programs to serve the property. 		

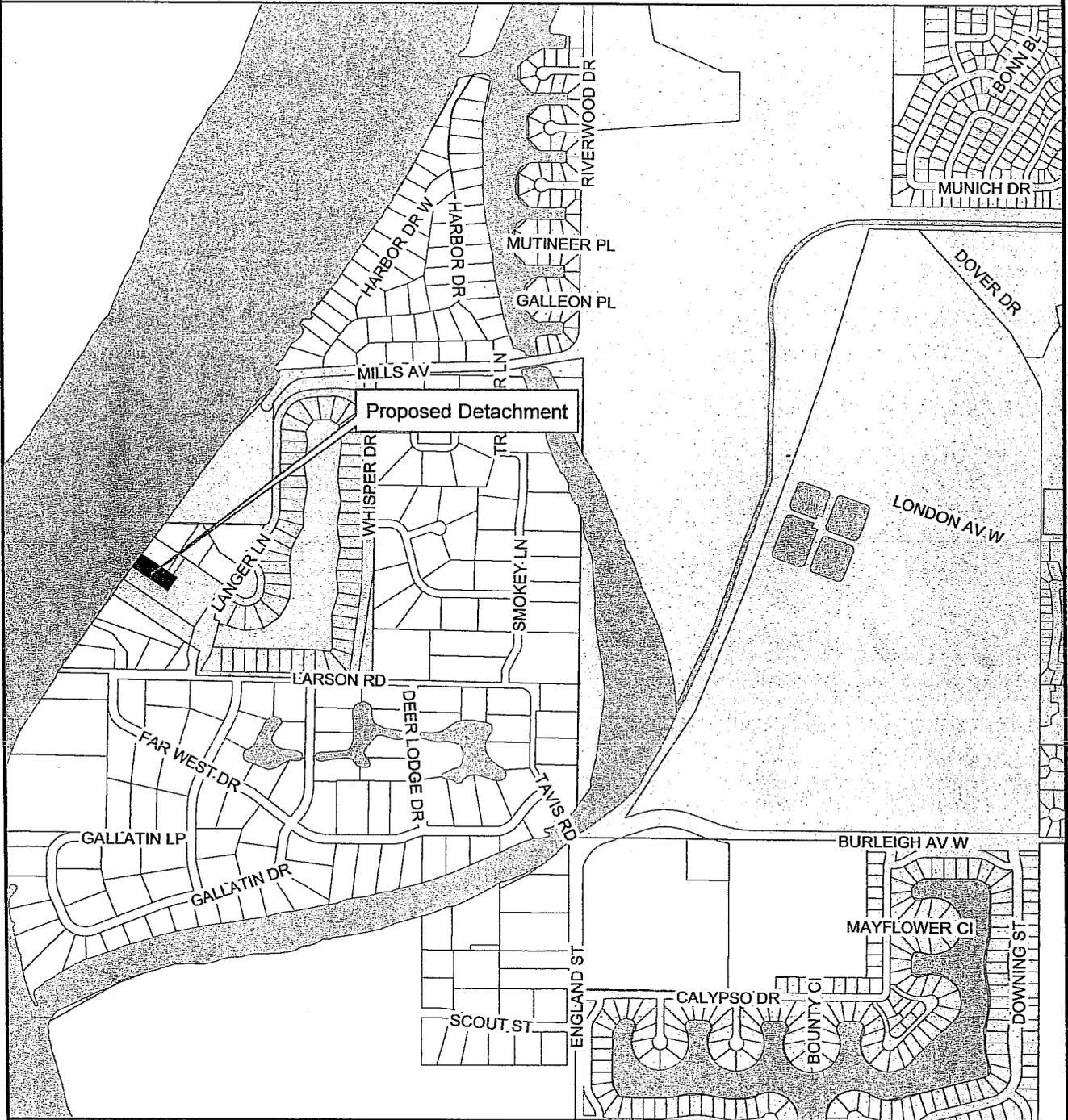
(continued)

2. The proposed detachment would not adversely affect property in the vicinity.
4. The proposed detachment is not consistent with the general intent and purpose of the zoning ordinance. In particular, the lot proposed for detachment does not meet the minimum lot size of 65,000 square feet for a rural residential lot.
5. The proposed zoning change is not consistent with the master plan, other adopted plans, policies and accepted planning practice. In particular, the detachment of property that is readily serviceable with municipal utilities is not consistent with previous City actions and established policy.

RECOMMENDATION:

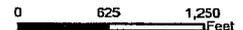
Based on the above findings, staff recommends denial of the detachment of Lot 3, Block 1, Whispering Bay.

Proposed Detachment Lot 3, Block 1, Whispering Bay



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Map was Updated/Created: August 23, 2010 (ldg)

Source: City of Bismarck



RECEIVED

AUG 20 2010

August 20, 2010

City Planning
c/o Kim Lee, Planning Manager
221 North 5th Street
Bismarck, ND
58501

To Whom It May Concern:

Re: Detach Request – 2830 Langer Lane

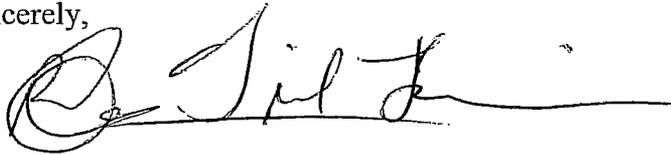
In 2009 our property at 2830 Langer Lane in Bismarck, legal description Mills RPT Lots 1A, 2A Part 3A, Block 1, Lot 7 693162 or Lot 3, Block 1, Whispering Bay, was annexed from Burleigh County into the City of Bismarck as part of the Whispering Bay plat approval. This letter substantiates our request to detach from the City as follows:

1. Some justification for annexing our property was related the lot's size of 1.12 acre supporting a septic field. There are lots in Fox Island that are at least as small as 1.3 acres (some may be smaller) supporting septic fields. The proposed plat for Whispering Pointe (attached), ensures that the approximately 1 acre lot to the south of our property will not be developed. Given the vary narrow margin of lots sizes supporting septic systems in our area verses our lot size and the undeveloped property adjacent to our lot, the rationale for annexation based on septic field sizing is not applicable.
2. Our neighbors to the north, Goodin's, traverse an easement on our property to get to their home in the County. This situation is most unusual, likely unique.
3. Our county tax is \$5,935.53, our city tax estimate is \$9,066.28, city specials are unknown but likely. There are no comparative properties in the City, all comparative properties are those in Fox Island within the County. These facts mean that our property is to be unfairly taxed.
4. To date, we have had no city services.
5. For some time to come, including the upcoming winter, our road will be plowed by me, since the roads in our area, even if plowed by the city (they were not last winter), will be the last to be maintained.
6. Connection of our home to city sewer will be a significant disruption to our home through the trenching of 150ft through the middle of our yard immediately adjacent and traversing to power and gas lines.

The inclusion of our property into the city represents a most unusual situation as shown through the prior notes. Although the city may desire to ultimately annex Fox Island, to annex our property while leaving the remaining Fox Island Missouri River properties in the county is clearly unfair.

Please accept our request to be detached from the City of Bismarck.

Sincerely,



Brent & Patricia (Trish) Levinson

Attachments: City of Bismarck, Unified Development Application
Check # [REDACTED] for \$250, Application Fee
Whispering Bay Replat, our lot highlighted

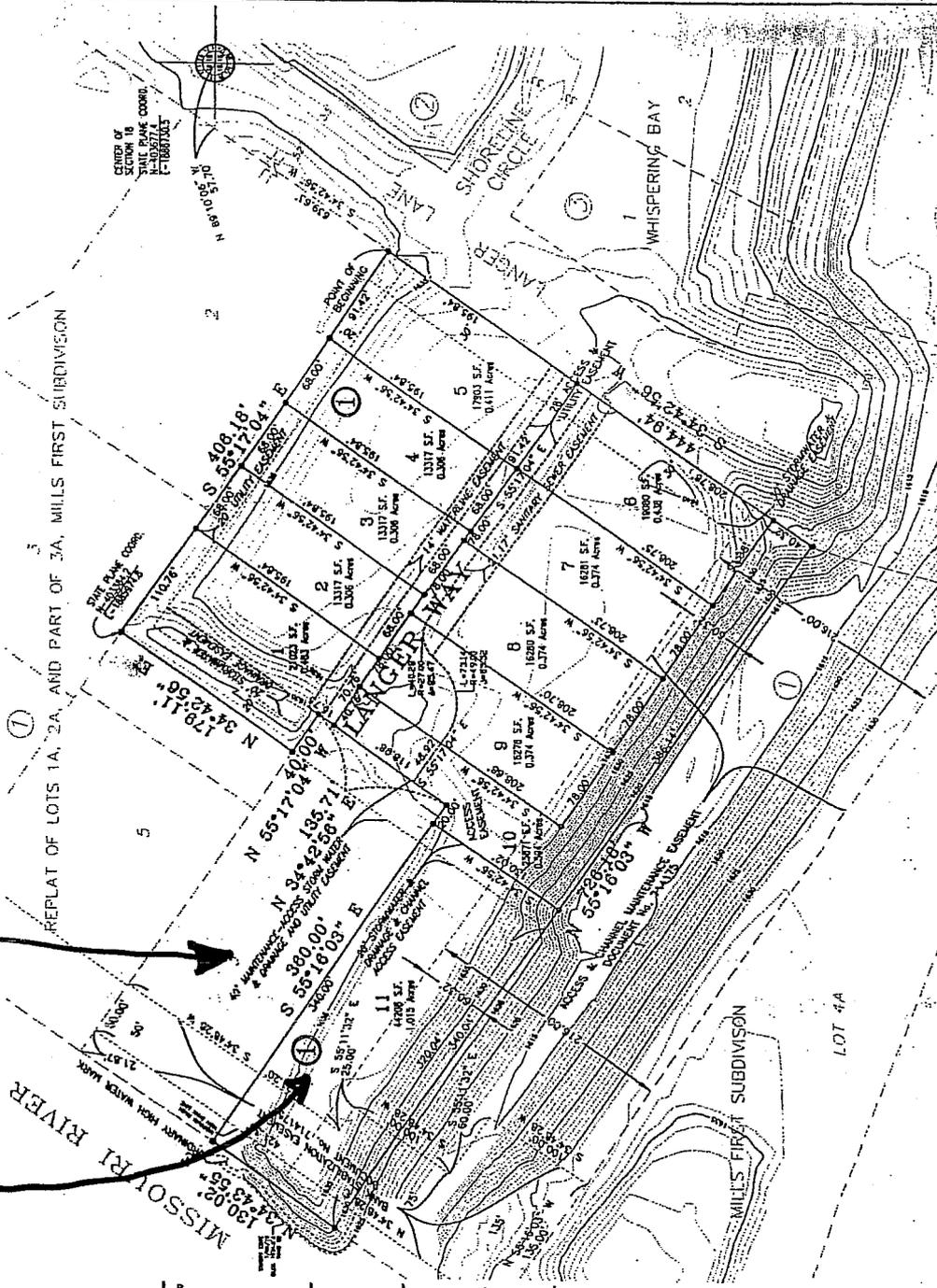
AUG 20 2010

WHISPERING POINTE

A REPLAT OF A LOT 2, BLOCK 1, WHISPERING BAY LOCATED IN THE SOUTHWEST 1/4 SECTION 18, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA

2830 LANGER LANE

EMPTY LOT



ENGINEERS:
 MURPHY, LEE & JACKSON, INC.
 BURLEIGH COUNTY, NORTH DAKOTA 58501
 PHONE 335-9427

CUSTOMER:
 WHISPERING BAY CORPORATION
 PO BOX 111
 BURLEIGH COUNTY, ND 58502

DESCRIPTION

THIS PLAT IS PREPARED BY THE SURVEYOR & SECTION 18, TOWNSHIP 138 NORTH, RANGE 80 WEST, BURLEIGH COUNTY, NORTH DAKOTA. THE PLAT IS A REPLAT OF A LOT 2, BLOCK 1, WHISPERING BAY, LOCATED IN THE SOUTHWEST 1/4 SECTION 18, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA. THE PLAT IS A REPLAT OF A LOT 2, BLOCK 1, WHISPERING BAY, LOCATED IN THE SOUTHWEST 1/4 SECTION 18, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA. THE PLAT IS A REPLAT OF A LOT 2, BLOCK 1, WHISPERING BAY, LOCATED IN THE SOUTHWEST 1/4 SECTION 18, TOWNSHIP 138 NORTH, RANGE 80 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA.

SURVEYOR'S CERTIFICATE

I, the undersigned, a duly licensed and sworn-in surveyor in the State of North Dakota, hereby certify that the above plat is a true and correct copy of the original survey and that the same has been prepared in accordance with the laws and regulations of the State of North Dakota. I further certify that the above plat is a true and correct copy of the original survey and that the same has been prepared in accordance with the laws and regulations of the State of North Dakota.

APPROVAL OF BOARD OF CITY COMMISSIONERS

I, the undersigned, a duly elected member of the Board of City Commissioners of the City of Bismarck, North Dakota, hereby approve the above plat and the same has been prepared in accordance with the laws and regulations of the State of North Dakota.

APPROVAL OF CITY ENGINEER

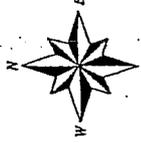
I, the undersigned, a duly licensed and sworn-in city engineer in the State of North Dakota, hereby approve the above plat and the same has been prepared in accordance with the laws and regulations of the State of North Dakota.

APPROVAL OF CITY PLANNING COMMISSION

I, the undersigned, a duly elected member of the City Planning Commission of the City of Bismarck, North Dakota, hereby approve the above plat and the same has been prepared in accordance with the laws and regulations of the State of North Dakota.

OWNER'S CERTIFICATE AND DEDICATION

I, the undersigned, the owner of the above described land, hereby certify that the same has been prepared in accordance with the laws and regulations of the State of North Dakota. I further certify that the above plat is a true and correct copy of the original survey and that the same has been prepared in accordance with the laws and regulations of the State of North Dakota.



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

BACKGROUND:	
Title: Hay Creek Industrial Subdivision Replat – Minor Subdivision Final Plat (a replat of Lot 1, Block 1, Hay Creek Industrial Subdivision)	
Status: Planning Commission – Public Hearing	Date: September 22, 2010
Owner(s): 71 st Avenue Beltway Storage, LLP	Engineer: Houston Engineering
Reason for Request: Replat property to create three lots with access via a private access easement off 19 th Street NE.	
Location: Along the north side of 71 st Avenue NE, east of 19 th Street NE.	
Project Size: 17.37 acres	Number of Lots: 3 lots in 1 block
EXISTING CONDITIONS:	
Land Use: Partially developed – storage units	PROPOSED CONDITIONS:
Zoning: PUD – Planned Unit Development	Land Use: Storage units and other specified uses
Uses Allowed: Uses specified in PUD	Zoning: PUD – Planned Unit Development
Maximum Density Allowed: N/A	Uses Allowed: Uses specified in PUD
PROPERTY HISTORY:	Maximum Density Allowed: N/A
Zoned: 07/09	Platted: 07/09
ADDITIONAL INFORMATION	
<ol style="list-style-type: none"> 1. This property is located within a Planned Unit Development. When the PUD was approved in December 2008, a provision was included in the PUD ordinance indicating that this property could be further subdivided through the minor subdivision plat process. The PUD ordinance will continue to apply to all of the property included in the proposed replat. 2. The property is currently in violation of the PUD ordinance because an outdoor storage area was created too close to 19th Street NE. The fence installer has been contacted and will move the fence back to the required 40-foot setback; however, we have not been notified that this has occurred. 3. The proposed subdivision is located within the Urban Service Area Boundary (USAB) and is subject to those development requirements. 	
FINDINGS:	
<ol style="list-style-type: none"> 1. The proposed plat meets the criteria for a minor subdivision final plat. 2. All technical requirements for approval of a minor subdivision final plat have been met. 3. The storm water management plan amendment has been approved by the City Engineer. 	

(continued)

4. The proposed minor subdivision is not completely compatible with adjacent land uses. Adjacent land uses include agricultural to the north, south, east and west. Rural residential uses are located across the railroad tracks southeast of this subdivision and approximately ¼ mile to the east on both the north and south sides of 71st Avenue NE.

In order to mitigate the visual impact of the development on nearby rural residential uses, a 30-foot landscape easement was included along the eastern edge of the underlying plat and a 15-foot landscape easement was included along the northern edge. These easements have also been included in the proposed replat. In addition, the PUD ordinance includes provisions for the planting of these buffer yards and installing additional landscaping along 71st Avenue and 19th Street in conjunction with development of the site.

5. The proposed minor subdivision will be located near the intersection of two major roadways (US Highway 83 and Highway 1804), will be temporarily served by South Central Regional Water District and will be annexed to the City when municipal services can be provided to the property; therefore, the proposed subdivision will not place an undue burden on public services.
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
7. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

RECOMMENDATION:

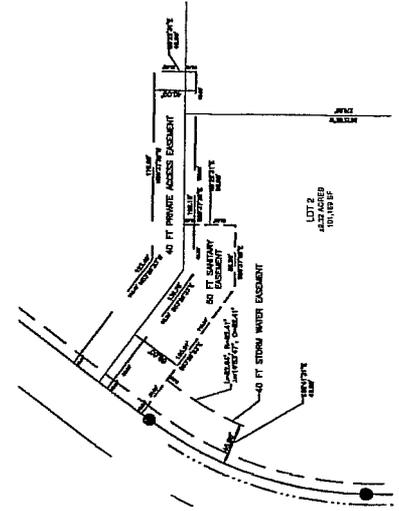
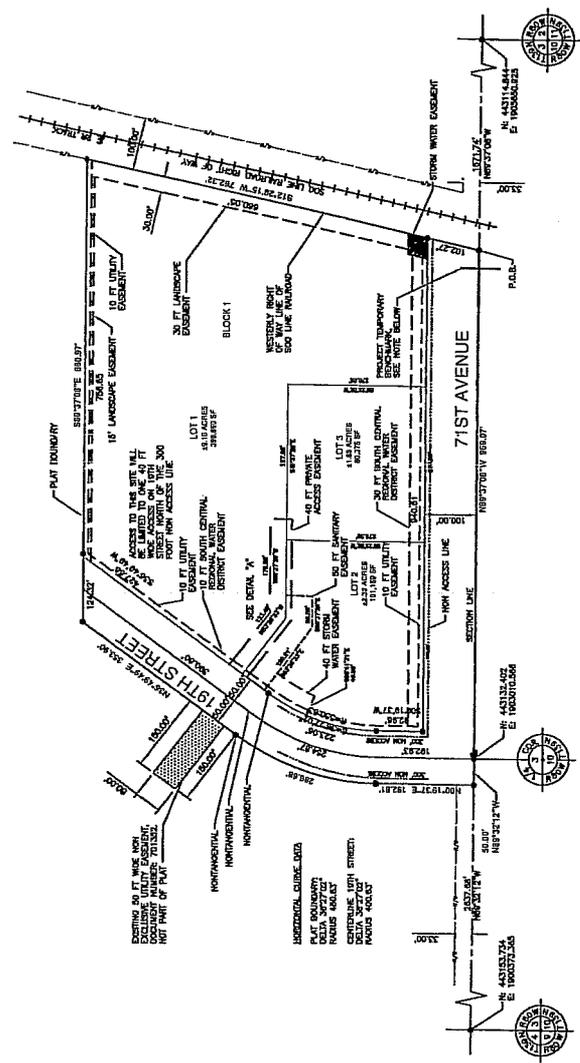
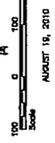
Based on the above findings, staff recommends approval of the minor subdivision final plat of Hay Creek Industrial Subdivision Replat (a replat of Lot 1, Block 1, Hay Creek Industrial Subdivision), with the understanding that the minor subdivision final plat will not be forwarded to the Board of City Commissioners for final action until the PUD violation is resolved.

SEP 09 2010

FINAL PLAT HAY CREEK INDUSTRIAL SUBDIVISION REPLAT

LOT 1, BLOCK 1, HAY CREEK INDUSTRIAL SUBDIVISION

- LEGEND
- PROPERTY LINE
 - UTILITY EASEMENT
 - CENTERLINE
 - EXISTING TELEPHONE
 - RIGHT OF WAY LINE
 - ASSUMED BASIS OF BEARINGS
 - MONUMENTS SET JULY 6TH, 2008



WATER SERVICE INFORMATION:

1. WATERMANS MAIN WTR. LINE RIGHT OF WAY WILL BE CONSTRUCTED TO SOUTH CENTRAL RURAL WATER DISTRICT. WATER SERVICE FROM THE MAIN WTR. SERVICE LINES WILL BE CONSTRUCTED FROM THE SITE TO THE LEFT STREET CONNECTION.
2. THE WATER SERVICE AGREEMENT BETWEEN THE CITY OF BISMARCK AND DISTRICT WILL ALLOW THE PROVISION OF WATER SERVICE TO HAY CREEK INDUSTRIAL SUBDIVISION FOR A PERIOD OF FIVE YEARS AND SUBSEQUENT TO THAT TIME THE CITY MAY JOIN A CENTRAL RURAL WATER DISTRICT TO WHICH SERVICE IS AVAILABLE IF CITY WATER SERVICE IS AVAILABLE.

TEMPORARY BENCHMARKS:

1. TOP REP. ON NORTH SIDE PALMADO RIGHT OF WAY.
2. TOP REP. ON WEST SIDE PALMADO RIGHT OF WAY.

ELEV. 1956.47, N50 29

FLOODPLAIN INFORMATION:

100 YR. FLOOD PLAN ELEVATION 1824.7
NO FLOOD-PLAIN IS SHOWN ON THE EXISTING SURVEY. THE FLOOD-PLAIN SHOWN IS BASED ON CALCULATION IN THE SUPPLEMENTARY MASTER PLAN FOR THE SITE. THE FLOOD-PLAIN FOR THE 100 YEAR FLOOD-PLAIN IS 17.37 FEET ABOVE THE 100 YEAR FLOOD-PLAIN.

PLAT INFORMATION:

RIGHT OF WAY 4.00 ACRES
LOT 1 3.07 ACRES
LOT 2 3.07 ACRES
LOT 3 3.07 ACRES
LOT 4 3.07 ACRES
LOT 5 3.07 ACRES
TOTAL 17.37 ACRES

STATE PLANE COORDINATE DATA:

BASED UPON NAD 83 STATE PLANE SOUTH ZONE 3262, ZONE 18 INTERMEDIATE, FEET.

N: 443132.402
E: 1900073.356

SW CORNER SECTION 3
N: 443153.734
E: 1900373.395

S 1/4 CORNER SECTION 3
N: 443132.402
E: 1900073.356

DESCRIPTION:
LOT 1, BLOCK 1, HAY CREEK INDUSTRIAL SUBDIVISION TO BURLING COUNTY, NORTH DAKOTA
540 PARCEL OF LAND CONTAINS 13.32 ACRES, MORE OR LESS.

SURVEYORS CERTIFICATE AND ACKNOWLEDGEMENT:
I, STEVEN M. JANULE, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THIS PLAT IS A TRUE COPY OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON _____, 2010, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. PARAGRAPHS HERE SET AS OF _____, 2010.

STEVEN M. JANULE, LAND SURVEYOR
10101ST ENGINEERING, INC.
10101ST STREET, SUITE 100
BISMARCK, NORTH DAKOTA, 58503

STATE OF NORTH DAKOTA }
COUNTY OF BURLING }
ON THIS _____ DAY OF _____, 2010, BEFORE ME PERSONALLY APPEARED STEVEN M. JANULE, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE DESIGNED THE SAME.

NOTARY PUBLIC
BURLING COUNTY, NORTH DAKOTA
BY COMMISSION EXPIRES _____

APPROVAL OF CITY PLANNING COMMISSION:
THE SUBMISSION OF THIS PLAT AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK, NORTH DAKOTA, ON THE _____ DAY OF _____, 2010, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK, NORTH DAKOTA, AND REGULATIONS ADOPTED BY SAID COMMISSION. THE PLANNING AND ZONING COMMISSION HAS REVIEWED THE PLAT AND HAS ADVISED THE CITY CHAIRMAN AND SECRETARY OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK.

WAYNE LEE YEAGER, CHAIRMAN
CARL D. HANSENSTAD, SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS:
THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBMISSION OF THIS PLAT AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE _____ DAY OF _____, 2010.

ATTEST:
M.C. WOODEN, CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER:
I, HEVIN J. BULLINGER, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE THE HAY CREEK INDUSTRIAL SUBDIVISION, BISMARCK, NORTH DAKOTA, AS SHOWN ON THE PLAT.

HEVIN J. BULLINGER, CITY ENGINEER

APPROVAL OF BOARD OF COUNTY COMMISSIONERS:
THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF BURLING, NORTH DAKOTA, HAS APPROVED THE SUBMISSION OF LAND ON THE PLAT AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF BURLING COUNTY, NORTH DAKOTA.

THE FOREGOING ACTION OF THE COUNTY COMMISSIONERS OF BURLING COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE _____ DAY OF _____, 2010.

MARK ARMSTRONG, CHAIRPERSON

KEVIN QUART, COUNTY CLERK

OWNERS CERTIFICATE AND DEDICATION
I, ROONEY F. JACOBSON, OWNER OF THE PROPERTY SHOWN HEREON, HAVE HEREBY DEDICATED TO THE COUNTY OF BURLING, NORTH DAKOTA, AND TO SAID DEVIATE STREETS AS SHOWN HEREON OR MAY TO THE PUBLIC USE FOREVER.

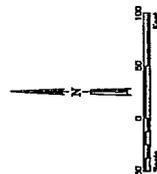
THIS HAS BEEN DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, AND THE PUBLIC UTILITY LINES HEREBY DEDICATED TO THE COUNTY OF BURLING TO RUN WITH THE LAND FOR GAS, ELECTRIC, TELEPHONE OR OTHER UTILITIES ARE HEREBY SET AS SHOWN ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESCRIBED HEREON AS UTILITY EASEMENTS.

ROONEY F. JACOBSON
5115 LOSCOWAY BL. SUITE 100
BISMARCK, ND 58503

STATE OF NORTH DAKOTA }
COUNTY OF BURLING }

ON THIS _____ DAY OF _____, 2010, BEFORE ME PERSONALLY APPEARED ROONEY F. JACOBSON, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE DESIGNED THE SAME.

NOTARY PUBLIC
BURLING COUNTY, NORTH DAKOTA
BY COMMISSION EXPIRES _____



DETAIL A

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

BACKGROUND:	
Title: Lot 23B, Block 3, Falconer Estates – Rural Residential Lot Split	
Status: Planning Commission – Public Hearing	Date: September 22, 2010
Owner(s): Mark & Susan Lardy	Engineer: None
Reason for Request: Split the northern portion of a previously platted rural residential lot into two parcels.	
Location: Along the south side of Apple Creek Drive between Falconer Drive and Walker Drive.	
Project Size: 2.44 acres (resulting – 1.24 acres & 1.2 acres)	Number of Lots: One parcel split into two parcels
EXISTING CONDITIONS:	PROPOSED CONDITIONS:
Land Use: Rural residential (one unit)	Land Use: Rural residential (two units)
Zoning: RR – Residential	Zoning: RR – Residential
Uses Allowed: Rural residential	Uses Allowed: Rural residential
Maximum Density Allowed: One unit per 65,000 square feet	Maximum Density Allowed: One unit per 65,000 square feet
PROPERTY HISTORY:	
Zoned: 03/78	Platted: 03/78
ADDITIONAL INFORMATION	
<ol style="list-style-type: none"> Falconer Estates was platted when the minimum lot sizes ranged from 40,000 square feet to 85,000 square feet, depending on soil conditions. The plat contains a variety of lot sizes, but most are under the current 65,000 square foot requirement. A plat of irregular description was recorded in March 1996 to create Lots 23A and 23B. This request would further split Lot 23B. If approved, the resulting parcels would be subject to the City's policy for development of substandard lots, a copy of which is attached. 	
FINDINGS:	
<ol style="list-style-type: none"> All technical requirements for approval of a rural residential lot split have been met. The resulting parcels will not meet the minimum area requirements (65,000 square feet) for lots within the RR – Residential zoning district and the western parcel will not meet the minimum lot depth requirement (200 feet). The proposed lot split is compatible with adjacent land uses. While this lot is one of several lots in the northwest corner of this subdivision that is larger, the majority of lots within Falconer Estates are similar in size to the parcels resulting from the proposed lot split. 	
<i>(continued)</i>	

4. As rural water service is in place and Apple Creek Drive is improved, the proposed lot split and the resulting parcels will not place an undue burden on existing public services and facilities.
5. The proposed lot split is not compatible with adopted plans, policies and accepted planning practice. In particular, it will create lots that do not meet the current minimum lot area requirements for a parcel in the RR – Residential zoning district.

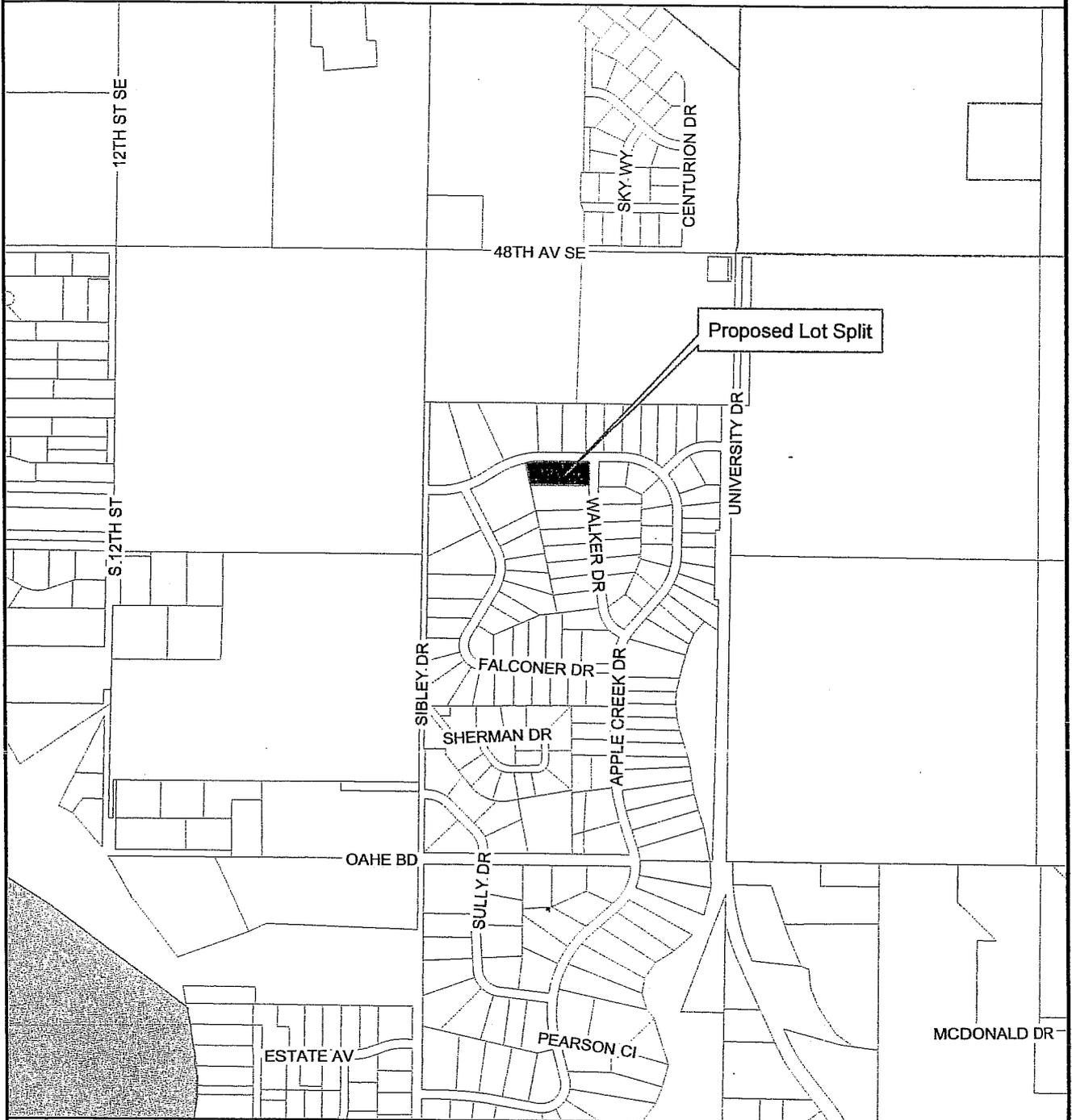
RECOMMENDATION:

Based on the above findings, staff recommends denial of the rural residential lot split to split Lot 23B, Block 3, Falconer Estates into two parcels, an eastern parcel of 1.2 acres & a western parcel of 1.24 acres.

If the Planning & Zoning Commission decides to approve the rural residential lot split, staff recommends that the above findings be amended to reflect the action and the following conditions be added:

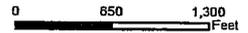
1. A soils test shall be completed to determine the soils present and whether or not a septic system can be installed to meet the needs of any future development on the western parcel, as required by the City's policy on the development of substandard lots ; and
2. If the soils test indicates that the western lot could be developed, a plat of irregular description must be prepared and recorded with the County Recorder's Office to describe the resulting parcels.

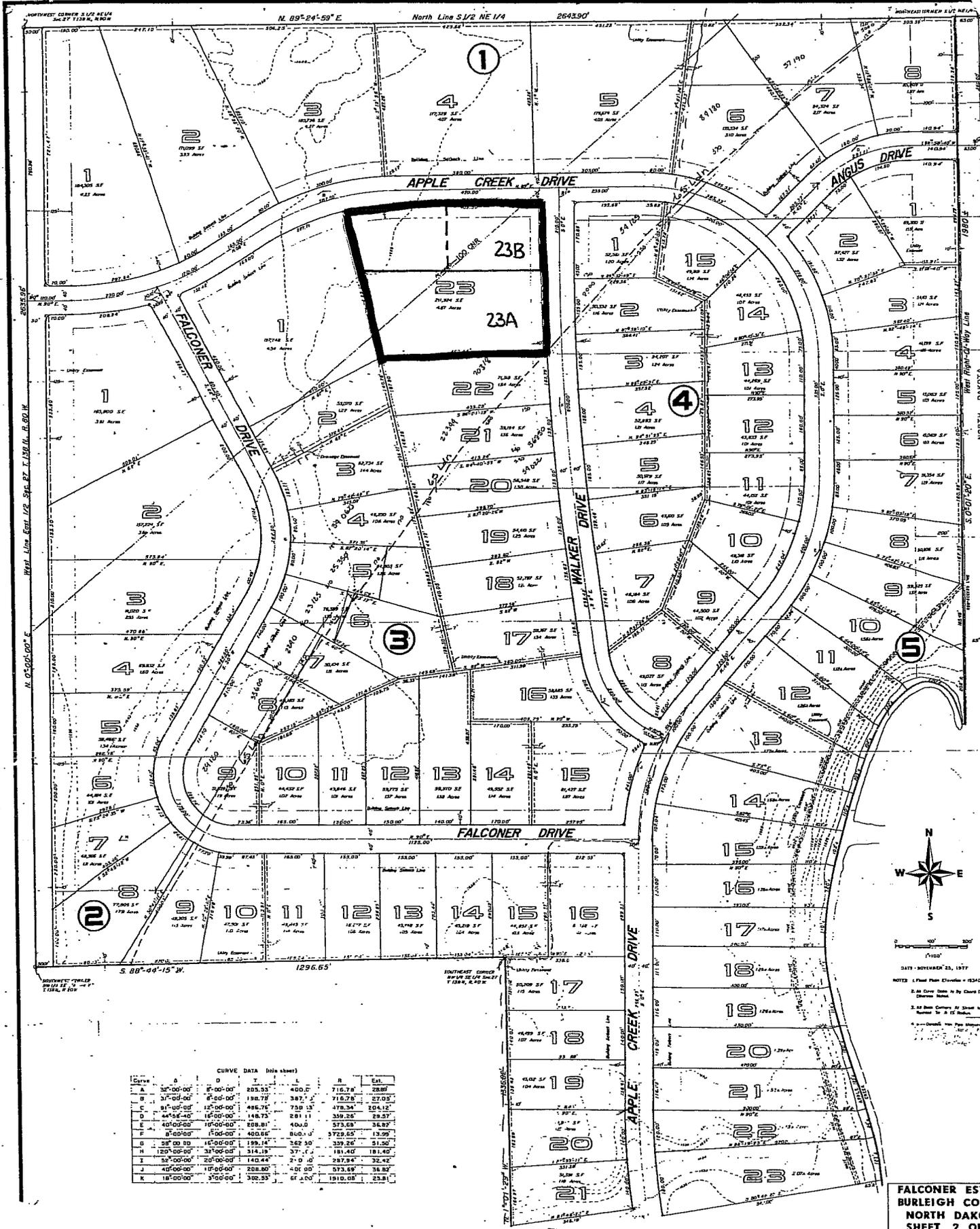
Proposed Rural Residential Lot Split Lot 23B, Block 3, Falconer Estates



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: August 23, 2010 (kdg)

Source: City of Bismarck





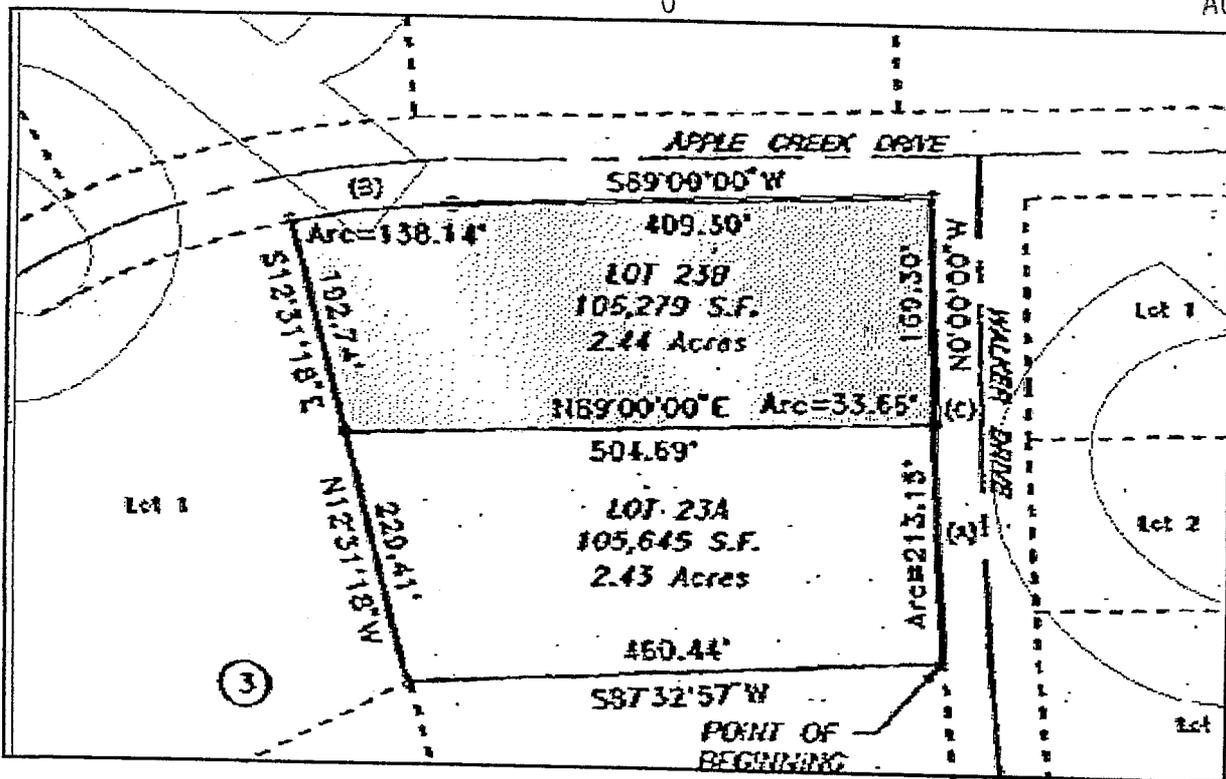
DATE: NOVEMBER 23, 1977
 NOTES: 1. Plat from Division of 1934/7
 2. All Curve Data by David Davidson, Urban Planning
 3. All Area Computations by David Davidson, Urban Planning
 4. All Details from Plans prepared by City of

CURVE DATA (Inch sheets)

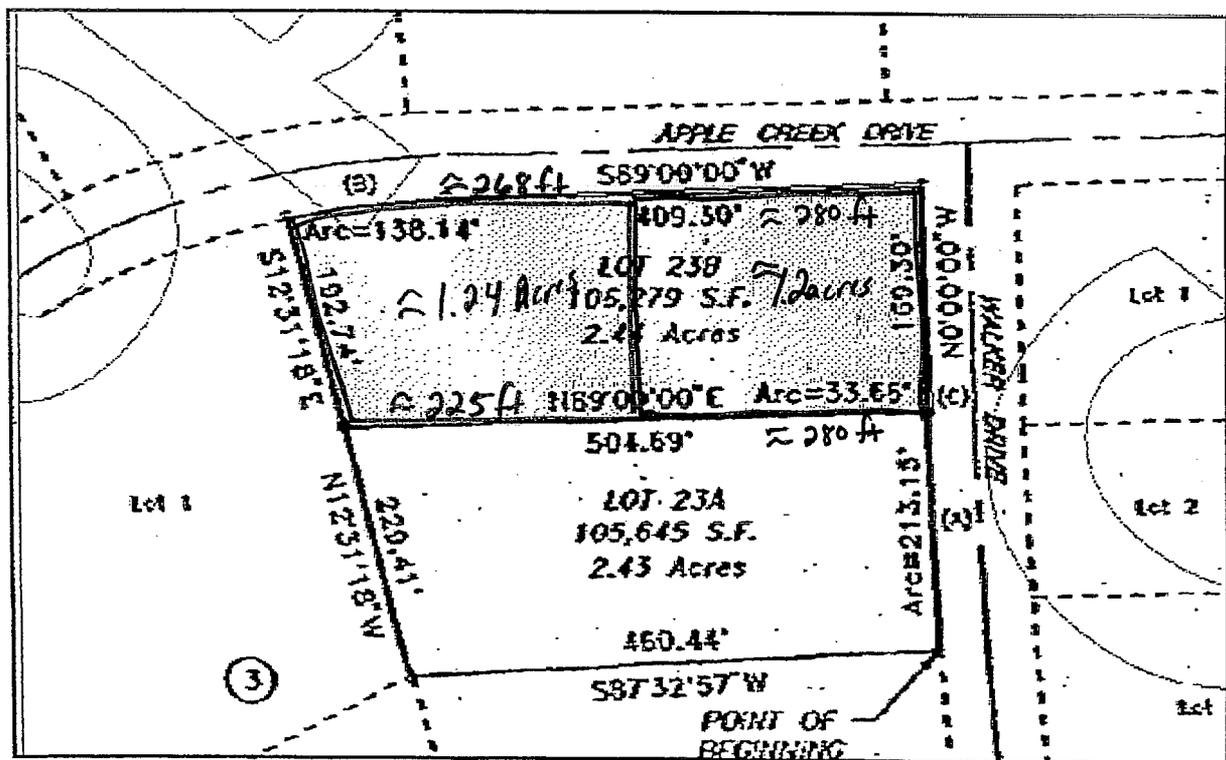
Curve	Δ	I	R	Ext.
A	32°00'00"	7°00'00"	203.53	400.0
B	31°00'00"	6°00'00"	198.72	387.0
C	31°00'00"	6°00'00"	198.72	387.0
D	31°00'00"	6°00'00"	198.72	387.0
E	31°00'00"	6°00'00"	198.72	387.0
F	31°00'00"	6°00'00"	198.72	387.0
G	31°00'00"	6°00'00"	198.72	387.0
H	31°00'00"	6°00'00"	198.72	387.0
I	31°00'00"	6°00'00"	198.72	387.0
J	31°00'00"	6°00'00"	198.72	387.0
K	31°00'00"	6°00'00"	198.72	387.0
L	31°00'00"	6°00'00"	198.72	387.0

FALCONER ESTATES
 BURLEIGH COUNTY
 NORTH DAKOTA
 SHEET 2 OF 3

Existing



Proposed



**CITY OF BISMARCK
BUILDING INSPECTIONS/ENVIRONMENTAL HEALTH/
PLANNING & DEVELOPMENT DEPARTMENTS POLICY
DEVELOPMENT OF SUBSTANDARD SIZED PLATTED LOTS**

Effective Date: August 1, 2006

Purpose: The purpose of this policy is to outline a process and standards for the development of substandard platted lots within the ETA.

Policy:

This policy applies to platted lots which meet the following criteria: 1) the lot is located within an approved subdivision; 2) the area of the lot is less than minimum lot area required for the zoning district in which the lot is located; and 3) the lot is not served by a central sewage treatment system.

If there are contiguous lots under common ownership which could be combined to meet the minimum lot area requirement for the underlying zoning district, said lots must be combined prior to development.

Section 62-03.1-03-04(1) of the North Dakota State Plumbing Code indicates that the minimum lot size in which a private on-site sewage treatment system may be installed is 40,000 square feet. If the area of the substandard lot is at least 40,000 square feet, the lot will be considered developable. If there are contiguous lots under common ownership which could be combined to meet the minimum lot size for a private treatment system, said lots must be combined prior to development. If the area of the substandard lot is less than 40,000 square feet, the lot will only be considered developable if the Environmental Health Division is provided with documentation that the soil conditions present throughout the lot are such that a second treatment area is able to be installed in the lot.

In order to document the soil conditions present, a soils test must be prepared by a Certified Soil Classifier or a Certified Soils Testing Agency and documentation on the site submitted to the Environmental Health Division of the Fire & Inspections Department. This documentation on soil conditions must include the following: 1) whether or not the lot will accommodate an on-site sewage treatment system as proposed; 2) whether or not the lot will accommodate a second treatment area if the first treatment area fails; 3) information on the specific design of the system needed based on soil conditions; and 4) the maximum number of bedrooms permitted on the lot based on the specifications in the plumbing code pertaining to individual septic systems. In addition to the documentation on soil conditions, a report from a registered engineer illustrating the design of the septic system and treatment area must also be submitted to the Environmental Health Division of the Fire & Inspections Department. If the required documentation cannot be provided, the lot is not developable.

If a determination is made that the lot is developable based on the information submitted, the site plan submitted to obtain a building permit must include the location of the treatment system as well as the location of the second treatment area needed if the first treatment area fails. Construction of buildings or other impervious surfaces over the identified second treatment area is not allowed.

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

BACKGROUND:		
Title: Lot 1, Block 1, Capitol View Addition – Major PUD Amendment		
Status: Planning Commission – Public Hearing	Date: September 22, 2010	
Owner(s): State Street Partners, LLP	Engineer: Kadrmars, Lee & Jackson	
Reason for Request: Amend PUD to allow the development of a 3-story hotel on the property.		
Location: Along the east side of State Street just south of Divide Avenue.		
Project Size: 1.838 acres	Number of Lots: 1 lot in 1 block	
EXISTING CONDITIONS:		
Land Use: Undeveloped, previously a motel	PROPOSED CONDITIONS:	
Zoning: PUD-Planned Unit Development	Land Use: 3-story, 82-room hotel	
Uses Allowed: Office/bank group and two residential dwellings	Zoning: PUD-Planned Unit Development	
Maximum Density Allowed: Two dwelling units	Uses Allowed: Hotel	
	Maximum Density Allowed: N/A	
PROPERTY HISTORY:		
Zoned: 05/09	Platted: 05/09	Annexed: Pre-1980
ADDITIONAL INFORMATION:		
<ol style="list-style-type: none"> The previous PUD permitted an 84-foot tall, mixed use office building with two dwelling units on the top floor. The previously proposed use has been abandoned by the owners in lieu of the current proposal. The east property line contains a utility easement with overhead utility lines in place. Due to the utility lines the plant material required for the buffer yard would be modified slightly. The large upright coniferous trees and large upright deciduous trees have been removed from the requirements and replaced with small upright evergreen species and small ornamental trees. The proposed plant material for the east buffer yard would not change from the previously-approved proposal. The required buffer yard along the south property line shall conform to the requirements of the Landscaping and Screening Ordinance (14-03-11) and can be determined during the Site Plan Review process prior to site development. The required buffer yard along the south property line would be 15-feet; adequate room is available for the plant material in this area, no modifications from the buffer yard ordinance would be necessary. 		
FINDINGS:		
<ol style="list-style-type: none"> The proposed use would be compatible with adjacent land uses. Adjacent land uses include the Capitol grounds to the west, commercial uses to the north, offices and apartments to the south and single and two-family residential to the east. The orientation of the proposed 45'5", 3-story hotel would be a minimal impact on the adjacent single and two-family dwellings to the east due to the east-west alignment of the proposed building which provides a north-south exposure for the 82 rooms within the hotel. 		
<i>findings continued...</i>		

2. The property is already annexed; therefore, the zoning change will not place an undue burden on public services
3. The proposed PUD amendment and subsequent development would not adversely affect property in the vicinity.
4. The proposed PUD amendment and subsequent development is consistent with the general intent and purpose of the zoning ordinance.
5. The proposed PUD amendment and subsequent development 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 major PUD amendment for Lot 1, Block 1, Capitol View Addition to allow a 3-story, hotel as outlined in the attached PUD amendment.

**CAPITOL VIEW ADDITION PLANNED UNIT DEVELOPMENT
ORDINANCE NO. 5729 (Adopted May 26, 2009)
MAJOR PUD AMENDMENT (Adopted __/__/2010)**

WHEREAS, Ordinance No. 5729 was adopted by the Board of City Commissioners on May 26, 2009; and

WHEREAS, the PUD shall only be amended in accordance with the provisions of Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments); and

WHEREAS, State Street Partners, LLP has requested an amendment to the Planned Unit Development for Lot 1, Block 1, Capitol View Addition.

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:

Lot 1, Block 1, Capitol View Addition

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

1. *Uses Permitted.* Uses permitted include:

- a. ~~Office bank group Hotel~~
- b. ~~Two (2) residential dwelling units~~

Any proposed changes that are inconsistent with these permitted use standards will require an amendment to this PUD.

2. *Special Uses.* ~~The following uses are allowed as special uses within this Planned Unit Development, subject to the provisions of Section 14-03-08 of the City Code of Ordinances.~~

No special uses are permitted within this Planned Unit Development.

3. *Development Standards.*

- a. ~~Front Yard Setback. The minimum front yard setback is 30 feet along 12th Street North. A building setback of not less than 25 feet from Divide Avenue East and not less than 15 feet from 12th Street North.~~
A building setback of not less than 25 feet from Divide Avenue East and not less than 15 feet from 12th Street North.
- b. ~~Side Yard Setback. The minimum side yard setback along the north property line is 25 feet. The minimum side yard setback along the south property line is 160 feet. A building setback of not less than 20 feet along the east property line.~~
A building setback of not less than 20 feet along the east property line.
- c. ~~Rear Yard Setback. The minimum rear yard setback along the east property line is 40 feet. A building setback of not less than 22 feet along the south property line.~~
A building setback of not less than 22 feet along the south property line.
- d. ~~Height. The maximum building height is 85-50 feet.~~

- e. Lot coverage. The maximum lot coverage for buildings and required parking is 75% of the total lot area.

Proposed developments in this area are not exempt from construction requirements of building, plumbing, electrical, and fire codes.

4. *Design and Aesthetic Standards.*

- a. Intent. It is the intent of the design standards to create and maintain a high visual quality and appearance for this development, encourage architectural creativity and diversity, create a lessened visual impact upon the surrounding land uses, and stimulate and protect investment through the establishment of high standards with respect to materials, details and appearance. The design of the building shall generally conform to the submitted architectural renderings submitted with the application. The building's primary exterior treatments shall be composed of brick or a similar material, precast panels or a similar material, metal panels or a similar material and glass windows.
- b. Outdoor storage is not allowed within this Planned Unit Development.

5. *Development Standards.*

- a. Accessory Buildings. Accessory buildings are not allowed within this Planned Unit Development.
- b. 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 parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement. Concrete perimeter curbing of the parking areas will not be required. A minimum of 82 off-street parking spaces shall be provided based on the site plan submitted with the application.
- c. Landscaping and Screening. Landscaping and buffer yards shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).
- d. Buffer Yards. Buffer yards shall be provided along the south and east property lines and shall generally conform to the site plan that was submitted with the application. The buffer yard plantings must be within the buffer yard easements shown on the face of the plat. The entire landscape buffer yard shall be installed within in conjunction with site development. The proposed plant material for the east buffer yard would not change from the previously-approved proposal. The required buffer yard along the east property line is 20-feet. The required buffer yard along the south property line shall conform to the requirements of the Landscaping and Screening Ordinance (14-03-11) and can be determined during the Site Plan Review process prior to site development. The required buffer yard along the south property line is 15-feet.
- e. 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).

- f. Signage. Signage for the development shall be installed in accordance with the provisions of Chapter 4-04 of the City Code of Ordinances (Signs and Display Structures). Off-premise advertising signs (billboards) are specifically prohibited within this development. A pylon sign may not exceed 40 feet in height.
- g. All other development standards shall be as outlined in Section 14-04-08, RT-Residential District, of the City Code of Ordinances.

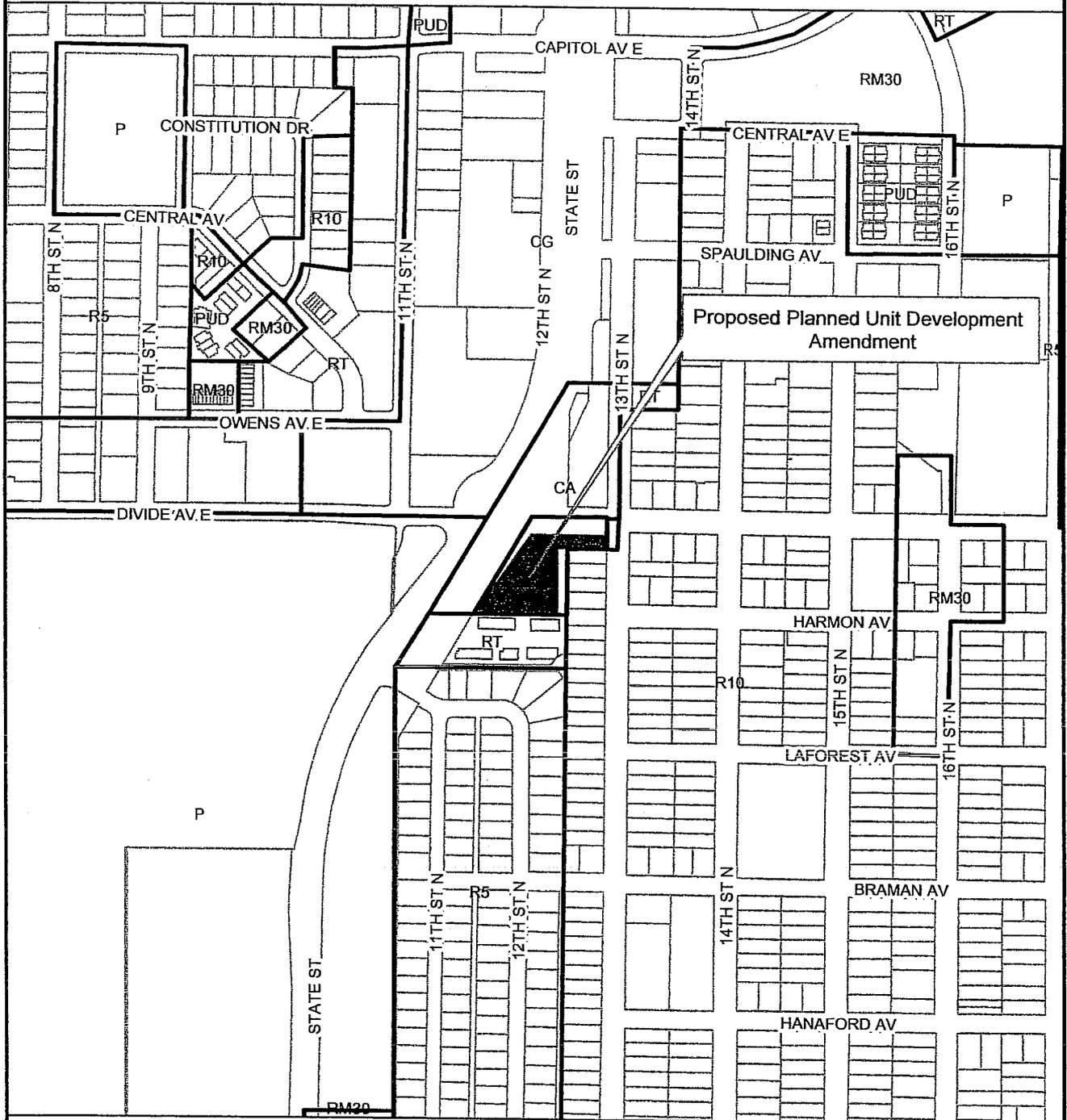
6. *Site Plan Review.*

- a. The site plan submitted with the application does not constitute an official site plan. Prior to development the proposed development is subject to the City's Site Plan Review Process and must meet the established regulations and guidelines.

7. *Changes.*

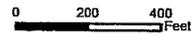
- a. This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and a majority vote of the Bismarck Planning & Zoning Commission.

Proposed Planned Unit Development Amendment Lot 1, Block 1, Capitol View Addition

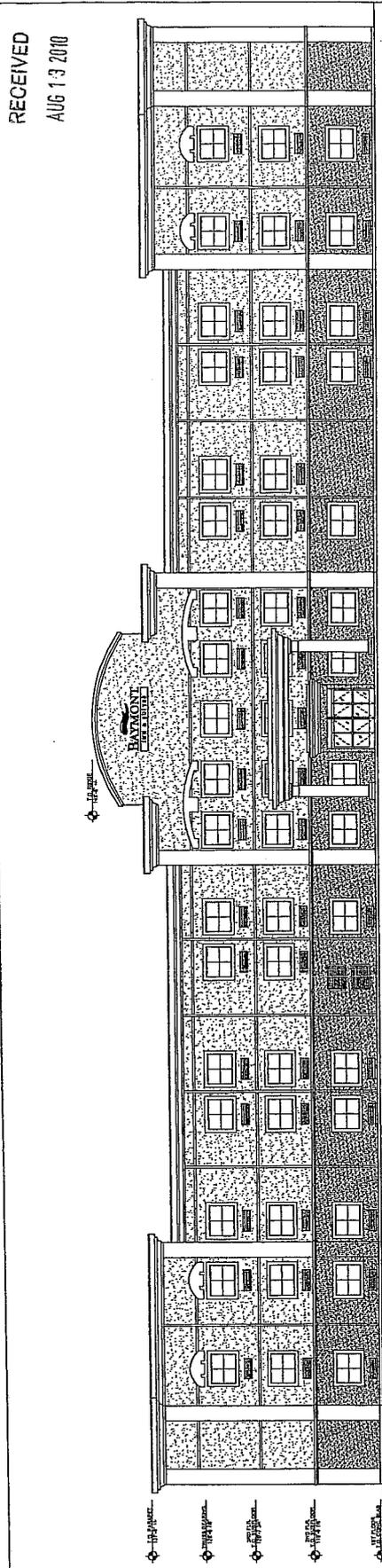


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Map was Updated/Created: July 26, 2010 (kdg)

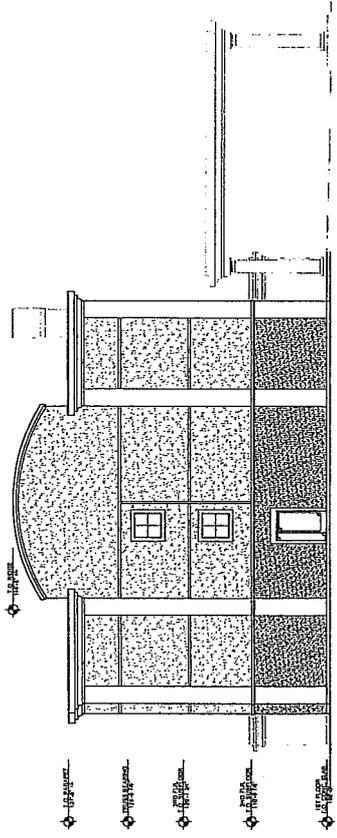
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1 NORTH ELEVATION



1 EAST ELEVATION

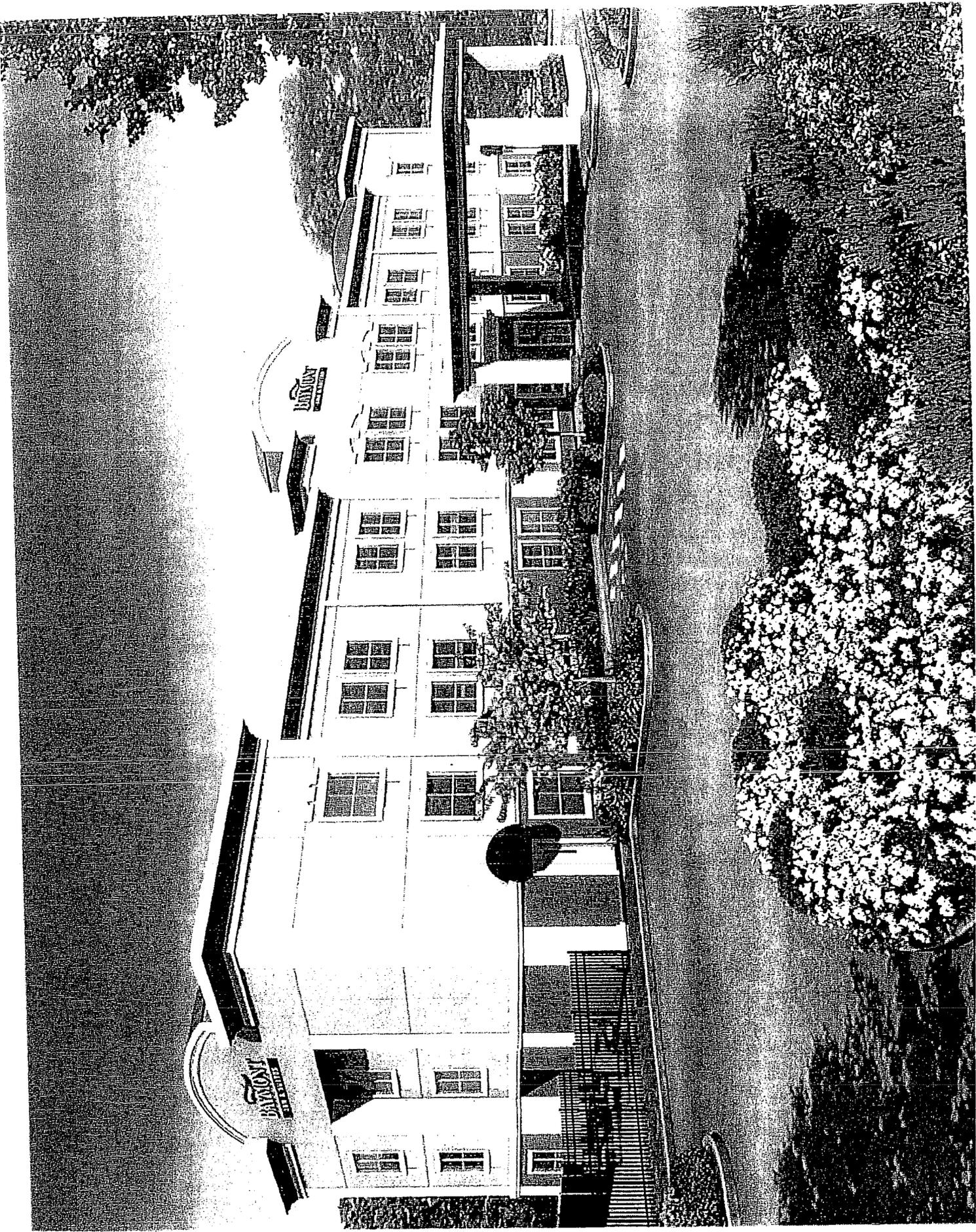
BAYMONT INN & SUITES
 82 UNIT - (G) STORY
 CAPITOL VIEW ADDITION
 BISMARCK, NORTH DAKOTA

PLEASE BE ADVISED THAT THIS SET
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PROJECT NO.	10-0000
DATE	10/10/09
PROJECT NAME	BAYMONT INN & SUITES
DRAWING SCALE	1/8" = 1'-0"
DATE PLOTTED	10/10/09
PLotted BY	10/10/09
DATE	10/10/09

PROJECT DESCRIPTION	ESTIMATED ELEVATIONS
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A200



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

BACKGROUND:		
Title: Tract 1 of Lots 1-2, Block 1, Elks Addition – Special Use Permit		
Status: Planning Commission – Public Hearing	Date: September 22, 2010	
Owner(s): Kenneth Reno	Engineer: Paces Lodging, Inc.	
Reason for Request: Allow a drive-through window in conjunction with a bank.		
Location: Along the south side of West Arbor Avenue and the west side of South Washington Street (710 South Washington Street).		
Project Size: 52,342 square feet	Number of Lots: One parcel	
EXISTING CONDITIONS:	PROPOSED CONDITIONS:	
Land Use: Vacant restaurant	Land Use: Bank with drive-through window	
Zoning: CG – Commercial	Zoning: CG – Commercial	
Uses Allowed: General commercial	Uses Allowed: General commercial	
Maximum Density Allowed: 42 units per acre	Maximum Density Allowed: 42 units per acre	
PROPERTY HISTORY:		
Zoned: Pre-1980	Platted: July 1995	Annexed: Pre-1980
FINDINGS:		
<ol style="list-style-type: none"> 1. A bank with a drive-through window is allowed as a special use in the CG zoning district, provided specific conditions are met. The proposed drive-through window meets all six provisions outlined in Section 14-03-08(4)(g) of the City Code of Ordinances (Zoning). A copy of this section the ordinance is attached. 2. The proposed special use would not adversely affect the public health, safety and general welfare. 3. The proposed special use would not be detrimental to the use or development of adjacent properties. 4. The use would be designed, operated and maintained in a manner that is compatible with the appearance of the existing character of the surrounding area. 5. Adequate public facilities and services are in place. 6. This use would not cause a negative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity 		
<i>findings continued...</i>		

7. Adequate measures have been taken to minimize traffic congestion in the public streets and provide for appropriate on-site circulation of traffic, in particular, adequate off-street parking would be provided.
8. The City Traffic Engineer has reviewed the proposed site plan and has no opposition to the special use permit.

RECOMMENDATION:

Staff recommends approval of a special use permit to allow a drive-through window in conjunction with a bank on Tract 1 of Lots 1-2, Block 1, Elks Addition, with the following conditions:

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

14-03-08(4)

- g. Drive-in retail or service establishments. An establishment dispensing goods at retail or providing services through a drive-in facility, including, but not limited to drive-in restaurants, banks or other drive-in facilities exclusive of theatres may be permitted in a CG, CR, MA or HM district (drive-in banks only may also be permitted in a CA district) as a special use provided:
1. The lot area, lot width, front yard, side yards, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located.
 2. Access to and egress from a drive-in establishment shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets.
 3. Adequate off-street parking shall be provided in conformance with section 14-03-10 of this ordinance. In addition, an ingress automobile parking reservoir shall be provided on the premises in conformance with section 14-03-10 of this ordinance.
 4. Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersecting street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on a local street.
 5. All access and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall comply with the standards established by the city engineer.
 6. On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines.

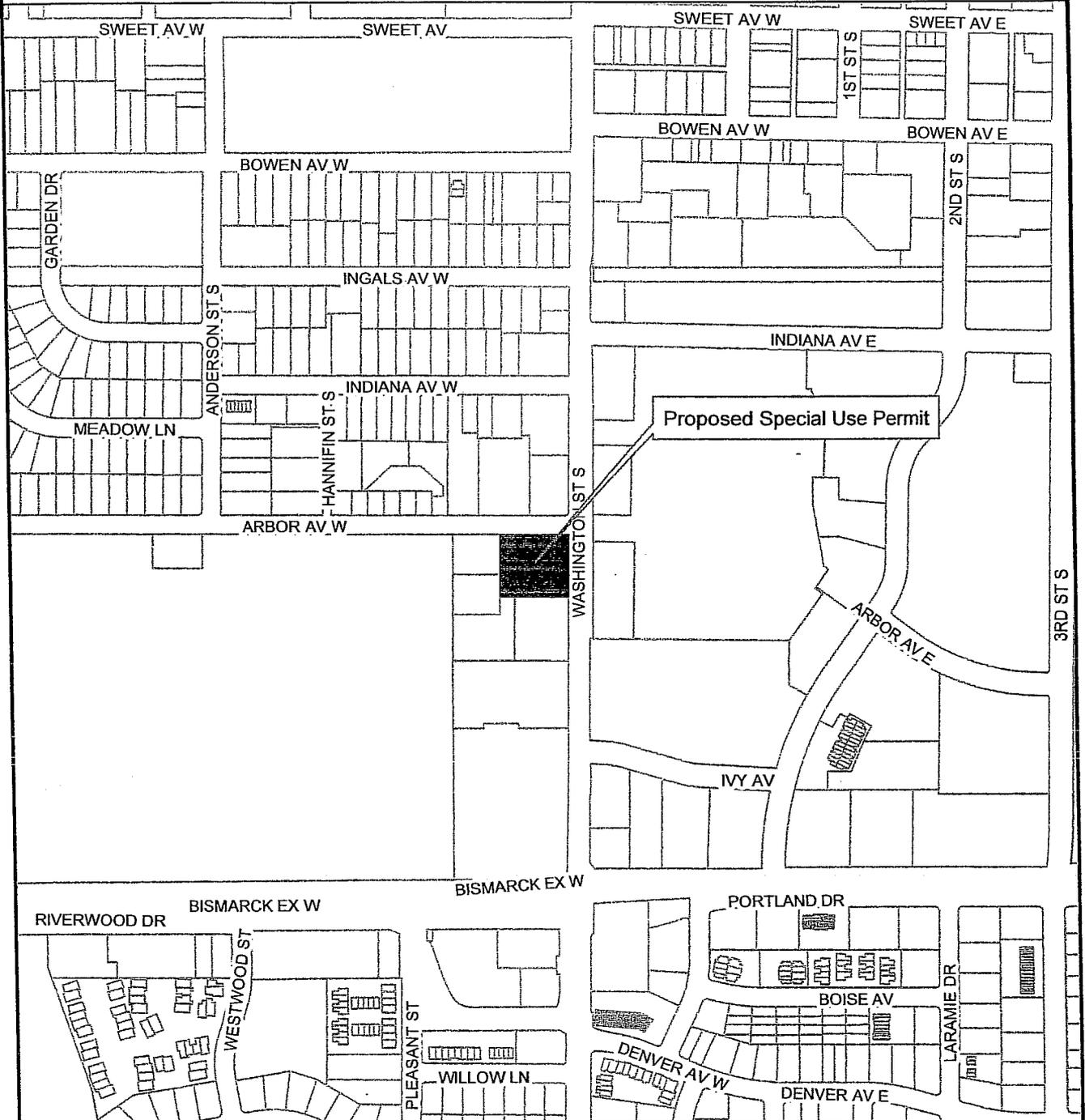
14-03-08(4)

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Proposed Special Use Permit

Tract 1 of Lots 1-2, Block 1, Elks Addition



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 Map was Updated/Created: August 23, 2010 (kdjg)

Source: City of Bismarck

